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Piloting of Implementation of United Nations Convention Against Corruption (UNCAC) in Honduras

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Governance Systems Unit
Governance Global Practice



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United Nations Convention Against Corruption

A. Introduction

This document contains the answers to the self-evaluation questionnaire of Honduras for the Review Mechanism in the implementation of the United Nations Convention Against Corruption (UNCAC).

To facilitate the review of Party States (Dominican Republic and Republic of Nauru) a brief summary of the criminal proceedings in Honduras, its stakeholders and roles are presented.

Also attached are some key definitions that may contribute to understanding the Honduran context in criminal matters, criminal procedure and international cooperation, related to the implementation of UNCAC.

Summary of the Honduran criminal proceedings

Criminal proceedings in Honduras are divided into three procedural stages as follows:

1. Preparatory stage
2. Intermediate stage and
3. Debate

The preparatory stage has to do with the complaints procedure or official actions by the Police or the Public Ministry, charging suspects and the formal investigation of the facts. At this stage the initial Hearing takes place before a Criminal First Instance Judge, which is preceded by an action of the Public Ministry or by legal action. At this hearing the viability of the case is presented for the next stage, and if it is decided that it is positive, decisions on the status of the accused are also made as part of the development process, i.e., the imposition of protective measures.

The intermediate stage refers to the formulation (or non-formulation) of a charge as a result of the accumulation of information gathered in the investigation process. Both the preparatory stage and the intermediate stage are under the jurisdiction of the judge of first instance in criminal matters. Basically at the intermediate stage the prosecution must request a preliminary hearing and present their indictment.

If the cases pass the previous stages they begin the stage of discussion or oral and public trial, for which a Court of Law is responsible.

Key actors involved in criminal proceedings in Honduras.

The persons involved in Honduran criminal proceedings can be grouped into five major groups: a) The Public Ministry, in charge of the technical and legal aspects of the crimes and the exercise of public prosecutions; b) The Police, who materially investigate criminal acts; c) The Public Prosecutor, who in crimes of public prosecutions, may accede to the persecution initiated by the Public Ministry; in private crimes, the Public Prosecutor will be the one to initiate prosecution, on its own appearance before the court; d) The accused, who is the person upon whom rests the imputation of the crime, and e) The Courts, before whom the indictment is filed, and must therefore settle the criminal conflict.

The Public Ministry -MP

According to its Organic Law, the Public Ministry is a specialized professional organization, free from all sectarian political interference, functionally independent of the powers and institutions of the State.

It has the responsibility of public criminal prosecutions or at the request of an interested party, through its officers and subsidiary bodies, in addition to investigating the punishable acts and promoting criminal proceedings on behalf of society, without prejudice of the legitimate duty of the Attorney General of the Republic to exercise criminal action in its areas of competence.

The Honduran Public Ministry follows a pyramidal structure in which the maximum head is presided by the Public Prosecutor of the Republic, continuing to the position of Deputy Prosecutor General, elected by Congress for a period of five years.

Then, within the organizational structure, the General Directorate of Prosecution managed by a Director, who functions as a coordinator and immediate supervisor of the actions of the Prosecuting Agents of the Public Ministry; and who presents proposals for candidates for Public Ministry Prosecuting Agents to the General Prosecutor.

Prosecuting Public Agents or Court Agents are organized in what are known as Common Public Prosecutions, or Special Public Prosecutors.

Common Public Prosecutors are made up of Court Agents assigned to a court of first instance or to a Criminal Court. In practice, these Court Agents are classified under the name of Chief Public Prosecutors (or Local Public Prosecutors) or Regional Coordinators (Regional Public Prosecutors, who in turn, are composed by various Local Public Prosecutors) and the Auxiliary Public Prosecutors under the coordination and direct supervision of the former.

The Special Public Prosecutors were created in order to manage in a direct and effective way certain types of criminal issues, which, due to their complexity or estimated social relevance, were deemed worthy of a different type of attention, from those that are normally called conventional crimes. These Public Prosecutors, are internally integrated by a set number of Court Agents or Auxiliary Public Prosecutors under the direct supervision and coordination of a Chief Public Prosecutor who, in turn, responds directly to the General Public Prosecution Directorate, as well as, of course, the General Public Prosecutor and the Deputy General Public Prosecutor.

The Special Prosecutor for Transparency and Fighting Public Corruption (FETCOOP) is one of these, responsible for investigation of crimes related to acts of corruption committed by public administration officials, employees or servants and any individuals associated with these.

The National Police

This is an agency of the Ministry of Security, which in practice is responsible for the investigation of crimes, under the direction of the Public Ministry Prosecutors and their public prosecuting agents. This function is performed by the staff of the National Directorate of Criminal Investigation.

The private complainant and private charge

Must exercise criminal action of the private prosecution for crimes 1) Relating to honor; 2) The violation of secrets, disclosure and blackmail; 3) The denial of family assistance to senior citizens; 4) Fraud related to issuing checks without sufficient funds.

Regarding the crimes of public prosecution, the victim has the power, both to urge the Public Prosecutor to investigate a crime, and when pertinent to so accuse; and once the public prosecution has begun, become an active prosecutor, adhering to the action initiated by the Public Prosecutor, as a private complainant.

The Courts

As for the courts they can be unipersonal (judges) and association courts (tribunals and courts) the heads of the courts are named by the Judiciary Council, following a selection and evaluation process. In criminal cases the pyramidal hierarchical structure of the courts is organized in the following order:

1. Supreme Court of Justice.
2. Courts of Appeals.
3. Trial Courts.
4. Courts of First Instance.
5. Execution Courts.
6. Justices of the Peace.

The following are their main functions:

1. **The Supreme Court of Justice:** The primary issues they see, are appeals against the judgments of the trial courts. Hearings of these objections are primarily through the Criminal Division, where if the resolution is unanimously adopted, it will do so on behalf of the Supreme Court; if their decisions are accepted by majority, the matter will be then taken up by the plenary of magistrates of that court. It is also responsible to consider, by the Constitutional Court that the appeal against final judgments stand as permitted by law, and to pass on to the Plenary Court the eventual consideration of the matter when this Court does not arrive at a unanimous decision of the case.

2. **Courts of Appeals:** They in turn must resolve the appeal cases. They are also designated to act as courts of first instance in certain special cases determined by law, as is the case in the Court of Appeals regarding the special procedure of impeachment, to determine the responsibility of judges, with regard to the procedure for determining the admissibility of the allegation or complaint. This only in instances where the indictment is filed against a Judge of First Instance or a Execution Judge within the area where the Court of Appeals exercises its jurisdiction. The rules of the Code of Criminal Procedures determine that if the plea is granted on the accusation or complaint against a judge or magistrate, the process will proceed before the competent Judge of First Instance; therefore the intervention of the Court of Appeals shall be limited solely to determine whether or not the action should proceed.
3. **Trial Courts.** They are in charge of the oral and public trial, determined by the procedural law.
4. **Judges of First Instance:** Their main responsibility is to substantiate the preparatory and intermediate stages of criminal proceedings for crimes; hear and resolve the case under the Abbreviated Procedure, resolve the conditional suspension of criminal prosecution and be informed of the process of reconciliation.
5. **Execution Judge:** This is an innovation of the criminal procedure system, since according to the procedural law they are responsible for verifying that the precautionary measures of preventive detention, execution of judgments and conditional suspension of criminal prosecution, are conducted in accordance with the law. At the same time, they are responsible for substantiating, deciding and follow-up of parole and all events occurring during the period of enforcement of sentences and security measures.
6. **Justices of the Peace:** They must substantiate the trails for misdemeanors.

In the case of the Trial Courts, Courts of First Instance and Execution Courts, there is no hierarchical relationship between them, since their existence is determined by the various functions performed at different stages of criminal proceedings; so they all have as hierarchical superiors the Courts of Appeals.

In relation to the Justices of the Peace, their hierarchical superior is the Court of First Instance.

Other relevant actors in the Honduran criminal process.

The Office of the General Public Prosecutor of the Republic- PGR

It legally represents the State of Honduras in administrative civil, labor, administrative and litigation cases as well as criminal cases resulting from intervention audits of the Superior Court of Accounts.

Particularly regarding the criminal area, their functions are: *"To promote, represent and uphold the rights of the State in all proceedings in which it is a party"*.

The Criminal Procedure Code empowers the PGR in cases where the victim is the State, however, the most common is that of representation in actions brought by the Public Ministry, as aids in such actions, especially in cases where the people charged want a settlement or a compensatory arrangement as a step prior to proceeding to a conditional suspension of criminal prosecution.

The Superior Court of Accounts -TSC

It is the governing body of the system of public control and its constitutional role is to audit, a posteriori, the funds, assets and resources managed by the branches of the State, of decentralized and independent institutions, including State or mixed banks, the National Commission of Banks and Insurance, the municipalities and any other special body, public or private entity that receives or manages public resources from internal or external sources.

In fulfilling its role, it should carry out financial control, management and results, based on effectiveness and efficiency, economy, equity, truthfulness and legality. It is also responsible for establishing a system of transparency in the management of public employees, the determination of illicit enrichment and control of the assets, liabilities and, in general, State properties.

The Administrative Office of Confiscated (Seized) Assets-OABI

An agency of the executive power, constituted as a specialized technical body for the proper management of confiscated and seized assets, from the time of receipt, identification, inventory, and is also in charge of the management, maintenance, preservation and custody of these.

The National Anti-Corruption Council –CAN

It is a Civil Society, legally incorporated independent entity, constituted for an indefinite period of time and has its own equity; created by Legislative Decree No. 07-2005, the objective being that of supporting policies and actions in the fight against corruption, undertaken by the Government of the Republic of Honduras as well as a result of its own initiatives.

The CNA by law has access to the Heads of the Powers of the State and other officials and employees in matters within its competence.

The CNA receives complaints and investigates corruption cases, that due to the facts and evidence, as well as because of their importance should be investigated. Once the CNA has collected enough evidence to clearly demonstrate crimes, it presents its investigation to the Public Ministry, for this agency to proceed with the analysis and if so found, to initiate the corresponding criminal action proceedings.

Key Definitions

For the purposes of the review, after this self-examination, consideration must be given to certain general key definitions. Following are some definitions in the **Criminal Code**:

Public official or employee

For the purpose of this (Criminal) Code a public official or employee shall be deemed to be any individual person who, by operation of the law or appointment by competent authority, is engaged in the exercise of public functions or has a public position or employment.

Mayors and Municipal Regents are also public officials.

Following are some definitions in the **Law of the Superior Court of Accounts**:

Public Service

Any temporary or permanent activity, paid or unpaid by an individual on behalf of the State or in the service of the State or its entities in any of its hierarchical levels.

Public servant

Any official of the State or its agencies, including those that have been selected, appointed, hired or elected to perform activities or functions on behalf of the State or to serve it in all its hierarchical levels.

III. Crime and Law Enforcement

15. Bribery of National Public Officials.

63. Subparagraph (a) of Article 15

Each State Party shall adopt such legislative and other measures to establish as criminal offences, when committed intentionally as may be necessary:

(a) The promise, offering or giving, to a public official, direct or indirectly, of an undue advantage, for the official himself or herself or another person or entity, in order that the official act or refrain from acting in the exercise of his or her official duties;

**Has your country adopted and implemented the measures described above?
(Check one answer.)**

(Y) Yes

(P) Yes, in part

(N) No

Yes. Honduras has adopted this provision on active and passive bribery particularly through Article 366 of the Criminal Code, where the offence of domestic bribery is deemed a crime.

Please cite the applicable policy(s), law(s) or other measure(s):

Please cite the text(s)

CRIMINAL CODE contained in Decree No. 144-1983. BOOK II. SPECIAL PART. TITLE XIII. CRIMES AGAINST PUBLIC ADMINISTRATION. CHAPTER V. BRIBERY. Articles 366, 369-C second paragraph and 34-A.

Please attach the text(s)

CRIMINAL CODE (1983)

BOOK II. SPECIAL PART.

TITLE XIII. CRIMES AGAINST PUBLIC ADMINISTRATION.

CHAPTER V. BRIBERY

Article 366. - Domestic Bribery.- Any individual who intentionally offers or

grants, direct or indirectly, to a public official or a person who performs public functions, any article of monetary value or other benefit, such as favors, promises or advantages for himself or another person, in exchange for that official to act or refrain from acting in the exercise of public functions, shall be punished by imprisonment from five (5) to seven (7) years, plus an absolute disqualification for the duration of the detention without prejudice to the applicable penalty for the crime committed because of the gift or promise.

Any individual who aids, abets or conspires to commit the acts described in the preceding paragraph, shall be punished with half the jail time plus a special disqualification period equal to the duration of detention. Legal or incorporated entities involved in any of the acts described above will be penalized according to the following:

1) The penalties provided for in the second paragraph of Article 369-C of the Criminal Code; or 2) A fine of one hundred thousand (L.100,000.00) to one million (L.1,000,000.00) lempiras depending on the severity of the act; or twice that of the benefit obtained; or 3) a combination of both.

For legal or incorporated entities, what was established previously, applies without prejudice to the provisions of Article 34-A of this Code.

The appropriate authorities shall protect people who in good faith report acts of corruption described above.

Article 369 C.- Those who [...] one hundred thousand (L.100,000.00) lempiras.

In any of the cases referred to in this Article the judicial authorities will also impose the suspension of the activities of the individual or legal person, organization or office and close their establishments or offices open to the public for a period from two (2) to four (4) years.

Article 34-A.- See the response to paragraphs 1 and 2 of Article 26 (concerning the liability of legal persons).

If available, please attach the text in any (other) official language of the United Nations (Arabic, Chinese, Spanish, French, English or Russian).

Please provide examples of cases and attach records, if available.

Supreme Court of Justice Verdict. Criminal Appeals Chamber. Process No. CP-166-09. Residing Judge: RAUL ANTONIO HENRIQUEZ INTERIANO. **February, eight (08), two thousand eleven (2011).**

On July 15 of the year two thousand six, between eleven and twelve thirty noon, Agents of the General Directorate of Special Investigation Services, assigned to police control on a routine operation required drivers of two trucks carrying blocks of cheese owned by S.M. wife of I.H., diverting them to the secondary area for registration. Police officer O.G.P., in charge of the inspection of both trucks, asked the drivers for the invoices issued by ... owned by Mr. I. H.; and immediately proceeded to count the cheese blocks, resulting in a total of 281 blocks transported in both vehicles, weighing approximately 120 to 125 pounds each; and this did not match the average poundage of 281 cheese blocks with the total pounds declared in the invoice; this situation led to the detention of the trucks for investigation purposes by the Police.- Mr. I. H. was informed by the driver D. L., who had been detained by the Police for inspection of the dairy products and had ordered its confiscation; minutes later I.H. accompanied by his wife S.M., who remained in the vehicle, showed up on the Pavana site of the detention. Mr. I.H. approached the Deputy Border Police Officer O.G.P. and requested help from him and in return he would offer him One Thousand Dollars (\$ 1,000.00), the O.G.P. police officer replied that he could not do so; he then proceeding to communicate what happened to the Deputy Inspector M.A.J., who ordered him to continue the process of law. Then Deputy Inspector M.A.J. notified Mr I.H. of the confiscation of 281 cheese blocks. I.H. taking advantage of this opportunity told Deputy Inspector M.A.J. to help him to get the cheese over the border, and would give him One Thousand Dollars (\$ 1,000.00); I.H. told Deputy Inspector M.A.J. that at that time he had no money but would give it to him later, the Deputy Inspector M.A.J. answered saying that he could not help him. Mr. I.H. was arrested by the competent authority and placed in the custody of the Public Prosecutor.

On these facts Mr. I.H. was sentenced, to the main penalty of SIX (06) YEARS IMPRISONMENT for the crime of **DOMESTIC BRIBERY** to the detriment of the PUBLIC ADMINISTRATION, he was also sentenced to additional penalties of ABSOLUTE DISQUALIFICATION and CIVIL INTERDICTION, for the duration of the main sentence; he was declared with criminal responsibility of the conviction, and various precautionary measures were ordered, other than preventive detention, until the sentence be upheld.

If available, please provide related statistical data on number of investigations, prosecutions and convictions / acquittals. Please provide per annum figures, as available. Please describe how such information is collected and analyzed.

According to data provided by the Electronic Judicial Center for Documentation and Information (CEDIJ) in 2014 two processes were concluded for the crime of domestic bribery in **Courts for Criminal Matters** with national jurisdiction assigned to the Military Police. On both processes trials were ordered.

Attached is a table with data supplied by the CEDIJ where relevant disaggregated information is presented for 2014.

As for the processes handled by **Sentencing Courts** in the last three years (2012-2014) there were 4 prosecutions for the crime of domestic bribery and related offences, which ended with one sentence and three acquittals.

YEAR	NUMBER OF CASES	CONVICTIONS	ACQUITTALS
2012	1	0	1
2013	0	0	0
2014	3	1	2
Total	4	1	3

Source: CEDIJ, 2015

To collect this statistical information, CEDIJ distributes on a monthly basis and nationwide the data collection instruments (statistical formats and their instructions), these have matrix data collection on the subjects that are carried by the different judicial bodies. After this data is collected, it is manually processed in the Statistics Unit of the CEDIJ, creating databases that allow internal and external consultations.

64. Subparagraph (b) of Article 15

Each State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally: [...]b) The solicitation or acceptance by a public official, directly or indirectly, of an undue advantage, for the official himself or herself or another person or entity, in order that the official act or refrain from acting in the exercise of his or her official duties.

Has your country adopted and implemented the measures described above?

(Check one answer.)

(Y) Yes

(P) Yes, in part

(N) No

Yes. Honduras has adopted and applied this provision by the offence of Bribery in the Criminal Code.

Please cite the applicable policy(s), law(s) or other measure(s):

Please cite the text(s)

CRIMINAL CODE contained in Decree No. 144-1983. BOOK II. SPECIAL PART. TITLE XIII. CRIMES AGAINST PUBLIC ADMINISTRATION. CHAPTER V. BRIBERY. Articles 361-365, 369 and CHAPTER V-A. Article 369 C.

Please attach the text(s)

CRIMINAL CODE (1983)

BOOK II. SPECIAL PART.

TITLE XIII. CRIMES AGAINST PUBLIC ADMINISTRATION

CHAPTER V. BRIBERY.

Article 361. - The public official or employee who requests, receives or accepts, for him(her)self or through another person, gifts, presents, offers, promises or any other undue advantage to perform an act contrary to his duties that is construed as a criminal offence, shall be punished with imprisonment of five (5) to seven (7) years, plus a disqualification for twice the duration of the imprisonment, without recourse to the penalty applicable for the crime committed because of the gift or promise.

Article 362. - The public official who requests, receives or accepts, direct or indirectly, gifts, presents, offers, promises or any other undue advantage, in order to perform an unjust act that does not constitute a crime regarding the exercise of their duties, shall be punished by imprisonment of two (2) to five (5) years. If that act does not take place, the defendant will be condemned to imprisonment of from one (1) to three (3) years. In both cases disqualification equal to twice the duration of the confinement shall apply.

Article 363. - When the objective of the gift or present requested, received or promised, was to have the official or employee refrain from performing an act that he/she would perform in fulfilling his/her legal obligations, the penalty is imprisonment from two (2) to five (5) years, plus special disqualification equal to twice the duration of the detention.

Article 364. - The provisions of the three (3) above Articles will apply to conciliators, arbitrators, experts or any person performing a public function.

Article 365. - The public official or employee who accepts a gift or benefit of any kind from anyone with an issue submitted to his/her knowledge, is punishable by imprisonment of one (1) to four (4) years plus disqualification equal to twice the duration of the detention.

Article 369. - The Judge who accepts a gift, present, promise or a loan to sentence, delay or abstain from issuing a decision, resolution or verdict in any matter brought before him/her, shall be punished by imprisonment of from five (5) to seven (7) years, plus an absolute disqualification for the double the time of the duration of the detention.

The penalties provided in this Article and in the above of this Chapter shall be applicable, as appropriate, to whom being a member of an associate body or tribunal, vote in a certain way as a result of bribery.

CHAPTER V-A

Article 369-C. Any individual who offers him(her)self for the behaviors described in the foregoing Articles*, requesting donations, gifts or any other compensation or gratuity from a third party, or accepts offers or promises, will be punished with imprisonment from three (3) to six (6) years, plus a fine of fifty thousand (L. 50, 000.00) to one hundred thousand (L. 100, 000.00) lempiras.

In any of the cases referred to in this Article, the judicial authorities will also impose the suspension of the activities of the individual or legal entity, organization or office and close their establishments or offices open to the public for a period from two (2) to four (4) years.

* The above articles refer to influence peddling, and the text is available on the responses to Article 18 of the UNCAC.

If available, please attach the text in any (other) official language of the United Nations (Arabic, Chinese, Spanish, French, English or Russian).

Please provide examples of cases, if available.

Supreme Court of Justice Verdict. Criminal Appeals Chamber. Process No. CP-333-09. Proposing Magistrate: CARLOS DAVID CALIX VALLECILLO. **June, eleven (11) two thousand thirteen (2013).**

As a result of the complaint filed by Mr. W.G.T. on the ninth of November two thousand and six against agents R.J.G.M. and P.A.A, an operation was organized under the command of the head of Internal Affairs, of the Ministry of Security, arresting the accused, who were proved in court to have visited on the eighth of November two thousand and six, the house of Mr. W.G.T. to seize some dairy products, taking him into custody in the jail of the Criminal Investigation Directorate, along with his brother J.G.T. Once inside the aforementioned offices, agents asked Mr. W.G.T. to give them twelve thousand Lempiras (L.12,000.00) as a condition for their release, in order to do so, they were driven back to their house, where the accused received five thousand (Lps.5,000.00) Lempiras, since the detainees did not have the full amount requested, agreeing that the second payment would be made the next day in the afternoon.

With these proofs Messers P.A.A.G. and R.J.G.M.were convicted as guilty of the crime of **BRIBERY** To the detriment of THE PUBLIC ADMINISTRATION, the main sentence was imprisonment for the term of three (3) years and six (6) months, plus the **ABSOLUTE DISQUALIFICATION** and **CIVIL INTERDICTION** for the duration of the main sentence.

If available, please provide related statistical data on number of investigations, prosecutions and convictions/acquittals. Please provide per annum figures, as available. Please describe how such information is collected and analyzed.

According to data provided by the Electronic Judicial Center for Documentation and Information (CEDIJ) between 2012-2014, forty-four proceedings for the crime of bribery were concluded in the **Courts of First Instance in Criminal Matters** at national level. Of the forty-four processes three ended with sentences of convictions in the abbreviated procedure, in five judgment was issued to open trials, nineteen concluded with definite dismissals and fourteen processes were suspended either by provisional

discharge, conditional suspension of criminal prosecution or settlement.

Attached is a table with data supplied by the CEDIJ where relevant disaggregated information is presented for the years 2012, 2013 and 2014.

As for the processes handled by the **Sentencing Courts** in the last three years (2012-2014) there were sixteen prosecutions for the crime of bribery, in some cases with related crimes, of which ten ended with convictions and six in acquittals.

YEAR	NUMBER OF CASES	CONVICTIONS	ACQUITTALS
2012	0	0	0
2013	3	2	1
2014	12	8	5
Total	16	10	6

Source: CEDIJ, 2015

To collect this statistical information, CEDIJ distributes on a monthly basis nationwide the data collection instruments (statistical formats and their instructions) these have matrix data collection on the subjects that are carried by the different judicial bodies. After this data is collected, it is manually processed in the Statistics Unit of the CEDIJ, creating databases that allow meeting domestic and external consultations.

65. Technical Assistance

The following questions on technical assistance relate to the Article under review in its entirety.

Do you require technical assistance for the (full) implementation of the Article under review? (Check one answer)

(Y) Yes

(N) No

Yes

What difficulties do you face for adopting or (completely) implementing the provision under review? (Check all answers that apply and provide an explanation in the "Comments" field.)

Limited capacity

Which of the following forms of technical assistance, if available, would assist your country to (completely) apply the provision under review? (Check all the

answers that apply)

Interinstitutional training program for public officials involved in the process.

Does your country already receive some form of the mentioned technical assistance? (Check one answer.)

(N) No ☐

16. Bribery of foreign public officials and officials of public international organizations.

66. Paragraph 1 of Article 16

1. Each State Party shall adopt legislative and other measures as may be necessary to establish as a criminal offence, when committed intentionally, the promise, offering or giving to a foreign public official or an official of a public international organization, directly or indirectly, of an undue advantage, for the official himself or herself or another person or entity, in order that the official act or refrain from acting in the exercise of his or her official duties, in order to obtain or retain business or other undue advantage in relation to the conduct of international business.

**Has your country adopted and implemented the measures described above?
(Check one answer.)**

(Y) Yes

(P) Yes, in part

(N) No

Yes in part. Honduras partially implements this provision through the criminalization of transnational bribery in the Article 366-A of the Criminal Code, limiting the penal type to obtain a benefit in regard to an economic or commercial advantage. It does not include the requirements of the Convention "*Or other undue advantage*".

Please cite the applicable policy(s), law(s) or other measure(s):

Please cite the text(s)

CRIMINAL CODE contained in Decree No. 144-1983. BOOK II. SPECIAL PART. TITLE XIII. CRIMES AGAINST PUBLIC ADMINISTRATION. CHAPTER V. BRIBERY. Article 366-A.

Please attach the text(s)

CRIMINAL CODE (1983)

BOOK II. SPECIAL PART.

TITLE XIII. CRIMES AGAINST PUBLIC ADMINISTRATION

CHAPTER V. BRIBERY.

Article 366-A. **Transnational Bribery:** Any individual subject to Honduran jurisdiction, who offers, promises or gives any monetary or other advantage, direct or indirectly, to a public official or of another State or international organization, for that official or for another person in order that the official act or refrain from acting in the execution of their official duties, to obtain or retain business or other improper advantage of an economic or commercial nature, shall be punished by imprisonment from five (5) to seven (7) years, plus a special disqualification period equal to the duration of the confinement.

Any individual who aids, abets or conspires to commit the acts described in the preceding paragraph, shall be punished with half the time of detention plus a special disqualification period equal to the duration of detention.

The legal or incorporated entities subject to Honduran jurisdiction that participate in any of the acts described above will be penalized according to the following:

- 1) The penalties provided for in the second paragraph of Article 369-C of the Criminal Code; or
- 2) A fine of one hundred thousand (L.100,000.00) to one million (L.1,000,000.00) lempiras depending on the severity of the act, or of the benefit obtained; or
- 3) A combination of both.

What was established previously for legal or incorporated entities applies

without prejudice to the provisions of Article 34-A of this Code.

The appropriate authorities shall protect people who in good faith report acts of corruption described above.

If available, please attach the text in any (other) official language of the United Nations (Arabic, Chinese, Spanish, French, English or Russian).

Please provide examples of cases and attach case law if available.

There have been no cases of transnational bribery to date.

If available, please provide related statistical data on number of investigations, prosecutions and convictions/acquittals. Please provide per annum figures, as available. Please describe how such information is collected and analyzed.

On the crime of transnational bribery there have not been any prosecutions to date.

67. Paragraph 2 of Article 16

2. Each State Party shall consider adopting such legislative and other measures as may be necessary to establish as a criminal offence, when committed intentionally, the solicitation or acceptance by a foreign public official or an official of a public international organization, direct or indirectly, of an undue advantage, for the official himself or herself or another person or entity, in order that the official act or refrain from acting in the exercise of his or her official duties.

**Has your country adopted and implemented the measures described above?
(Check one answer.)**

(Y) Yes

(P) Yes, in part

(N) No

No. The Criminal Code of Honduras does not consider the figure of the passive bribery of foreign public officials and officials of public international organizations.

Please provide an account of your country's efforts to date to implement the provision under review.

To date there has been no action in this regard.

Please outline the steps or action (and related timeframe) that domestic or other authorities would need to take to ensure the full implementation of the provision under review:

The Public Ministry or the Supreme Court of Justice should submit within a twelve month period to the National Congress a draft amendment to the Criminal Code to criminalize this conduct and thus fully meet the provisions of UNCAC.

68. Technical Assistance

The following questions on technical assistance relate to the Article under review in its entirety.

Do you require technical assistance for the (full) implementation of the Article under review? (Check one answer)

(Y) Yes

(N) No

Yes.

What difficulties do you face for adopting or implementing (completely) the provision under review? (Check all answers that apply and provide an explanation in the "Comments" field.)

(MYSYS) Specific characteristics in our legal system

Which of the following forms of technical assistance, if available, would assist your country to (completely) apply the provision under review? (Check all the answers that apply)

(BEST) Summary of good practices and lessons learned

(MOLEG) Type legislation

Does your country already receive some form of the mentioned technical assistance? (Check one answer.)

(N) No ☐

☐

17. Embezzlement, misappropriation or other

diversion of property by a public official.

69. Article 17

Each State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally, the embezzlement, misappropriation or other diversion by a public official for his or her benefit or for the benefit of another person or entity, of any property, public or private funds or securities or any other thing of value entrusted to the public official by virtue of his or her position.

**Has your country adopted and implemented the measures described above?
(Check one answer.)**

(Y) Yes

(P) Yes, in part

(N) No

Yes. Honduras partially applied this provision establishing as a criminal offence, embezzlement of public funds in Article 370 of the Criminal Code. It also establishes other diversion of funds in Article 377 of the Code.

Please cite the applicable policy(s), law(s) or other measure(s):

Please cite the text(s)

CRIMINAL CODE contained in Decree No. 144-1983. BOOK II. SPECIAL PART. TITLE XIII. CRIMES AGAINST PUBLIC ADMINISTRATION. CHAPTER VI. MISAPPROPRIATION OF PUBLIC FUNDS. Articles 370, 371, 372, 373 and 373-A. CHAPTER VIII. FRAUD AND ILLEGAL EXTORTION Article 377.

Please attach the text(s)

CRIMINAL CODE (1983)

BOOK II. SPECIAL PART.

TITLE XIII. CRIMES AGAINST PUBLIC ADMINISTRATION.

CHAPTER VI. MISAPPROPRIATION OF PUBLIC FUNDS.

Article 370.- The public official or employee who appropriates funds, goods or effects whose administration, perception or custody has been entrusted by reason of his/her position or without having been entrusted is involved in such acts due to any cause, shall be punished by imprisonment from two (2) to five (5) years if the value of those does not exceed one thousand (L. 1,000.00) lempiras and from six (6) to twelve (12) years if it surpasses that amount, plus an absolute disqualification for twice the duration of the detention.

The provisions of this Article shall also apply to the directors of unions, small farmer organizations, cooperatives, neighborhood committees, charities or sports associations, and in general, all other similar civil bodies.

Article 371.- The official or public employee and director of associations referred to in the previous Article that intentionally lead to someone else appropriating the funds, goods or effects, that the same provision refers to, shall be punished with a fine from fifty thousand (L. 50,000.00) to one hundred thousand (L. 100,000.00) lempiras and special disqualification from two (2) to four (4) years.

Article 372.- The public official or employee that allocates the funds, goods or effects that he/she administers for a purpose other than what is rightful valid, and if doing so does not damage the interests of the State, shall be punished by a fine from fifty thousand (L. 50,000.00) to one hundred thousand (L. 100, 000.00) lempiras and special disqualification of three (3) to five (5) years.

If he/she causes damage to such interests or hinders a public service, the penalty will be equal to one hundred percent (100%) of the value of the damage caused or expenses that the State must incur, to normalize the corresponding public service, plus what the State must do to normalize the corresponding public service, plus an absolute disqualification from five (5) to eight (8) years. In no event shall the fine be less than that indicated in the preceding paragraph.

Article 373.- Will be enacted in the manner provided in the first paragraph of the above Article for the public official or employee who, having expedited funds unreasonably delays a legally enforceable payment.

The same sanction will be issued to any public official or employee who, when legally required to do so, refuses to deliver a sum of money or funds, goods or effects that are under his/her administration or custody.

Article 373-A.- The requirements of this Chapter shall apply to those who are found responsible for any concept of funds management, annuities or

municipal or departmental purposes or those belonging to a school or charity, as well as administrators or custodians of mortgaged funds, sequestered or deposited by public authority even if they belong to private individuals.

CHAPTER VIII. FRAUD AND ILLEGAL EXTORTION

Article 377. Any public official or employee who requires payment of a tax or duty, contribution or fee, knowing that it is illegal or that being legal, uses it for their own perception or collects by vexatious or costly means or falsely invokes court order or other lawful authority, shall be punishable with imprisonment of from three (3) to five (5) years, plus special disqualification for twice the duration of the detention.

The public official or employee who **uses extortion for personal or third party benefit** referred to in the preceding paragraph, will be punished by imprisonment of four (4) to eight (8) years, plus absolute disqualification for a period equal to twice the term of imprisonment.

If available, please attach the text in any (other) official language of the United Nations (Arabic, Chinese, Spanish, French, English or Russian).

Please provide examples of cases and attach case law if available.

Supreme Court of Justice Verdict. Criminal Appeals Chamber. Process No. CP-39-11. Proposing Magistrate: CARLOS DAVID CALIX VALLECILLO. **April, fifteen (15) two thousand thirteen (2013).**

As of February 10, 2006, by agreement of the Executive Branch number 272, Mr. AAAG was appointed as Director General in the field of Health. On May 11, 2006, Dr. OVR in his capacity as Minister of Public Health, through official number 1468-2006-SS addressed to Mr. RBGO, the PRIESS program coordinator, requesting a check be issued in the amount of three hundred and fifty thousand lempiras (L. 350,000.00) for attorney AAAG, who as Director General of Health with that amount of money, would conduct and coordinate a "National Workshop on Decentralization of Health Sector" which would take place in San Pedro Sula from 15 to May 20, 2006. In compliance with procedure number 1468-2006-SS, and with the PRIESS program funds, the Secretary of Health wrote a check for three hundred and fifty thousand lempiras (Lps. 350,000.00), check number 00889 in favor of AAAG, the security of the check was made by AAAG himself, which enabled him to receive that amount of money in cash. Also, as of June First 2006, Dr. OVR in

his capacity as Minister of Health, through procedure number 1698-2006-SS again directed to Mr. RBGO, the PRIESS program coordinator, requested the issuance of another check for the amount of three hundred and fifty thousand lempiras (L. 350,000.00) to attorney AAAG, who as Director General of Health with that amount of money would be responsible for conducting and coordinating an "Educational Proposal Workshop on Health Decentralization in the Departments of Yoro and Atlantida," which would take place in the city of La Ceiba from June 08 to June 12, 2006. In compliance with procedure 1698-2006 -SS, and with funds from the PRIESS program, dated June first two thousand and six the Ministry of Health wrote another check for three hundred and fifty thousand lempiras (L. 350,000.00), check number 00910 for AAAG, the security of the check was made by AAAG himself, on June 2, 2006, which allowed Mr. AAAG to acquire that amount of cash. Subsequently at the end of July 2006, by procedure 236-CG-PRIESS-06 July 25, 2006 the Director the immediate liquidation of the checks 00889 and 00910, was requested -and without previously holding the workshops scheduled for cities of La Ceiba and San Pedro Sula for which the above mentioned checks had been issued, Mr. AAAG proceeded to settle with the Ministry of Health the checks, by presenting invoices number 74190 with the letterhead of the Villa Nuria Hotel of San Pedro Sula and invoices 045 184 and 045 185 with letterhead of La Quinta Hotel of La Ceiba. These document contents turned out to be true through investigation and prosecution and subsequent verification carried out both by staff from the Ministry of Health working with PRIESS funds as well as staff from the Public Ministry. Moreover, Mr. AAAG presented as expense settlement documents, two lists of participants dated May 15-18 and June 19-22, 2006, completed and signed by persons who had not participated in any event.

Based on these facts Mr. **AAAG**. was sentenced to the penalty of **SEVEN YEARS (7) WITH SIX (6) MONTHS** prison, and was found guilty of concurrent offences of **MISAPPROPRIATION OF PUBLIC FUNDS** and forgery of private documents to the detriment of the public administration and public trust; plus additional penalties of civil interdiction, during the duration of the imprisonment and absolute disqualification for **FIFTEEN (15) YEARS**, for which during this time the convicted person may not hold Public Office or Public and Professional positions, and may not exercise voting rights referred to in Article 48 of the Criminal Code.

If available, please provide related statistical data on number of investigations, prosecutions and convictions/acquittals. Please provide per annum figures, as available. Please describe how such information is collected and analyzed.

According to data provided by the Electronic Judicial Center for Documentation and Information (CEDIJ), between 2012-2014, there were thirty proceedings for the crime of embezzlement of public funds concluded in the Courts of First Instance in Criminal matters at the national level. Of the thirty processes, six ended with sentences of convictions in the abbreviated procedure, in four of them, judgment was issued to open trials, seven concluded with definite dismissals and thirteen processes were suspended either by provisional discharge, conditional suspension of criminal prosecution or settlement.

Attached is a table with data supplied by the CEDIJ where relevant disaggregated information for 2012, 2013 and 2014 is presented.

As for the processes handled by the **Sentencing Courts** in the last three years (2012-2014) there were eight prosecutions for the crime of embezzlement of public funds, in some cases with related crimes, of which four ended with convictions and four in acquittals.

YEAR	NUMBER OF CASES	CONVICTIONS	ACQUITTALS
2012	3	1	2
2013	1	1	0
2014	4	2	2
Total	8	4	4

Source: CEDIJ, 2015

To collect this statistical information, CEDIJ distributes on a monthly basis nationwide the data collection instruments (statistical formats and their respective instructions) these have matrix data collection on the subjects that are carried by the different judicial bodies. After this data is collected, it is manually processed in the Statistics Unit of the CEDIJ, creating databases that allow meeting domestic and external consultations.

70. Technical Assistance

The following questions on technical assistance relate to the Article under review in its entirety.

Do you require technical assistance for the (full) implementation of the Article under review? (Check one answer)

(Y) Yes

(N) No

Yes

What difficulties do you face for adopting or (completely) implementing the provision under review? (Check all answers that apply and provide an explanation in the "Comments" field.)

Limited capacity

Which of the following forms of technical assistance, if available, would assist your country to (completely) apply the provision under review? (Check all the answers that apply)

Interinstitutional training program for public officials involved in the process.

Does your country already receive some form of the mentioned technical assistance? (Check one answer.)

(N) No ☐

18. Trading in Influence

71. Subparagraph a) of Article 18

Each State Party shall consider adopting such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally:

a) The promise, offering or giving to a public official or any other person, directly or Indirectly, of an undue advantage in order that the public official or the person abuse his or her real or supposed influence with a view to obtaining from an administration or public authority of the State Party an undue advantage for the original instigator of the act or for any other person;

**Has your country adopted and implemented the measures described above?
(Check one answer.)**

(Y) Yes

(P) Yes, in part

(N) No

Yes, in part. Honduras partially implemented this provision through laws that incriminate trafficking influences and negotiations incompatible with the exercise of public functions. There are no written provisions in the legal texts of the elements of criminal offences contained in Article 18 Letter a) of the CNUCCC in reference to *"the promise, offering or giving to a public official [...] of an undue advantage"*.

Please cite the applicable policy(s), law(s) or other measure(s).

Please cite the text(s)

CRIMINAL CODE contained in Decree No. 144-1983. BOOK II. SPECIAL PART. TITLE XIII. CRIMES AGAINST PUBLIC ADMINISTRATION CHAPTER V-A. Articles 369-A to 369-C. CHAPTER VII. NEGOTIATIONS INCOMPATIBLE WITH THE EXERCISE OF PUBLIC FUNCTIONS Articles 374 and 375.

ETHICAL CODE OF CONDUCT FOR PUBLIC SERVANTS contained in Decree No. 36-2007. Article 24.

Please attach the text(s)

CRIMINAL CODE (1983)

BOOK II. SPECIAL PART.

TITLE XIII. CRIMES AGAINST PUBLIC ADMINISTRATION

CHAPTER V-A.

Article 369-A.- Any public official or employee that influences another public official or employee by taking advantage of the powers of his position or of any other situation arising from personal or hierarchical relationship with this or any other officer or employee in order to obtain a resolution that could generate for him/her, either directly or indirectly, any financial gain or any other type of advantage for himself or for a third party is liable to imprisonment from four (4) to seven (7) years, plus a fine between one hundred thousand (L. 100,000.00) and one hundred fifty thousand (L. 150,000.00) lempiras, and disqualification for twice the duration of the detention. If he/she obtains the benefit sought, detention is from six (6) to nine (9) years, a fine equal to twice the profit made and disqualification of five (5) to eight (8) years.

Article 369-B.- Any individual that influences a public official or employee taking advantage of any situation resulting from his personal relationship with this or any other officer or employee in order to obtain a resolution that could generate him/her, either directly or indirectly, any financial gain or any other type of advantage for himself or a third party, will be punished according to the case, with imprisonment and fines established in the preceding Article.

Article 369-C.- See the response to Letter a) of Article 15.

CHAPTER VII NEGOTIATIONS INCOMPATIBLE WITH THE EXERCISE OF PUBLIC FUNCTIONS

Article 374.- Any public official or employee who directly or through another person, or due to simulated acts, is interested, with the intent of personal gain, in any contract or transaction in which it was participating by virtue of his/her office, shall be punished by imprisonment from three (3) to six (6) years and disqualification for twice the duration of the detention.

The provisions in the preceding paragraph shall apply to experts and private accountants who participated in pricing, partition or award of goods and to the tutors or guardians and trustees in bankruptcy.

Article 375.- The penalty laid down in the above Article shall apply to the officer or employee who, with the purpose of profit, brings his/her influence to bear in obtaining a resolution of any authority or opinion which it must rule on.

CODE OF ETHICAL CONDUCT FOR PUBLIC SERVANTS.

Article 24.- Accepting or admitting money, benefits, gifts, valuables, favors, trips, travel expenses, promises or other advantages or values materially or immaterially by persons or entities, is prohibited for the public servant and therefore must not, directly or indirectly, for himself or others, be allowed in the following situations: 1) To do or not to do, accelerate or delay tasks unduly, related to their functions or waive requirements demanded by Law, the regulations, manuals or instructions; and 2) To assert his/her influence with other public servants, so that he/she does or does not do, accelerate or delay unduly, tasks related to their duties or obviates requirements demanded by the Law, the regulations, manuals and instructions.

If available, please attach the text in any (other) official language of the United Nations (Arabic, Chinese, Spanish, French, English or Russian).

Please provide examples of cases and attach case law if available.

Case of the Public Ministry with File UNAF 048-2013. Accused: JRB Victim: The Public Administration Felonies: **Negotiations incompatible with the exercise of public functions**, Fraud, Bribery and Embezzlement of public funds.

This case concerns the Honduran Institute of Social Security (IHSS) that made an irregular purchase of ten (10) ambulance type vehicles, through a direct contracting procedure. The IHSS procurement committee decided to award the contract to the Tecnología Médica Avanzada Co. (TECMA) for L. 13,780,000.00.

As a result of the investigation, the reference of the value of the vehicles was taken, as listed by the TECMA company, analyzing the process carried out by the Ministry of Health, for the purchase of ambulances by industrial manufacturers engaged in this field, with the same characteristics of those requested by the IHSS, the results were that TECMA had overvalued the prices by 281.76%, compared to the prices offered by the industrial manufacturers so the commission of various crimes is presumed including that of **Negotiations incompatible with the exercise of public functions**.

As a further aggravating matter, TECMA supplied ten ambulances that were not industrially manufactured, without complying with the specifications to provide effective care to beneficiaries. The persons in charge of the Social Security Institute, accepted them as fully equipped as made by industrial manufacturers, at overvalued prices.

This case is being prosecuted.

If available, please provide related statistical data on number of investigations, prosecutions and convictions / acquittals. Please provide per annum figures, as available. Please describe how such information is collected and analyzed.

As for the processes handled by **Sentencing courts** in the last three years (2012-2014) there was one prosecution for the crime of negotiations incompatible with the exercise of public functions that ended with acquittal.

YEAR	NUMBER OF CASES	CONVICTIONS	ACQUITTALS
2012	0	0	0
2013	1	0	1

2014	0	0	0
Total	1	0	1

Source: CEDIJ, 2015

To gather this statistical information CEDIJ distributes at a national level the data collection instruments (statistical formats and their respective instructions) containing data collection matrixes on the subjects known to the different judicial bodies. After this data is collected, it is manually processed in the Statistics Unit of the CEDIJ, creating databases that allow meeting internal and external consultations.

72. Subparagraph (b) of Article 18

Each State Party shall adopt legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally:

[...]

b) The solicitation or acceptance by a public official or any other person, directly or indirectly, of an undue advantage for himself or herself or for another person, in order that the public official or the person abuse his or her real or supposed influence, with a view to obtaining from an administration or public authority of the State Party an undue advantage.

**Has your country adopted and implemented the measures described above?
(Check one answer.)**

(Y) Yes

(P) Yes, in part

(N) No

Yes, in part. The elements that constitute the criminal type of the offence contained in Article 18 subparagraph b) of the UNCAC are absent, which refer to “*requesting or accepting from a public official, an unlawful benefit*”.

Please cite the applicable policy(s), law(s) or other measure(s):

Please cite the text(s)

See the provisions of Article 18 a.

Please attach the text(s)

See the provisions of Article 18 a.

If available, please attach the text in any (other) official language of the United

Nations (Arabic, Chinese, Spanish, French, English or Russian).

Please provide examples of cases and attach case law if available.

See the provisions of Article 18 a.

73. Technical Assistance

The following questions on technical assistance relate to the Article under review in its entirety.

Do you require technical assistance for the (full) implementation of the Article under review? (Check one answer)

(Y) Yes

(N) No

Yes

What difficulties do you face to (completely) adopt or implement the provision under review? (Check all that apply and provide an explanation in the "Comments" field.)

(MYSYS) Specific characteristics in our legal system

Which of the following forms of technical assistance, if available, would assist your country to (completely) apply the provision under review? (Check all the answers that apply)

(BEST) Summary of good practices and lessons learned

(MOLEG) Legislation type

Does your country already receive some form of the mentioned technical assistance? (Check one answer.)

(Y) Yes

(N) No

No ☐

19. Abuse of functions.

74. Article 19

Each State Party shall consider adopting such legislative and other measures as may be necessary to establish as a criminal offence, when committed intentionally, the abuse of functions or position, that is, the performance or failure to perform an act, in violation of laws, by a public official in the discharge of his or her functions, for the purpose of obtaining an undue advantage for himself or herself or for another person or entity.

**Has your country adopted and implemented the measures described above?
(Check one answer.)**

(Y) Yes

(P) Yes, in part

(N) No

Yes, in part. Honduras partially implements this provision, classifying the crime of abuse of authority and the violation of duties of officials. The constituent element of "undue advantage for the undue benefit to any third person or entity" has not been included in the definition. In fact abuse of authority is conceived more as a flaw in administrative obligations. Additionally, the Criminal Code defines the crime of trespass regarding decisions or failure to act in flagrant violation of the law either by judges or public officials to favor or harm others.

Please cite the applicable policy(s), law(s) or other measure(s):

Please cite the text(s)

CRIMINAL CODE contained in Decree No. 144-1983. BOOK II. SPECIAL PART. TITLE XIII. CRIMES AGAINST PUBLIC ADMINISTRATION. CHAPTER III. ABUSE OF AUTHORITY AND VIOLATION OF THE DUTIES OF OFFICIALS. Article 349. CHAPTER IX. Prevarication. Articles from 378 to 379.

Please attach the texts

CRIMINAL CODE (1983)

BOOK II. SPECIAL PART.

TITLE XIII. CRIMES AGAINST PUBLIC ADMINISTRATION.

CHAPTER III. ABUSE OF AUTHORITY AND VIOLATION OF THE DUTIES OF OFFICIALS.

Article 349.- Shall be punished by imprisonment from three (3) to six (6) years and disqualification for twice the duration of the detention, the official or public employee who:

- 1) Refuses to give due effect to orders, judgments, orders, resolutions, agreements or decrees issued by the judicial or administrative authorities within the limits of their respective powers and with legal formalities; decrees contrary to the Constitution of the Republic or the laws or fails to comply with any such judicial orders;
- 2) **Dictate or execute orders, verdicts, providences, resolutions, agreements or decrees contrary to the Constitution of the Republic or to the laws, or abstain from complying with the any judicial orders;**
- 3) Omits, refuses or delays any act to be executed in accordance with the duties of his/her office;
- 4) Required by the competent authority not giving due cooperation for the effective administration of justice or other public service. When the lack of cooperation is non-compliance, due to malice or negligence regarding an arrest warrant issued by competent authority, the penalty is increased by one third (1/3);
- 5) Reveals or facilitates the disclosure of a fact that he/she has knowledge of by virtue of the office and that should remain secret. When disclosure is not of grave importance, the penalty will be reduced by one sixth (1/6).

The same penalty will apply to the officer or agent of the police that refuses, omits or delays, without justification, the provision of proper assistance required by the competent authority.

CHAPTER IX. PREVARICATION

Article 378. The judge who with malice or awareness of injustice renders judgment against the law to favor or harm a defendant in criminal matters, shall incur in imprisonment of three (3) to nine (9) years, plus special disqualification for twice the duration of the imprisonment.

Article 379. It is punishable by imprisonment of three (3) to five (5) years:

- 1) The judge who with malice and real awareness of injustice against the law dictates sentence in a non-criminal trial; and,
- 2) An official who with malice or awareness of injustice makes a decision, agreement or decree contrary to the law on purely administrative matters.

If available, please attach the text in any (other) official language of the United Nations (Arabic, Chinese, Spanish, French, English or Russian).

Please provide examples of cases and attach case law if available.

Example Case 1.

Supreme Court of Justice Verdict. Criminal Appeals Chamber. Process No. CP-174-10. Residing Judge: JACOBO CALIX HERNANDEZ. **July thirty (30), two thousand twelve (2012).**

On November 15 of two thousand and seven, Mr. MACC, in his capacity as General Manager of the Honduran Telecommunications Company (HONDUTEL) and the Advocate RRSB, in his capacity as representative of the firm Suazo Lagos y Asociados, entered into an agreement so that the lawyer and his law partners would advise and legally represent before the Public Ministry and the Civil Criminal Court of this City of Tegucigalpa Mr. ODSG, who at the time was serving as Legal Manager of HONDUTEL and was being accused by the prosecution of supposing him responsible for the crimes of Violation and Disclosure of Secrets, Abuse of Authority, Violation of Political Secrets and Other. Within the said contract it was established that the amount payable in concept of professional services to the Lawyers of Bufete Suazo Lagos y Asociados, represented by Mr. RRSB, was the sum of TWO MILLION TWO HUNDRED FIFTY THOUSANDS LEMPIRAS (L.2,250,000.00), which would be payable in the following way: 1) The sum of one million one hundred and twenty-five thousand lempiras (L.1,125,000.00) would be paid on the 15th of November, two thousand seven; 2) The sum of five hundred and sixty two thousand five hundred lempiras (L.562,500.00) would be paid on the date of the second instance trial or when it proceeded to the public and oral trial. 3) The amount of five hundred and sixty two thousand five hundred lempiras (L.562,500.00) would be paid on the date the appeal is twice dismissed or an appeal is granted and an acquittal is issued, and; 4) The amount of one million one hundred and twenty-five thousand lempiras (L.1,125,000.00) on the date that the first or second instance Absolute Nullity of Performances is decreed by reason of

being a crime of private action. To perform the corresponding payment, on November 28, 2007 budgetary availability was carried out affecting the budget of the Sub Development Management and Expansion Plan of HONDUTEL, that budget was available by the amount of one million one hundred and twenty-five thousand lempiras (L.1,125,000.00) to pay legal services, notwithstanding that that line was not destined to payment of Legal Services, since budgetary availability for the payment of Legal Services during 2007 amounted to the sum of two million twenty-six thousand lempiras (L.2,026,000.00). Subsequently, on November 27, 2007, Mr. ODSG presented the payment request of Professional Services for nine hundred and eighty-four thousand three hundred and seventy-five net lempiras (L.984,375.00) in favor of Bufete Suazo Lagos y Asociados, attaching to said request the copy of the contract, the GALH-1053-2007 document, receipt of purchase and the budget availability, request which was approved by Mr. MACC, in his condition of General Manager of HONDUTEL, with the knowledge that a budget item that was not destined for that category was affected. That was how on November twenty nine, two thousand seven payment was made regarding Professional Services to the Bufete Suazo Lagos y Asociados law firm, in the amount of nine hundred and eighty-four thousand three hundred seventy-five lempiras, which was received by lawyer RRSB.

Mr. MACC was sentenced on these acts, as guilty of the crime of **ABUSE OF AUTHORITY** to the detriment of public administration, the principal penalty of **FOUR (4) YEARS OF IMPRISONMENT**, plus the **SPECIAL DISQUALIFICATION** incidentals for twice the duration of the main sentence, i.e. eight years (8), **AND CIVIL INTERDICTION** by period of four (4) years from the main sentence.

Example Case 2.

Supreme Court of Justice Ruling. Criminal Appeals Chamber. Process No. CP-81-09. Presiding Judge: JACOBO CALIX HERNANDEZ. **May, eleven (11), two thousand eleven (2011).**

On Wednesday June 7th of the year two thousand six, Mrs. KMCS appeared, carrying a police criminal record in English, to the Office of the Representative of the island of Grand Cayman, to carry out visa procedures, where she was told to correct such document. That same afternoon the lady presented herself to a business in the company of a friend, where for the amount of fifty-five lempiras they accepted to make the correction and scanning of the police criminal record.- In that business KMCS was handed

the corrected and scanned record on the next day.- On Thursday June 8 at two thirty in the afternoon, Mrs KMCS, returned to the Office of the representative of the island of Grand Cayman, and was assisted by the official DVAB, where presented the Police Criminal Records document that had been given to her that day in the morning.- Mrs. AB realizing that the document presented was a scan, indicated to the applicant that she should file the original and due to the insistence of Mrs. KMCS, that it was an original document, Mrs. AB asked for evidence of the document presented on the previous day which had spelling errors and once having both police records, proceeded to communicate via telephone with the then Sub Coordinator of the General Directorate of Criminal Investigations , Mr AG to whom this situation was reported.- On the same day, PGC and Sub Officer DABC present themselves to the concerned Agent Offices of the General Directorate of Criminal Investigations of La Ceiba, the latter carries out an interview with Mrs. AB who makes delivery of the two records presented by Mrs. KMCS and tells him that the applicant is still in those offices, without the mentioned Investigation officers having carried out any declaration from Mrs. AB regarding the facts being denounced, or having been summoned to the offices of the DGIC for those effects.- The Investigation Agents DABC and PGCA, leave these offices in the company of Mrs. KMCS who also enters the vehicle that is transporting the agents and proceeded to the Business where the scan was carried out.- Arriving at that place the Investigation Agents question Mrs. CA owner thereof, who identifies herself to them and who in turn present their badges and ask to speak in private with her, who then are led up to the back of the Business.- Inside DABC reports to Mrs. CRAP that there is a fake document, questioning her, on who carried out these jobs and types of work performed, and if it was she whom had carried it out, to which Mrs. CRAP informed him that the day before a lady showed up requesting to correct a document and that she had done so because it was a spelling correction, the Mr. DA and Mr. PG inform Mrs. CRAP that in order not to detain her or harm her she could offer something to the Chief and when Mrs. CRAP asks how much, they reply forty thousand lempiras.- The Owner of the Business informs the Agents that she does not have that amount but could offer them twenty thousand, so DA indicates he must consult with the Chief, and goes outside to make a cellular phone call.- In the meantime PG remains talking with Mrs. CRAP in this same place, warning her that it would be best that she hand over the money or otherwise be arrested, that it would be in the newspapers, her business closed and her children would find out.- Then he gives her a telephone number, agreeing that the delivery be carried out the next day at ten a.m. and the Investigation Agents leave the Business, without taking any declarations, or

carrying out subpoenas for a possible crime of forgery of public documents, nor securing the possible evidence that could be stored in the computers, boarding a vehicle, then with Mrs. KMCS on to the Cotuc Transportation Business Bus Terminal, where PG prepares a confiscation order, and was warned by both agents not to leave the country.- After the Agents BC and C A leave Mrs. CRAP she goes to the Credit Union Bank where she requests a loan for Twenty Thousand Lempiras, amount which is credited to her account, and is later withdrawn after office hours, as well as two thousand lempiras she had been saving.- The next day Mrs. CRAP has an interview with her ex-neighbor, the Lawyer LFC, and once she informs him about the events of the previous day, she receives a phone call from BC asking for the money to which she replies negatively and is requested to deliver it at eleven a.m..- Once Mrs. CRAP hangs up, she is advised by Mr. LFC, to go to the city's Integrated Center to file a complaint for extortion against two unknown persons and later goes to her Business, where she waits for the Agents BC and CA, and after waiting for them to collect the money for a while, she calls them to their cellular phone, with no answer.- In the afternoon, while presenting her statement in the General Directorate of Criminal Investigation, in an office, Mr. PGCA opens the door, and who seeing the claimant, recognizes her, closes the door and leaves the building.

For these acts DABC and PGCA were sentenced for trial for the crime of **VIOLATION OF OFFICER DUTIES IN A MEDIATING MEETING** for the crime of **PASSIVE BRIBERY**, to the detriment of the **PUBLIC ADMINISTRATION**, and sentenced to **THREE YEARS (3) NINE (9) MONTHS IMPRISONMENT**, and **DISQUALIFICATION PENALTY AND CIVIL INTERDICTION**, declared with liability to the condemned.

If available, please provide related statistical data on number of investigations, prosecutions and convictions/acquittals. Please provide per annum figures, as available. Please describe how such information is collected and analyzed.

On the crime of Abuse of Authority

According to data provided by the Electronic Judicial Center for Documentation and Information (CEDIJ) between 2012-2014, 209 prosecutions were completed for the crime of abuse of authority in the **Courts for Criminal Matters** at national level. Of the 209 processes four ended with convictions for abbreviated procedure, 39 were issued an order for trial, 90 concluded with dismissals and 76 processes were suspended either by provisional discharge, conditional suspension of criminal prosecution or

settlement.

Attached is a table with data supplied by the CEDIJ where relevant disaggregated information is presented for the years 2012, 2013 and 2014.

As for the processes handled by **Sentencing Courts** in the last three years (2012-2014) there were 40 prosecutions for the crime of abuse of authority, in some cases with related offences, of which 19 ended with convictions, 19 acquittals and 2 provisional suspensions.

YEAR	NUMBER OF CASES	CONVICTIONS	ACQUITTALS
2012	3	2	1
2013	17	9	8
2014	20	9	11
Total	40	20	20

Source: CEDIJ, 2015

On the Crime for Violation of Officer Duties

According to data provided by the Electronic Judicial Center for Documentation and Information (CEDIJ) between 2012-2014, 98 proceedings were concluded for the crime of violation of the duties of officials in the **Courts for Criminal Matters** at national level. Of the 98 processes two ended with convictions for abbreviated procedure, 18 were issued an order for trial, 55 concluded with dismissals and 10 processes were suspended either by provisional discharge, conditional suspension of criminal prosecution or settlement.

Attached is a table with data supplied by the CEDIJ where relevant disaggregated information is presented for the years 2012, 2013 and 2014.

As for the processes handled by the **Sentencing Courts** in the last three years (2012-2014) there were 17 prosecutions for the crime of violation of duties of public officials, in some cases with related offences, of which eight were concluded with convictions and nine acquittals.

YEAR	NUMBER OF CASES	CONVICTIONS	ACQUITTALS
2012	3	1	2
2013	10	6	4
2014	4	1	3
Total	17	8	9

Source: CEDIJ, 2015

On the crime of Betrayal of Trust

According to data provided by the Electronic Judicial Center for Documentation and Information (CEDIJ) between 2012-2014, 98 proceedings for the crime of betrayal of trust were concluded in the **First Instance Judge** at the national level. Of the 98 processes two ended with convictions for abbreviated procedure, 18 were issued an order for trial, 55 concluded with dismissals and 10 processes were suspended either by provisional discharge, conditional suspension of criminal prosecution or settlement.

Attached is a table with data supplied by the CEDIJ where relevant disaggregated information is presented for the years 2012, 2013 and 2014.

As for the processes handled by the **Sentencing Courts** in the last three years (2012-2014) there were 1 prosecution for the crime of betrayal of trust, which concluded with a sentence of conviction.

YEAR	NUMBER OF CASES	CONVICTIONS	ACQUITTALS
2012	1	1	0
2013	0	0	0
2014	0	0	0
Total	1	0	0

Source: CEDIJ, 2015

Statistics supplied by the CEDIJ are attached. To gather this statistical information, collection data gathering tools are distributed on a monthly basis, nationwide (statistical formats and their instructions). After this information is centrally gathered, it is manually processed in the CEDIJ Statistical Unit, creating a data base that allows for internal and external reference.

75. Technical Assistance

The following questions on technical assistance relate to the Article under review in its entirety.

Do you require technical assistance for the (full) implementation of the Article under review? (Check one answer)

(Y) Yes

(N) No

Yes

What difficulties do you face for adopting or implementing (completely) the provision under review? (Check all answers that apply and provide an explanation in the "Comments" field.)

(MYSYS) Specific characteristics in our legal system

Which of the following forms of technical assistance, if available, would assist your country to (completely) apply the provision under review? (Check all the answers that apply)

(MOLEG) Type legislation

Does your country already receive some form of the mentioned technical assistance? (Check one answer.)

(Y) Yes (N) No

No ☐

20. Illicit enrichment.

76. Article 20

Subject to its constitution and the fundamental principles of its legal system, each State Party shall consider adopting such legislative and other measures as may be necessary to establish illicit enrichment as a criminal offence, when committed intentionally, that is, a significant increase in the assets of a public official which he or she cannot reasonably explain in relation to his or her lawful income.

Has your country adopted and implemented the measures described above? (Check one answer.)

Y) Yes

(P) Yes, in part

(N) No

Yes. Honduras applies this provision criminalizing the offence of illicit enrichment and adopting measures relevant to deprivation of property of goods that are product of illicit enrichment.

Please cite the applicable policy(s), law(s) or other measure(s):

Please cite the text(s)

POLITICAL CONSTITUTION OF THE REPUBLIC OF HONDURAS of 1982. Article 233.

THE ORGANIC LAW OF THE SUPERIOR COURT OF ACCOUNTS contained in Decree No. 10-2002 reformed by Decree No. 134-2011. Articles

62 and 63.

LAW ON PERMANENT DEPRIVATION OF PROPERTY OF ILLEGAL ORIGIN contained in Decree 27-2010 reformed by Decrees 153-2010 and 258-2011. Article 11 subparagraph 2).

Please attach the text(s)

POLITICAL CONSTITUTION OF THE REPUBLIC OF HONDURAS (1982)

Article 233.- Illicit enrichment is presumed, when the capital increase for the public official or employee from the date he/she has taken up his/her post, up to the date in which he/she has ceased his/her function, is significantly higher than what he/she normally has been able to obtain under salaries and allowances which he/she has received legally, and increases of capital or income for any other lawful purpose. Also illicit enrichment is presumed when the public servant does not authorize the investigation of their bank deposits or businesses in the country or abroad. To determine the increase referred to in the first paragraph of this Article, the sum of capital and income of the official or employee, his/her spouse and children are considered. The declaration of assets of public officials and employees, shall be in accordance with the law. When a public servant is acquitted he/she shall be entitled to resume his/her post.

ORGANIC LAW OF THE SUPERIOR COURT OF ACCOUNTS. (2002)

Article 62.- ILLICIT ENRICHMENT. The illicit enrichment or capital gains without cause or justification, is the increase in the assets of public servants from the date he/she takes office until they cease to function, that is significantly higher than what normally would have been able to be obtained from the salary and lawful income and capital increases received from any other lawful cause. Illicit enrichment is presumed when the public servant does not authorize the investigation of his/her deposits in financial institutions or businesses in the country or abroad. The total capital and income of the public servant, together with the income of the spouse, partner and under-age children, and wards is considered to determine the increase referred to in the first paragraph of this Article.

Article 63.- PENALTY FOR ILLICIT ENRICHMENT. Whoever commits the offence of illicit enrichment within what is included in Article 233 of the Constitution of the Republic, for an amount not exceeding one million

lempiras (L.1,000,000) incurs the penalty of three (3) to seven (7) years of imprisonment; and seven (7) to fifteen (15) years of imprisonment if it exceeds that amount.

In addition to imprisonment, additional penalties of absolute disqualification and civil interdiction will be imposed.

The Final Verdict, will also impose a fine on the person found guilty of up to the amount of illicit enrichment proven, or up to the amount of unjustified capital gains, which will take effect over the assets of the person responsible.

For purposes of the provisions of the preceding paragraph, the State is considered a preferred creditor and will have priority in relation to any other creditor.

Judges will urgently dispatch the precautionary measures to ensure the outcome of the legal action of the State, taking into account only the final decision issued by the Court, applying the rules contained in the relevant Procedural Law.

The income received from fines and/or the application of any out of court measures identified by the Criminal Procedure Code, in the offence of illicit enrichment and that will be given to the General Treasury of the Republic; the Superior Court of Accounts, will receive a percentage rate of thirty-five percent (35%) of what was collected; the General Treasury of the Republic, has to incorporate this into the budget of the Superior Court of Accounts, through the mechanism of automatic increase.

LAW ON PERMANENT DEPRIVATION OF PROPERTY OF ILLEGAL ORIGIN. (2010)

ARTICLE 11.- ORIGIN OF THE ACT OF PERMANENT DEPRIVATION OF PROPERTY. The law on permanent deprivation of property of goods, products, instruments or profits shall apply and deprivation of these will be declared, by a ruling of the jurisdiction court, in any of the following cases:

- 1) In the case of goods, products, instruments or profits with no cause or economic or legal justification for their source or origin;
- 2) **When it is exempting an asset increase without justification, at any time without being able to explain their lawful origin thereof;**

3) [...]

Permanent deprivation of property shall also proceed regarding goods, products, instruments or profits subject to succession upon death, when these correspond to any of the cases mentioned in this Article.

If available, please attach the text in any (other) official language of the United Nations (Arabic, Chinese, Spanish, French, English or Russian).

Please provide examples of cases and attach case law if available.

CSJ File No: 119-2011. **Type:** Repeal :defendant VACA **Crime:** Illicit enrichment.

Contested judgment: 06-05-2010 issued by the First Court of Appeals of Tegucigalpa, which confirmed the decision dated October 20, 2008 issued by the Criminal Court of the Judicial Section of Tegucigalpa, who sentenced Mr. VACA for the crime of ILLICIT ENRICHMENT in prejudice of the STATE OF HONDURAS.

Ruling of the Criminal Division: 1) Declaring as DISMISSED the appeal on annulment for infraction of the law as his only motive; 2) Declaring as DISMISSED the claim for annulment made by the Defense in the alternative, without prejudice to the judgment of the First Court of Appeals of Tegucigalpa, Francisco Morazan as of May 6, 2010, which upheld the judgment of October 30 2008 issued by the Criminal Court of the Judicial Section of Tegucigalpa, who sentenced Mr. VACA for the crime of **ILLICIT ENRICHMENT** in prejudice to the STATE OF HONDURAS.

If available, please provide related statistical data on number of investigations, prosecutions and convictions / acquittals. Please provide per annum figures, as available. Please describe how such information is collected and analyzed.

According to data supplied by the Superior Court of Auditors in the last three years (2012, 2013, 2014), 28 cases have been investigated for presumed illicit enrichment of which 16 have been referred to the Public Prosecutor so he/she may proceed to determine and implement the proceeding criminal lawsuits.

Internal memo sent by the Director of Centralized and Decentralized Audits Judge to the President for Law is attached, as of April 24, 2015, prepared in response to the request made by the National Anti-Corruption Council (CNA) as coordinator in the development of this report.

According to data provided by the Electronic Judicial Center for Documentation and Information (CEDIJ) between 2012-2014, 10 proceedings for the crime of illicit enrichment were concluded in the **First Instance Judge** at the national level. Of the ten processes five judgments were carried out, two ended with dismissals and three processes were suspended for provisional dismissal.

Attached is a table with data supplied by the CEDIJ where relevant disaggregated information is presented for the years 2012, 2013 and 2014.

As for the processes handled by **Sentencing Courts** in the last three years (2012-2014) there was one prosecution for the offence of illicit enrichment, which concluded with conviction.

YEAR	NUMBER OF CASES	CONVICTION	ACQUITTAL
2012	0	0	0
2013	1	1	0
2014	0	0	0
Total	1	1	0

Source: CEDIJ, 2015

To gather this statistical information CEDIJ distributes at a national level the data collection instruments (statistical formats and their respective instructions) containing data collection matrixes on the subjects known to the different judicial bodies. After this data is collected, it is manually processed in the Statistics Unit of the CEDIJ, creating databases that allow meeting internal and external consultations.

77. Technical Assistance

The following questions on technical assistance relate to the Article under review in its entirety.

Do you require technical assistance for the (full) implementation of the Article under review? (Check one answer)

(Y) Yes

(N) No

Yes

What difficulties do you face for adopting or implementing (completely) the provision under review? (Check all answers that apply and provide an explanation in the "Comments" field.)

Limited capacity

Which of the following forms of technical assistance, if available, would assist your country to (completely) apply the provision under review? (Check all the answers that apply)

Interinstitutional training program for public officials involved in the process.

Does your country already receive some form of the mentioned technical assistance? (Check one answer.)

(N) No ☐

21. Bribery in the private sector.

78. Subparagraph a) of Article 21

1. Each State Party shall consider adopting such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally in the course of economic, financial or commercial activities:

a) The promise, offering or giving, directly or indirectly, of an undue advantage to any person who directs or works, in any capacity, for a private sector entity, for the person himself or herself or for another person, in order that he or she, in breach of his or her duties, act or refrain from acting;

Has your country adopted and implemented the measures described above? (Check one answer.)

Y) Yes

(P) Yes, in part

(N) No

No, The Criminal Code of Honduras does not include the criminalization of bribery in the private sector.

Please provide an account of your country's efforts to date to implement the provision under review.:

Presently no actions have been taken in this regard.

Please outline the steps or action (and related timeframe) that domestic or other authorities would need to take to ensure the implementation of the provision under review:

The Public Ministry or the Supreme Court should deliver within a maxim term of twelve months to National Congress a draft amendment to the Criminal Code to classify this conduct as a crime and thus fully meet the provisions of UNCAC.

79. Subparagraph b) of Article 21

1. Each State Party shall consider adopting such legislative and other measures as may be necessary to establish as a criminal offence, when committed intentionally in the course of economic, financial or commercial activities: [...]

b) The request or acceptance, directly or indirectly, by a person who runs a private sector entity or any capacity in it, of an undue advantage for himself or herself or for another person, in order to refrain from acting in breach of his/her duties, acts or refrains from acting.

Has your country adopted and implemented the measures described above? (Check one answer.)

Y) Yes

(P) Yes, in part

(N) No

Yes, Honduras complies with this provision, by the definition of financial crime and its punishment.

Please cite the applicable policy(s), law(s) or other measure(s):

Please cite the text(s)

CRIMINAL CODE. Decree n°144-1983. BOOK II. SPECIAL PART. TITLE XIV. FINANCIAL CRIME AND PUNISHMENT. CHAPTER I. FINANCIAL CRIME AND PUNISHMENT. Article 394 paragraph 1 and 349-M.

Please attach the text(s)

CRIMINAL CODE (1983)

BOOK II. SPECIAL PART.

TITLE XIV. FINANCIAL CRIME AND PUNISHMENT.

CHAPTER I. FINANCIAL CRIME AND PUNISHMENT.

Article 394-A. Financial Crime. Financial crime is committed by the natural person or legal entity through its legal representative, who by action or omission incurs in any of the defined criminality set in this Chapter.

For purposes of [...].

Article 394-M.- Gifts, Presents, Offers or Promises. The director, advisor, officer or employee who requests, receives or accepts for themselves or through another person a gift, present, offer or promises, to carry out or not an act causing prejudice to the institution providing the service shall be punished by imprisonment of three (3) to six (6) years.

If available, please attach the text in any (other) official language of the United Nations (Arabic, Chinese, Spanish, French, English or Russian).

Please provide examples of cases and attach case law if available.

There are no examples.

If this information is available, please provide statistical data on the number of investigations, prosecutions, convictions and acquittals. Please provide figures per year, according to their availability. Please describe how the information was collected and analyzed.

As for the processes handled by **Sentencing Courts** in the last three years (2012-2014) there were two prosecutions for the crime of illegal financial operations, which ended with a conviction.

Attached is a table with data supplied by the CEDIJ where relevant disaggregated information is presented for the years 2012, 2013 and 2014.

To gather this statistical information CEDIJ distributes, on a monthly basis at a national level the data collection instruments (statistical formats and their respective instructions) containing data collection matrixes on the subjects known to the different judicial bodies. After this data is collected, it is manually processed in the Statistics Unit of the CEDIJ, creating databases that allow meeting internal and external consultations.

80. Technical Assistance

The following questions on technical assistance relate to the Article under review in its entirety.

Do you require technical assistance for the (full) implementation of the Article under review? (Check one answer)

(Y) Yes

(N) No

Yes

What difficulties do you face to (completely) adopt or implement the provision under review? (Check all that apply and provide an explanation in the "Comments" field.)

(MYSYS) Specific characteristics in our legal system

Which of the following forms of technical assistance, if available, would assist your country to (completely) apply the provision under review? (Check all the answers that apply)

(BEST) Summary of good practices and lessons learned

(MOLEG) Legislation type

Does your country already receive some form of the mentioned technical assistance? (Check one answer.)

(Y) Yes

(N) No

No ☐

22. Embezzlement of property in the private sector.

81. Article 22

Each State Party shall consider adopting such legislative and other measures as may be necessary to establish as a criminal offence, when committed intentionally in the course of economic, financial or commercial activities, embezzlement by a person who directs or works, in any capacity, in a private sector entity of any property, private funds or securities or any other thing of value entrusted to him or her by virtue of his or her position.

**Has your country adopted and implemented the measures described above?
(Check one answer.)**

Y) Yes

(P) Yes, in part

(N) No

Yes, in part. Honduras meets this provision with the classification of financial crime particularly when the forced liquidation or the extraordinary mechanism of capitalization occurs.

Please cite the applicable policy(s), law(s) or other measure(s):

Please cite the text(s)

CRIMINAL CODE contained in Decree No. 144-1983. BOOK II. SPECIAL PART. TITLE XIV. FINANCIAL CRIME AND PUNISHMENT. CHAPTER I. FINANCIAL CRIME AND PUNISHMENT. Article 394-C and 394-G.

Please attach the text(s)

CRIMINAL CODE (1983)

BOOK II. SPECIAL PART.

TITLE XIV. FINANCIAL CRIME AND PUNISHMENT.

CHAPTER I. FINANCIAL CRIME AND PUNISHMENT.

C. Article 394-Causing or taking advantage of forced liquidation or declaration of extraordinary mechanism of capitalization. The counselors or directors, commissioners, managers, or other persons who have taken part in any capacity in the management or administration of a Supervised Institution that has declared Enforced Liquidation or been subjected to the Extraordinary Capitalization procedure, shall be punished twelve (12) to fifteen (15) years if, in the performance of their duties, any acts or any of the following omissions may have been executed:

- 1) Recognizing any nonexistent debts or favoring some creditors, making preferential payments or recognizing preferential acquisitions to which he is entitled.
- 2) Simulated disposals of assets of the institution to the detriment of its creditors,
- 3) Committed the trust assets in his/her own business or institution or allocate them for purposes other than those set forth in the

- Indenture;
- 4) Perform any act of administration or have the goods to the detriment of creditors after forced liquidation has been declared or the extraordinary mechanism of Capitalization;
 - 5) Perform non due obligations to the related parties during the process of regularization or within ninety (90) days prior to the declaration of Forced Liquidation, to the detriment of other creditors;
 - 6) Committed acts aimed at hindering, avoiding or deflecting effective supervision or control of the National Banking and Insurance Commission (CNBS) during the twelve months prior to the declaration of Forced Liquidation;
 - 7) Interest paid to holders of deposits with rate considerably above the average prevailing market rate, in similar Institutions, or goods sold at prices well below those of the stock, or other malicious mechanisms used to obtain funds for rescuing the Institution or to the benefit of a related party;
 - 8) Entered into contracts or other agreements to the detriment of the assets of the Institution with natural or legal entities directly related to the ownership of the entity;
 - 9) Give the funds or resources collected from the public an unauthorized destination, or use them to gain control of other financial institutions or public corporations in excess of what is stipulated in related laws;
 - 10) Have exceeded legal limits for credit transactions with partly related to economic groups, causing an asset harm to the institution;
 - 11) Not recorded in the accounts ruling out the administrative bodies, the adjustment items ordered by the Commission in order to conceal their true financial situation; and,
 - 12) Use any device, vehicle procedure to subtract funds from the institution to the detriment of depositors or contributors.

Article 394-G. Lending in excess to the legal standards. If in benefit for himself or herself or a related party the directors, advisors, officers or employees of supervised institutions that directly or indirectly grant loans, adopt and make investments or other financings in excess of the amounts or percentages established by legal regulations, or concealment of the true identity of the debtor, these shall be punished by three (3) to six (6) years imprisonment; and wherever this helped any grounds for Forced Liquidation

or the Extraordinary Mechanism to implement Capitalization to occur, they shall be punished by imprisonment of six (6) to twelve

Please provide examples of cases and attach case law if available.

There are no examples.

If this information is available, please provide statistical data on the number of investigations, prosecutions, convictions and acquittals. Please provide figures per year, according to their availability. Please describe how the information was collected and analyzed.

See statistics in response to Paragraph b) of Article 21.

82. Technical Assistance

The following questions on technical assistance relate to the Article under review in its entirety.

Do you require technical assistance for the (full) implementation of the Article under review? (Check one answer)

(Y) Yes

(N) No

Yes

What difficulties do you face for adopting or (completely) implementing the provision under review? (Check all answers that apply and provide an explanation in the "Comments" field.)

Limited capacity

Which of the following forms of technical assistance, if available, would assist your country to (completely) apply the provision under review? (Check all the answers that apply)

Interinstitutional training program for public officials involved in the process.

Does your country already receive some form of the mentioned technical assistance? (Check one answer.)

(N) No ☐

23. Laundering of proceeds of crime.

83. Item i) of paragraph a) of paragraph 1 of Article 23

1. Each State Party shall adopt, in accordance with fundamental principles of its domestic law, such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally:

a) i) The conversion or transfer of property, knowing that such property is the proceeds of crime, for the purpose of concealing or disguising the illicit origin of the property or of helping any person involved in the commission of the predicate offence to evade the legal consequences of his actions;

**Has your country adopted and implemented the measures described above?
(Check one answer.)**

Y) Yes

(P) Yes, in part

(N) No

Yes. With the approval of the Special Law against Money Laundering criminalizes the conduct described above, specifically contained in Article 36 of the Act.

Please cite the applicable policy(s), law(s) or other measure(s):

Please cite the text(s)

SPECIAL LAW AGAINST MONEY LAUNDERING contained in Decree No. 144 -2014. Article 36.

Please attach the texts

SPECIAL LAW AGAINST MONEY LAUNDERING (2015).

Articles 36. **CRIME OF MONEY LAUNDERING.** He/she who by himself/herself or through another person commits the offence of money laundering and shall be punished by six (6) to fifteen (15) years imprisonment, Acquires, invests, transforms, safeguards, manages, custodies, transports, transfers, converts, stores, moves, hides, conceals, in appearance of legality, legalizes or prevents the determination of the origin or true nature and location, destination, movement or ownership of direct or indirect product assets of the activities of illicit drug trafficking, trafficking in human organs, theft of motor vehicles, theft from financial institutions, financial scams or frauds in the activities of the state administration to private companies or individuals, kidnapping, extortion, financing terrorism, terrorism, influence peddling and related offences and any other that threaten Public

Administration, freedom and security, natural resources and environment; or have no cause or economic justification or lawful use of their origin.

However, the penalty should be:

- 1) From six (6) to ten (10) years of seclusion, if the value of assets object to laundering is equal or less to the equivalent to seventy (70) minimum wages of higher value in the area;
- 2) Ten (10) years one (1) day to fifteen (15) years of seclusion, if the value of assets object to laundering exceeds a value equivalent to seventy (70) minimum wages and does not exceed a value of one hundred and twenty (120) higher minimum wages of the zone; and,
- 3) Fifteen (15) years and one (1) day to twenty (20) years of imprisonment, if the value of the assets object to laundering exceed one hundred and twenty (120) higher minimum wages in the area.

To the promoters, leaders or heads and direct or indirect beneficiaries of the activities of money laundering, must be imposed the penalty corresponding to this Article, increased by one third (1/3) of the sentence.

If available, please attach the text in any (other) official language of the United Nations (Arabic, Chinese, Spanish, French, English or Russian).

Please provide examples of cases and attach case law if available.

Example of a current case handled by the Public Ministry: Investigation in the Social Security.

According to Public Ministry's publication entitled "Significant Events" (attached) this line of investigation arises from information obtained from reliable sources which could reasonably infer preliminary and the possible commission of a crime of money laundering. In it, the illegal acquisition of funds from credit lines granted in favor of the Honduran Institute of Social Security, requiring the use of bank products on behalf of various individuals and entities involved. Upon receipt of the information, the route of the assets was tracked, managing to establish the acquisition of a series of real estate resulting from these illegal deposits, so the need was considered to encourage the process of permanent deprivation of property of illegal origin, in order to obtain their preliminary embargo and seizure, preserving its availability in order to complete the eventual sentence of deprivation that may be issued thereon.

The investigative steps instructed in this case are emblematic not only for the attention brought to the media, but for the reprehensible acts of corruption committed by public officials to the detriment of social security of citizens, and of particular importance actions aimed not only to reduce criminal responsibility of the authors and accomplices but also to identify the whereabouts, assurance, and deprivation of property derived from such acts, so that these can be returned to the State and the victims, aspects for which the deprivation of property process is suitable for pursuing the property regardless of whether it is owned by the perpetrator or not, as long as their unlawful origin is clear.

This case is in the investigative stage of deprivation of property, having requested and ordered from specialized Court in the field, several embargos and seizure of real estate and trading companies that have been identified during the process. It should be mentioned that in the case investigated of deprivation of property, defense rights are guaranteed so that, whomsoever claims to have a legitimate right to the real estate may accredit it with the evidence as deemed appropriate.

If this information is available, please provide statistical data on the number of investigations, prosecutions, convictions and acquittals. Please provide figures per year, according to their availability. Please describe how the information was collected and analyzed.

According to data provided by the CEDIJ during 2014 thirteen court cases were initiated for the crime of money laundering and other offences and ten court cases were finalized for this same crime in the Civil Criminal Court at national level. Of the ten cases three were placed on trial, five concluded with final dismissals, and two were suspended for provisional dismissal.

As for the processes handled by **Sentencing Courts** in the last year (2014), 13 trials were concluded for the crime of money laundering, five with conviction and eight with acquittal.

YEAR	NUMBER OF CASES	CONVICTIONS	ACQUITTAL
2012	ND	ND	ND
2013	ND	ND	ND
2014	13	5	8
Total	13	5	8

Source: CEDIJ, 2015

To gather this statistical information CEDIJ distributes, on a monthly basis at

a national level the data collection instruments (statistical formats and their respective instructions) containing data collection matrixes on the subjects known to the different judicial bodies. After this data is collected, it is manually processed in the Statistics Unit of the CEDIJ, creating databases that allow meeting internal and external consultations.

84. Item ii) of paragraph a) of paragraph 1 of Article 23

1. Each State Party shall adopt, in accordance with fundamental principles of its domestic law, such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally:

[...]

ii) The concealment or disguise of the true nature, source, location, disposition, movement or ownership of or rights with respect to these, knowing that such property is proceeds of crime;

**Has your country adopted and implemented the measures described above?
(Check one answer.)**

Y) Yes

(P) Yes, in part

(N) No

Yes. With the approval of the Special Law against Money Laundering criminalizes the conduct described above, specifically contained in its Article 36.

Please cite the applicable policy(s), law(s) or other measure(s):

Please cite the text(s)

SPECIAL LAW AGAINST MONEY LAUNDERING contained in Decree No. 144 -2014. Article 36.

Please attach the texts

SPECIAL LAW AGAINST MONEY LAUNDERING. (2015)

Article 36. See the response of item i) of paragraph a) of paragraph 1 of Article 23.

If available, please attach the text in any (other) official language of the United Nations (Arabic, Chinese, Spanish, French, English or Russian).

Please provide examples of cases and attach case law if available.

Supreme Court of Justice Verdict. Criminal Appeals Chamber. Process No. SP-41-2010. Residing Judge: RAUL ANTONIO HENRIQUEZ INTERIANO. **March, eight (08), two thousand twelve (2012).**

The twenty-first day of September, two thousand seven, Mr. BEF and Mr. Z, entered the country by land. BVF, both of Guatemalan origin, who days before had been set to travel to the Republic of Costa Rica, taking with them the amount of SIXTY-ONE THOUSAND FOUR HUNDRED FORTY DOLLARS (\$ 61.440.), therefore they appeared the day pointed out in the early morning at the offices of the Hedman Alas bus company, in Guatemala City, where they bought the tickets numbers 031621 (B) and 031622 (Z), which would take them to the city of Tegucigalpa, traveling in seats number 19 and 20 respectively. At approximately twelve thirty in the afternoon they arrived at city of San Pedro Sula, transferring at approximately one p.m. to another bus of the same company, that finally would take them to the city of Tegucigalpa, and just as the above mentioned bus reached the tollbooth located on the motorway heading South it was stopped by the police in order to carry out a search under the command of Commissioner LSG, who moments before had received via mobile phone information that on the bus was a couple that was described to him carrying a large amount of money, and whom, the official searched with collaboration of other agents. Once the bus passed by the mentioned place and was required to stop, officer Saucedo boarded it and advised its occupants that an operation was underway and immediately recognized the couple that had been described to him beforehand, so all passengers exited the bus and immediately he requested identification from the couple who answered to the name of ZV and BEF, proceeding in this act to require them asking if they carried amounts of money, to which the girl replied yes, thereupon she was consulted as to the amount and she went to B and asked for the amount that they bore and he said that about twenty thousand dollars, so she repeated her companion's response to the police officer. Then once the information was confirmed which was until then only a suspicion of the police, the decision was made to call the General Directorate of Criminal Investigation officers, for them to carry out the relevant proceedings and the case be handed over to them, however when the unit arrived they proceeded to take Mr. and Mrs. V and F to the investigation police headquarters, since the public conditions there were not suitable for searching the two individuals, the search was carried out at the mentioned headquarters in separate offices, by staff of the same gender of Mr. and Mrs. B and Z respectively and following all legal procedures, resulting that indeed the Mrs. V carried attached to her left calf the amount of fifty nine thousand four

hundred forty dollars (\$59,440) distributed in four packages that were held with brown adhesive tape. The money was in 100 and 20 dollar bills. She was asked to undress and remain in her underwear in order to see if she was carrying money or any other instrument, on any part of the body, once the finding was made she was asked to get dressed again. Meanwhile, in another office of the same unit but separated from Mrs. V, Mr. BEF was also inspected following the established legal procedures and documenting diligence, finding in his possession two thousand dollars (\$ 2,000) and the amount of eight hundred and sixty lempiras (L 860.00) both of the amounts added to sixty-one thousand four hundred forty US dollars (\$ 61.440), all of which Mr. and Mrs. B and Z could not establish the origin.

On these facts the defendants were sentenced: ZBVF And BEFA, to a sentence of FIFTEEN (15) YEARS IMPRISONMENT for the crime of **MONEY LAUNDERING** to the detriment of the STATE ECONOMY OF HONDURAS, respectively imposing additional penalties as those of DISQUALIFICATION AND CIVIL INTERDICTION for the duration of the main sentence.

If this information is available, please provide statistical data on the number of investigations, prosecutions, convictions and acquittals. Please provide figures per year, according to their availability. Please describe how the information was collected and analyzed.

See in statistics in response to item i) of paragraph a) of paragraph 1 of Article 23.

85. Item i) of subparagraph b) of paragraph 1 of Article 23

1. Each State Party shall adopt, in accordance with fundamental principles of its domestic law, such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally:

[...] b) Subject to the basic concepts of its legal system:

i) The acquisition, possession or use of property, knowing, at the time of receipt, that they are proceeds of crime;

**Has your country adopted and implemented the measures described above?
(Check one answer.)**

Y) Yes

(P) Yes, in part

(N) No

Yes. With the approval of the Special Law against Money Laundering criminalizes the conduct described above, specifically contained in the Article 36.

Please cite the applicable policy(s), law(s) or other measure(s):

Please cite the text(s)

SPECIAL LAW AGAINST MONEY LAUNDERING contained in Decree No. 144 -2014. Articles 36.

Please attach the texts

SPECIAL LAW AGAINST MONEY LAUNDERING. (2015)

Article 36. See the response of item i) of paragraph a) of paragraph 1 of Article 23.

If available, please attach the text in any (other) official language of the United Nations (Arabic, Chinese, Spanish, French, English or Russian).

Please provide examples of cases and attach case law if available.

There are no specific examples regarding the paragraph under consideration.

If that information is available, please provide statistical data on the number of investigations, prosecutions, convictions and acquittals. Provide figures per year, according to their availability. Describe how the information was collected and analyzed.

See in statistics in response to item i) of subparagraph a) of paragraph 1 of Article 23.

86. item ii) of subparagraph b) of paragraph 1 of Article 23

1. Each State Party shall adopt, in accordance with fundamental principles of its domestic law, such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally:

[...]

b) Subject to the basic concepts of its legal system:

...

ii) Participation in the commission of any of the offences established in accordance with this Article, as well as the association and conspiracy to commit them, attempts to committing and aiding them, abetting, facilitating and counseling for the sake of their commission .

**Has your country adopted and implemented the measures described above?
(Check one answer.)**

Y) Yes

(P) Yes, in part

(N) No

Yes. With the approval of the Special Law against Money Laundering the behaviors described above are classified, establishing the crime of money laundering front man, the conspiracy, the laundering of omission of assets and facilitating and covering up the crime by an employee or civil servant.

Please cite the applicable policy(s), law(s) or other measure(s):

Please cite the text(s)

SPECIAL LAW AGAINST MONEY LAUNDERING contained in Decree No. 144 -2014. Articles 37, 38, 40 and 41.

Please attach the text (s)

SPECIAL LAW AGAINST MONEY LAUNDERING (2015)

Article 37. Front Man. Must be punished with six (6) to fifteen (15) years imprisonment, he/she who gives his name in real or simulated acts or contracts, of commercial civil nature, relating to the acquisition, transfer or administration of goods: imported directly or indirectly from the activities of drug trafficking, human trafficking, illegal arms trafficking, counterfeiting of currency, trafficking in human organs, theft of motor vehicles, theft from financial institutions, financial fraud scams or activities of the State administration to private companies or individuals, kidnapping, extortion, financing terrorism, terrorism, influence peddling and related offences and any other that threaten public administration, freedom and security, natural resources and environment; or have no cause or economic justification or lawful use of their origin.

The penalty for the crime of Front man should be:

- 1) From six (6) to ten (10) years of seclusion, if the value of assets object

to laundering is equal or less to the equivalent to seventy (70) minimum wages of higher value in the area;

- 2) Ten (10) years one (1) day to fifteen (15) years of seclusion, if the value of assets object to laundering exceeds a value equivalent to seventy (70) minimum wages and does not exceed a value of one hundred and twenty (120) higher minimum wages of the zone; and,
- 3) Fifteen (15) years and one (1) day to twenty (20) years of imprisonment, if the value of the assets object to laundering exceed one hundred and twenty (120) higher minimum wages in the area.

Article 38.- CRIME OF ILLICIT ASSOCIATION. Whom associate or conspire to commit the crime of money laundering or as front man should be punished for that single act, with imprisonment of six (6) to ten (10) years.

Article 40.- MONEY LAUDERING CRIME EXECUTED BY EMPLOYEE OR PUBLIC OFFICIAL. The employee or public official using his position to participate, facilitate or benefit from the crimes of money laundering, concealment of the crime of money laundering or association for the implementation of money laundering, must be punished with the same sanction as established in Article 38 of this Law, increased by a quarter (1/4), plus the final disqualification in the exercise of any public office, as principal punishments.

The penalty specified in this Article shall also apply to the legal representatives of legal persons involved in the commission of this crime.

Article 41.- CRIME OF MONEY LAUNDERING REMISS. The Obligated who neglecting to meet the obligations of due diligence and prevention of money laundering facilitates the realization of this behavior, should be penalized by imprisonment of two (2) to five (5) years, unless the conduct displayed be punished with a heavier penalty.

If available, please attach the text in any (other) official language of the United Nations (Arabic, Chinese, Spanish, French, English or Russian).

Please provide examples of cases and attach case law if available.

There are no specific examples regarding the paragraph under consideration.

If that information is available, please provide statistical data on the number of investigations, prosecutions, convictions and acquittals. Provide figures per year, according to their availability. Describe how the information was

collected and analyzed.

See in statistics in response to item i) of subparagraph a) of paragraph 1 of Article 23.

87. Subparagraphs a) and b) of paragraph 2 of Article 23

For purposes of the application or implementation of paragraph 1 of this Article: ☐

- a) Each State Party shall seek to apply paragraph 1 of this Article to the widest range of predicate offences;*
- b) Each State Party shall include as predicate offences at a minimum a comprehensive range of offences under this Convention;*

Has your country adopted and implemented the measures described above?

Y) Yes

(P) Yes, in part

(N) No

Yes. With the approval of the Special Law Against Money Laundering a wide range of predicate offences are typified, including offences of insider trading and related crimes and any other which threaten the public administration such as financial fraud, scams or activities of the State administration, private companies or individuals.

Please cite the applicable policy(s), law(s) or other measure(s):

Please cite the text(s) ☐

SPECIAL LAW AGAINST MONEY LAUNDERING contained in Decree No. 144 -2014. CHAPTER VI. THE CRIME OF MONEY LAUNDERING. Article 36.

Please attach the text (s)

SPECIAL LAW AGAINST MONEY LAUNDERING (2015)

CHAPTER VI. THE CRIME OF MONEY LAUNDERING.

Article 36. CRIME OF MONEY LAUNDERING. Commits the crime of money laundering [...] direct or indirect products of activities **of illicit drug trafficking, trafficking in human organs, theft of motor vehicles, theft from financial institutions, financial scams or frauds in the activities of the state administration to private companies or individuals, kidnapping, extortion, financing terrorism, terrorism, influence peddling and related**

offences and any other that undermine the public administration, freedom and security, natural resources and environment; or have no cause or economic justification or lawful use of their origin.

If available, please attach the text in any (other) official language of the United Nations (Arabic, Chinese, Spanish, French, English or Russian).

Please provide examples of cases and attach case law if available

There are no statistics that disaggregate this information.

If that information is available, please provide statistical data on the number of investigations, prosecutions, convictions and acquittals. Provide figures per year, according to their availability. Describe how the information was collected and analyzed.

There are no statistics that disaggregate this information.

88. Subparagraph c) of Paragraph 2 of Article 23

2. For purposes of the application or implementation of paragraph 1 of this Article: [...]

c) For the purposes of subparagraph b) above, predicate offences shall include offences committed both within and outside the jurisdiction of the State Party in question. However, offences committed outside the jurisdiction of a State Party shall constitute a crime always decisive and when the relevant conduct is a crime under the law of the State in which it was committed and also constitute an offence under the law of the State party that applies or implements this Article if the offence had been committed there;

Is your country in compliance with this provision? (Check one answer.)

Y) Yes

(P) Yes, in part

(N) No

Yes in part. The Special Law against Money Laundering provides that this offence should be prosecuted regardless of whether the predicate offences have been committed or initiated in other jurisdictions.

Please cite the applicable policy(s), law(s) or other measure(s):

Please cite the text(s)

SPECIAL LAW AGAINST MONEY LAUNDERING contained in Decree No. 144 -2014. CHAPTER VI. THE CRIME OF MONEY LAUNDERING.

Article 35 paragraph 2.

Please attach the text(s)

SPECIAL LAW AGAINST MONEY LAUNDERING

CHAPTER VI. THE CRIME OF MONEY LAUNDERING.

Article 35. AUTONOMY OF CRIMINAL ACTION. ...

When assets, products or instruments are in the Republic of Honduras, the crime of money laundering, ... should be prosecuted regardless of whether the **crime which was committed proceeded or initiated abroad.**

[...].

If available, please attach the text in any (other) official language of the United Nations (Arabic, Chinese, Spanish, French, English or Russian).

Please provide examples of cases and attach case law if available

There are no specific examples regarding the paragraph under consideration.

If that information is available, please provide statistical data on the number of investigations, prosecutions, convictions and acquittals. Provide figures per year, according to their availability. Describe how the information was collected and analyzed.

There are no statistics that disaggregate this information.

89. Subparagraph c) of Paragraph 2 of Article 23

2. For purposes of the application or implementation of paragraph 1 of this Article:

[...]

d) Each State Party shall furnish copies of its laws that give effect to this article and of any subsequent changes to such laws or a description thereof to the Secretary General of the United Nations;

Has your country provided the Secretary General of the United Nations copies of its laws under review as set out in the arrangement? (Check one answer.)

(Y) Yes

(N) No

No. The law is recently published in the Official Gazette (April 2015) and is awaiting official delivery to the Secretary General of the United Nations.

90. Subparagraph e) of Paragraph 2 of Article 23

2. For purposes of the application or implementation of paragraph 1 of this Article:

[...]

e) If required by fundamental principles of domestic law of a State Party, it may be provided that the offences set forth in paragraph 1 of this Article do not apply to the persons who committed the predicate offence.

Does the national system of your country provide fundamental principles contained in the above-written? (Check the response)

(Y) Yes

(N) No

No, on the contrary the Honduran Law notes autonomy of the crime of money laundering which must be punished regardless of the predicate offences.

Please cite the applicable policy(s), law(s) or other measure(s):

Please cite the text(s)

SPECIAL LAW AGAINST MONEY LAUNDERING contained in Decree No. 144 -2014. CHAPTER VI. THE CRIME OF MONEY LAUNDERING. Article 35 paragraph 1.

Please attach the text (s)

SPECIAL LAW AGAINST MONEY LAUNDERING (2015)

CHAPTER VI. THE CRIME OF MONEY LAUNDERING.

Article 35. AUTONOMY OF CRIMINAL ACTION. The autonomy of criminal action for offences typified in this chapter, **must be prosecuted and sentenced by the Competent Courts as a separate offence** for any other illicit crime contained in the common system and in the special criminal laws.

[...]

If available, please attach the text in any (other) official language of the United Nations (Arabic, Chinese, Spanish, French, English or Russian).

Please provide examples of cases and attach case law if available

Supreme Court of Justice Verdict. Criminal Appeals Chamber. No. CP-80-2013 process. Speaker Magistrate: CARLOS DAVID CALIX VALLECILLO. **November, seven (07) two thousand thirteen (2013).**

The CRIMINAL DIVISION, met the cassation appeal for breach of form, brought against the decision dated July 20, two thousand twelve, issued by the trial court of El Progreso, Yoro Department, in which it ruled: 1) **ABSOLVING** Mrs. Z. A. R., for the crime of **ASSET LAUNDERING** To the detriment of the STATE'S ECONOMY OF HONDURAS 2 sentencing Mrs. Z. A. R., with the sentence of three (03) years imprisonment for the crime of **UNLAWFUL POSSESSION OF FIREARM** to the detriment of internal security THE STATE OF HONDURAS, plus additional penalties of disqualification and CIVIL FORFEITURE, for the duration of the sentence principal.-

By making relevant considerations THE CRIMINAL DIVISION RULES: Declaring **ADMISSIBLE** the Appeal on Procedural Flaw in its sole plea, filed by the Public Ministry and decreeing the **ANNULMENT** of the contested verdict dated twenty (20) July and the debate that caused it held on this twenty third day of (23) May, two, two thousand twelve (2012), keeping intact the condemnatory statement issued against the aforementioned Z. A.R. for the crime of **UNLAWFUL POSSESSION OF FIREARM**; AND ORDERS to strictly observe the terms stated in the Criminal Procedure Code, an that the Trial Court of the City of El Progreso, Yoro Department, proceed to hold a new debate on the present case, in which trial different Judges should participate to those who attended to issue the ruling of twenty (20) July, two thousand twelve (2012) to determine the responsibility of the accused for the crime of **ASSET LAUNDERING**.

If that information is available, please provide statistical data on the number of investigations, prosecutions, convictions and acquittals. Provide figures per year, according to their availability. Describe how the information was collected and analyzed.

There are no statistics that disaggregate this information.

91. Technical assistance

The following questions are made on technical assistance in connection with the

entire article under review.

Do you require technical assistance for (total) implementation of the article under review? (Check one answer.)

(Y) Yes

(N) No

Yes

What difficulties do you face for adopting or (completely) implementing the provision under review? (Check all answers that apply and provide an explanation in the "Comments" field.)

Limited capacity

Which of the following forms of technical assistance, if available, would assist your country to (completely) apply the provision under review? (Check all the answers that apply)

Interinstitutional training program for public officials involved in the process.

Does your country already receive some form of the mentioned technical assistance? (Check one answer.)

(N) No ☐

24. Concealment.

92. Article 24

Without prejudice to the provisions of Article 23 of this Convention, each State Party shall consider adopting such legislative and other measures as may be necessary to establish as a criminal offence, when committed intentionally after the commission of any of the offences established in accordance with this Convention without having participated in such offences, the concealment or continued retention of property when the person involved knows that such property is the result of any of the offences established in accordance with this Convention.

Has your country adopted and implemented the measures described above? (Check one answer.)

(Y) Yes

(P) Yes, in part

(N) No

Yes. Honduras applies this provision by the concealment type crime.

However, it should be clarified that this crime can take place regarding common or other crimes and does not only refer to crimes under the UNCAC. More specifically, Honduran Law defines the crime of concealment of money laundering and establishes the obligation to any public or private institution, prosecutors, judges or any natural person on the development of any activity or process for knowledge of the existence of assets, products, instruments or unusual profits or doubtful origin, informing the Public Ministry.

Please cite the applicable policy(s), law(s) or other measure(s):

Please cite the text(s)

CRIMINAL CODE contained in Decree No. 144-1983. BOOK II. SPECIAL PART. TITLE XIII. CRIMES AGAINST PUBLIC ADMINISTRATION. CHAPTER XII. CONCEALMENT. Articles 388 and 389.

SPECIAL LAW AGAINST MONEY LAUNDERING contained in Decree No.. 144 -2014. Article 36.

LAW ON PERMANENT DEPRIVATION OF PROPERTY OF AN ILLEGAL ORIGIN contained in Decree 27-2010. Chapter VI. REGARDING THE OBLIGATION TO INFORM. Article 25 first paragraph.

Please attach the text(s)

CRIMINAL CODE (1983)

BOOK II. SPECIAL PART.

TITLE XIII. CRIMES AGAINST PUBLIC ADMINISTRATION.

CHAPTER XII. CONCEALMENT

Article 388.- Will incur in imprisonment from three months to two years, who, without prior agreement with the authors and accomplices of a crime, but with knowledge of it, after the crime is executed, does any of the following:

- a) Hides the delinquent or facilitates escape to evade justice.
- b) Seeks to destroy evidence of the crime.
- c) Keeps, hides, buys, sells or receives in pledge or in exchange the effects or instruments of the crime.

- d) Denies permission to the officials, without justification, to enter the address to capture the delinquent within it.
- e) Not notify the officials regarding news about the commission of a crime, when he is required to do so by their profession or employment.

In this case, besides the established penalty, another will be imposed, that of a special binding disabled for double the time of the jail term.

Article 389.- Those who are concealing their spouse or person with whom they have married life, or relatives within the fourth degree of consanguinity or second degree, will not be penalized, unless they have been taken advantage for themselves or having aided criminals to take advantage of the effects of the crime.

SPECIAL LAW AGAINST MONEY LAUNDERING

Article 39. CRIME OF CONCEALMENT. The author of concealment of money laundering, should be punishable by the penalty prescribed in Article 38 of this Law, reduced by one third (1/3).

LAW ON PERMANENT DEPRIVATION OF PROPERTY OF ILLEGAL ORIGIN.

Chapter VI. REGARDING THE OBLIGATION TO REPORT

Article 25. first paragraph OBLIGATION TO REPORT. The Attorney General's Office; the Superior Court of Accounts; the Secretary of State in the Ministry of Finance; the Executive Directorate of Revenue (DEI); The Secretary of State for Security; the Directorate of Drug Trafficking; The National Commission of Banking and Insurance; individual and legal entities referred to in Article 37 of the reformed Law of the Crime of Money Laundering and those done of activities described in it; any public or private institution; Public Prosecutor or Court Agent; Judge of the Jurisdiction Court; or any other individual who, in the development of any activity or process obtains knowledge of the existence of goods, products, instruments or profits of doubtful or unusual origin, must inform FESCCO of the Public Ministry, about these so that they can be subject to the process of deprivation.

If available, please attach the text in any (other) official language of the United Nations (Arabic, Chinese, Spanish, French, English or Russian).

Please provide examples of cases and attach case law if available

Court	Docket No.	Crime for ending or suspending the process
JPL Comayagua	0301-2011-01581	Concealment in public administration
JLP Tegucigalpa	314-2013	Concealment and violation of the duties of officials
JLP Tegucigalpa	34405-2011	Concealment, violation of the duties of officials and abuse of authority
JLP Juticalpa	088-2013	Violation of the duties of officials, concealment, conspiracy and illegal restriction of freedom of movement.
JLP Catacamas	167-2013	Violation of the duties of officials, abuse of power and cover-up.
JLP Comayagua	271-5-2013	Concealing domestic bribery

If available, please provide related statistical data on number of investigations, prosecutions and convictions / acquittals. Please provide per annum figures, as available. Please describe how such information is collected and analyzed.

According to data provided by the Electronic Judicial Center for Documentation and Information (CEDIJ) between 2012-2014 six prosecutions were concluded for the crime of concealment (linked to crimes against public administration) in the **First Instance Courts for Crime** at the national level. Of the six processes two were opened for trial, three ended with dismissals,

and one process was suspended by provisional dismissal.

Tables with data supplied by the CEDIJ with disaggregated data for the years 2012, 2013 and 2014 is annexed.

As for the processes handled by the **Sentencing Courts** in the last three years (2012-2014) there were 115 prosecutions for the crime of concealment (linked to all types of crimes), of which 81 ended with convictions, 22 acquittals, one with provisional dismissal and one definite dismissal.

YEAR	NUMBER OF CASES	CONVICTIONS	ACQUITTALS
2012	19	15	4
2013	38	32	6
2014	48	34	12
Total	105	81	22

Source: CEDIJ, 2015

To gather this information collection data tools are distributed (statistical formats and their instructions) that have data collection matrixes on matters dealt with in the different jurisdictions. Then this information is sent to a central Statistical Unit of the CEDIJ that allow access for internal or external review.

93. Technical Assistance

The following questions on technical assistance relate to the Article under review in its entirety.

Do you require technical assistance for the (full) implementation of the Article under review? (Check one answer)

(Y) Yes (N) No

Yes.

What difficulties do you face for adopting or implementing (completely) the provision under review? (Check all answers that apply and provide an explanation in the "Comments" field.)

Limited capacity

Which of the following forms of technical assistance, if available, would assist

your country to (completely) apply the provision under review? (Check all the answers that apply)

Interinstitutional training program for public officials involved in the process.

Does your country already receive some form of the mentioned technical assistance? (Check one answer.)

(N) No ☐

25. Obstruction of justice.

94. Subparagraph a) of Article 25

Each State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally:

a) The use of physical force, threats or intimidation or the promise, offering or giving of an undue advantage to induce false testimony or to interfere in the giving of testimony or the production of evidence in a proceeding in relation to the commission of offences established in accordance with this Convention;

Has your country adopted and implemented the measures described above? (Check one answer.)

Y) Yes

(P) Yes, in part

(N) No

Yes, in part. By defining crimes of coercion and threats, perjury, false accusation or complaint and removal of objects as evidence/ proof in a process. The criminal offences do not include “*offering or giving of an undue advantage to induce a person to give false*”. In the case of obstruction of investigations by the Superior Court of Accounts it is stated that whoever commits such action is committing the crime of disobedience.

Please cite the applicable policy(s), law(s) or other measure(s):

Please cite the text(s)

CRIMINAL CODE contained in Decree No. 144-1983. BOOK II. SPECIAL PART. TITLE VI. CRIMES AGAINST FREEDOM AND SECURITY. CHAPTER V. COERCION AND THREATS. Articles 206 and 207. TITLE XIII. CRIMES AGAINST PUBLIC ADMINISTRATION. CHAPTER IV. ☐ VIOLATION OF SEALS AND DOCUMENTS Article 358-A and

CHAPTER XI. PERJURY, FALSE ACCUSATION AND COMPLAINT.
Article 385

ORGANIC LAW OF THE SUPERIOR COURT OF ACCOUNTS. Article 67.

Please attach the text(s)

CRIMINAL CODE (1983)

BOOK II. SPECIAL PART.

TITLE VI. CRIMES AGAINST FREEDOM AND SECURITY.

CHAPTER V. COERCION AND THREATS

Article 206.- The person who without being lawfully authorized violently impedes another, to do what the law does not prohibit, or would compel another to execute what he/she does not want to do, be that fair or unfair, will suffer imprisonment of three (3) months to two (2) years.

Article 207.- The individual who threatens another with causing harm to him or his family, to his person, honor or property, whether or not this is constituted as a crime shall be punished by imprisonment of six (6) months to two (2) years, and also to the security measures that the judge determines.

TITLE XIII. CRIMES AGAINST PUBLIC ADMINISTRATION.

CHAPTER IV. □ VIOLATION OF SEALS AND DOCUMENTS

358-A.- Anyone who removes, hides, destroys or impairs records or documents in the care of a public official or other person in the interest of public service **or articles intended to be used as evidence** before a competent authority, will be punished with imprisonment of three (3) to six (6) years.

If the author of the act is the same depositary, in addition to the previous penalties, there will also be imposed that of absolute disqualification for twice the duration of the sentence. If the offence is committed as a fault of the depositary he/she shall be liable for a fine of ten thousand (L. 10 000.00) to thirty thousand (L. 30, 000.00) lempiras.

CHAPTER XI. PERJURY, FALSE ACCUSATIONS AND FALSE COMPLAINTS

Article 385.- A witness, expert or interpreter in his deposition, report, translation or interpretation, made before competent authority, wholly or partially distorts the truth or is silent on it, shall be punished with imprisonment of three (3) to five (5) years.

The penalty shall be of three (3) to six (6) years, if perjury is committed in a criminal cause to the detriment of the accused.

In all cases, additionally will be imposed, absolute disqualification for three (3) to eight (8) years.

ORGANIC LAW OF THE SUPERIOR COURT OF ACCOUNTS. (2002)

ARTICLE 67. INVESTIGATIONS. During the investigations the Court shall have the powers to request and obtain information about:

- 1) Acquisitions and transfers of assets or securities of any kind by the public servant.
- 2) Financial statements, accounting records, shareholders, participation in commercial companies; bank accounts, certificates of deposit and other documents in his/her name or that of family members, that can be found in handwritten, electronic media or in any form; and,
- 3) Any act leading to the investigation, as well as taking statements under oath as the case may be;

The required persons who fail to appear within the time period specified, in order to render the deposition, shall be guilty of the **crime of disobedience**, notwithstanding the requirement of a deposition required by summary procedure.

If available, please attach the text in any (other) official language of the United Nations (Arabic, Chinese, Spanish, French, English or Russian).

Please provide examples of cases and attach case law if available.

CONVICTION, PROSECUTION AGAINST FORMER LOCAL PUBLIC MINISTRY COORDINATOR OF SANTA BARBARA.

The Prosecutor of San Pedro Sula obtained a judgment against the Public Prosecutor M.E.D.N. for the crime of **ABDUCTION OF AN OBJECT COMMITTED TO HIS CUSTODY** AND VIOLATION OF DUTIES OF

OFFICERS (in perfect competition) to the detriment of the public administration.

According to the indictment filed at the time, Mr. JGHM and others were prosecuted for the crime of Homicide to the detriment of MLRM when their gun type 38 caliber revolver, wooden handle, blurred series, was confiscated; these defendants were brought before the Public Order Ministry, along with the aforementioned piece of evidence, having delivered the same as the chain of custody to the Prosecutor MEDN in his office, confirming the signature of reception; having ascertained through this document, testimony of witnesses and the evidence book control, his participation in the custody of the same and the disappearance of the weapon. Which he caused, and so valued in the conviction against Attorney MEDN, who has acquitted the accused JGHM and others, within the prescribed offence, of the failure to perform the required expertise in the gun missing .

The aforementioned servant was sentenced by the Trial Court of Santa Barbara and sentenced to THREE (3) YEARS NINE (9) months imprisonment.

If available, please provide related statistical data on number of investigations, prosecutions and convictions / acquittals. Please provide per annum figures, as available. Please describe how such information is collected and analyzed.

According to data provided by the Electronic Judicial Center for Documentation and Information (CEDIJ), between 2012-2014 there were 2 prosecutions **Sentencing courts** for the crime of perjury, and 1 concluded with conviction and one acquittal judgment.

Similarly between the years 2012-2014 there were 2 prosecutions **Sentencing courts** for the crime of theft of documents and objects to be submitted as evidence before competent authority, including one he closed with conviction and one acquittal judgment.

YEAR	NUMBER OF CASES	CONVICTIONS	ACQUITTALS
2012	1	0	1
2013	0	0	0
2014	1	1	0
Total	2	1	1

Source: CEDIJ, 2015

To gather this information collection data tools are distributed (statistical formats and their instructions) that have data collection matrixes on matters dealt with in the different jurisdictions. Then this information is sent to a central Statistical Unit of the CEDIJ that allow access for internal or external review.

95. Paragraph b) of Article 25

Each State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally:

[...]

b) The use of physical force, threats or intimidation to interfere with the exercise of official duties by a justice or law enforcement official in relation to the commission of offences established in accordance with this Convention. Nothing in this subparagraph shall prejudice the right of States Parties to have legislation that protects other categories of public official.

Has your country adopted and implemented the measures described above? (Check one answer.)

Y) Yes

(P) Yes, in part

(N) No

Yes. The conduct described in Section b) of Article 25 of the Convention are punishable under the Criminal Code sections 222. 1 and 343. Two establishes the crime of extortion, the penalty for which is increased if the object of this crime is an agent of justice and is assaulted, not only an officer or agent of justice. In other articles (322-326) these behaviors are interpreted as offences against judges of the Supreme Court or the places where these officials meet.

Please cite the applicable policy(s), law(s) or other measure(s):

Please cite the text(s)

CRIMINAL CODE contained in Decree No. 144-1983. BOOK II. SPECIAL PART. TITLE VII. CRIMES AGAINST PROPERTY. CHAPTER II EXTORTION AND BLACKMAIL Article 222. TITLE XII. □CRIMES AGAINST THE INTERNAL SECURITY OF THE STATE. CHAPTER I. CRIMES AGAINST HIGH STATE OFFICIALS Articles 322, 325 and 326. CHAPTER IX. Articles 343 ATTACK. 2 and 344.

Please attach the text(s)

CRIMINAL CODE (1983)

BOOK II. SPECIAL PART.

TITLE VII. CRIMES AGAINST PROPERTY.

CHAPTER II EXTORTION AND BLACKMAIL

Article 222. Extortion. He/she is committing the crime of extortion, who using threats, intimidation or violence and in order to seize for himself or for any criminal organization, money, goods, or other services, compels a person or entity to:

- 1) Do or abstain from doing any act;
- 2) Subscribe documents for cash payments; or
- 3) Sign, execute, deliver or destroy a deed or any other public or private document.

The perpetrator of this crime will be imposed sentences of imprisonment of fifteen (15) to twenty (20) years and a fine of fifty (50) minimum wages, plus the accessory that apply.

If, in committing this offence the victim, his/her spouse or life partner, a family member within the fourth degree of consanguinity and second degree of affinity is put to death, or any other person having a work relationship with the victim or the extorted legal person, the offender shall be imposed a sentence of imprisonment for life.

The previous prison sentence will be increased by one third (1/3) when the victim is a **Judge or Magistrate of the Judiciary, the Public Ministry, Justice, Director, Deputy Director or security staff of prisons, Agent of the National and Investigation Police, military in active duty, Police Force Combatting Drug Trafficking or the Technical Criminal Investigation Agency, a member of the National Defense and Security Council and Members of the National Congress and any other operator of Justice linked to Combatting Crime.**

The crime of extortion is of public order and the Public Ministry may initiate investigations ex officio, without need for a complaint from the victim.

TITLE XII. □CRIMES AGAINST THE INTERNAL SECURITY OF THE

STATE

CHAPTER I. CRIMES AGAINST HIGH STATE OFFICIALS

Article 322. He/she who inflicts death to a President of a **State power** and [...] shall be punished with forty (40) years of imprisonment to lifelong deprivation of liberty. Attempting the crime mentioned above is punishable by the same penalty reduced by one third (1/3).

The same penalties shall apply to anyone who implements the actions described against relatives of said officials within the fourth degree of consanguinity and second degree of affinity.

Article 325. The crimes in question in the three (3) above articles committed against the Secretaries of State, Members of the National Congress **Supreme Court of Justice Magistrates** shall be punished with the penalties prescribed respectively in those items, reduced by one fifth (1/5).

Article 326. Those who violently invaded or intimidated the place where the National Congress is gathered, **the Supreme Court of Justice** or the Council of Ministers, shall be punished by imprisonment of six (6) months to three (3) years.

* These articles relate to conspiracy to commit crimes against senior officials and the aggravation of punishment for certain crimes committed against the President of the Executive.

CHAPTER IX. TRANSGRESSION

Article 343.- He/She Commits an attack:

- 1) [...]
- 2) Those who assault officials or their agents, or uses force against them, or severely intimidates them, while exercising the functions of their positions or as a consequence of them."

Article 344 The attacks included in the previous article, shall be punished with imprisonment of one (1) to three (3) years as long as either of the following circumstances occur:

- 1) If the aggression takes place at gunpoint. ☐
- 2) If the accused are officials. ☐

- 3) If they set hands on the authority. ☐
- 4) If as the result of coercion, the authority has agreed to the demands of the accused. ☐

If available, please attach the text in any (other) official language of the United Nations (Arabic, Chinese, Spanish, French, English or Russian).

Please provide examples of cases and attach case law if available

There are no examples available.

If that information is available, please provide statistical data on the number of investigations, prosecutions, convictions and acquittals. Provide figures per year, according to their availability. Describe how the information was collected and analyzed.

There is no information available.

96. Technical Assistance

The following questions on technical assistance relate to the Article under review in its entirety.

Do you require technical assistance for the (full) implementation of the Article under review? (Check one answer)

(Y) Yes

(N) No

Yes

What difficulties do you face in (completely) adopting or implementing the provision under review? (Check all that apply and provide an explanation in the "Comments" field.)

(MYSYS) Specific characteristics in our legal system

Which of the following forms of technical assistance, if available, would assist your country to (completely) apply the provision under review? (Check all the answers that apply)

(BEST) Summary of good practices and lessons learned

(MOLEG) Legislation type

Does your country already receive some form of the technical assistance

mentioned? (Check one answer.)

(Y) Yes (N) No

No ☐

26. Liability of legal persons

97. Paragraphs 1 and 2 of Article 26

1. Each State Party shall adopt such measures as may be necessary, consistent with its legal principles, to establish the liability of legal persons for participation in the offences established in accordance with this Convention.

2. Subject to the legal principles of the State Party, the liability of legal persons may be criminal, civil or administrative.

Has your country established one or more of the forms of liability referred to in the provision above? (Check one answer)

(Y) Yes

(Y) Yes, in part

(N) No

Yes. Honduras complies with this provision by providing that the civil liability of a crime falls on the legal entity and the crime on individuals acting on behalf of the legal entity.

Likewise, the Honduran Criminal Code clearly establishes the liability of legal entities for their participation in the crimes of domestic bribery and transnational bribery, crimes in the administration of public and private pension funds and crime of money laundering.

Please cite the applicable measure(s):

Please cite the text(s)

CRIMINAL CODE contained in Decree No. 144-1983. BOOK I. GENERAL PART. Article 34-A. BOOK II. SPECIAL PART. TITLE XIII. CRIMES AGAINST PUBLIC ADMINISTRATION. CHAPTER V. BRIBERY Articles 366 and 366-A. TITLE XIV. FINANCIAL CRIME AND PUNISHMENT. CHAPTER II. CRIMES IN THE ADMINISTRATION OF PUBLIC AND PRIVATE RETIREMENT AND PENSION FUNDS AND PENALTIES. Article 394-Q.

SPECIAL LAW AGAINST MONEY LAUNDERING contained in Decree No.. 144 -2014. Article 43.

Please attach the texts

CRIMINAL CODE (1983)

BOOK I. GENERAL PART.

Article 34-A.- For crimes committed on behalf of and to the account of a corporation, the legal representatives, who have made possible the wrongful act or omission will be personally responsible. **The liability, however, will fall on the corporation.**

BOOK II. SPECIAL PART.

TITLE XIII. CRIMES AGAINST PUBLIC ADMINISTRATION

CHAPTER V. BRIBERY

Article 366.- **Domestic Bribery.**- [...]

Legal or incorporated entities involved in any of the acts described above will be penalized according to the following: [...]

What was established previously for legal or incorporated entities applies without prejudice to the provisions of Article 34-A of this Code.

Article 366-A. **Transnational Bribery:** [...]

The **legal or incorporated entities** subject to Honduran jurisdiction that participate in any of the acts described above will be penalized according to the following: [...]

What was established previously for legal or incorporated entities applies without prejudice to the provisions of Article 34-A of this Code.

Persons who [...]

TITLE XIV. FINANCIAL CRIME AND PUNISHMENT.

CHAPTER II. CRIMES IN THE ADMINISTRATION OF PUBLIC AND PRIVATE RETIREMENT AND PENSION FUNDS AND PENALTIES.

Article 394-Q.- [...]

When the offence is committed on behalf of a **legal entity**, in addition to the sentence imposed on those responsible under Article 34-A of Decree No. 191-96, dated October 31, 1996, the **legal entity** shall be punished [...]

SPECIAL LAW AGAINST MONEY LAUNDERING (2015)

Article 43.- **LIABILITY OF LEGAL PERSON.** Regardless of the responsibility of its officers, directors or managers, when the commission or facilitation of crimes under this Act is committed for the first time, **the legal entity** must be sanctioned with a fine of one hundred percent (100%) of the amount of the laundering.

If the criminal acts punishable under this law were committed for a second time, the **legal entity** should be punished with the fine established in the previous paragraph, plus closure or cancellation of it, according to the preset procedures in the Law according to its nature, this without prejudice to the criminal liability of its directors, managers or administrators.

The penalties provided for in this Article [...].

If available, please attach the text in any (other) official language of the United Nations (Arabic, Chinese, Spanish, French, English or Russian).

Please provide examples of the application.□

Example of an ongoing process in the Public Ministry in which it intends to investigate the liability of a legal entity in crimes established in accordance with UNCAC.

According to the report of the Public Ministry (215) called “Relevant Facts” (attached) the investigations started on the basis of information related to the purchase of bonds between the National Autonomous University of Honduras and INJUPEMP, criminal action which was being directed by the accused, CHZ in collusion with MJB, who had included a "broker" not authorized by

the National Banking and Insurance Commission (CNBS) using a shell company, which offered to buy UNAH bonds with INJUPEMP funds at an inflated price, creating a loss and asset disadvantage.

This criminal activity was carried out in violation of the investment policy requiring approval by the Investment Committee of INJUPEMP, who obviously did not approve these bond purchases.

The Special Public Ministry initiated criminal proceedings against CHZ on charges of **Abuse of Authority, Violation of the Duties of Officials, Fraud and Misappropriation of Public Funds** to the prejudice of the Public Administration; and against MJB and **CDG (Manager of the DIAZGAR company)** for the crime of **concealment** to the prejudice of the Public Administration and the National Institute of Retirement and Pensions for Employees of the Executive POWER (INJUPEMP).

Damage to assets, when these securities transactions with State Bonds are made, in a fraudulent manner, causing financial asset damage to the State of more than 5 million Lempiras that INJUPEMP failed to receive.

During the initial hearing, the defendants were formally processed for the crimes of Abuse of Authority, Violation of the Duties of Officials, Fraud and Misappropriation of Public Funds, imposing on the accused CHZ the precautionary measure of Pretrial Detention in the National Penitentiary; in the case of MJB he is formally charged with the crime of concealment, and has been ordered as a precautionary measure, to have periodic check-ins, a ban on leaving the country, prohibition from going to certain places, as well as a prohibition to communicate with certain people.

There is currently an extradition request being processed from the United States, regarding Mr. **CDG, manager of the "DIAZGAR" company**.

If available, give information on cases in which legal entities participated in crimes established under the Convention (statistics, types of cases and results). Indicate annual figures, as available.

There are no such statistics available.

98. Paragraph 3 of Article 26

3. Such liability shall be without prejudice to the criminal liability of the natural persons who have committed the offences.

Has your country established one or more of the forms of liability referred to in the provision above? (Check one answer)

(Y) Yes (P) Yes, in part (N) No

Yes. Honduras complies with this provision by providing in national laws that the civil liability of a crime falls on the legal entity as well as the responsibility of the crime on individuals as individual persons.

Please cite the applicable measure(s):

Please cite the text(s)

See what is provided in paragraphs 1 and 2 of Article 26.

Please attach the text(s)

See what is provided in paragraphs 1 and 2 of Article 26.

If available, please attach the text in any (other) official language of the United Nations (Arabic, Chinese, Spanish, French, English or Russian).

Please provide examples of implementation, including recent cases where both natural and legal persons were liable.

Example of ongoing process in the Public Ministry against a company.

The Special Unit Against Taxes and Related Crimes of the Public Ministry, through a complaint, has initiated an investigative process, **Against the Telephone Distributor S.A., "DISTELSA"**.

In accordance with the investigations, as of March 11, 2014, that company proceeded to pay the single customs declaration No. 140 014 014 262, that corresponded to 597 cell phones. But the customs authorities, upon review found that there were 700 units undeclared, the taxes in these had not been paid; this generated a loss to the National Treasury of L 1,050,779.00 in taxes, plus the fine of L 788,084.00 for a total of L 1,838,863.00.

As a result of the investigation, indictments were filed for the crime of Tax Fraud against SYV and JMST

Initial hearing was held on August 28, 2014, where they were issued formal indictments.

Please provide any available statistics on such cases. Indicate annual figures, as available.

There are no such statistics available of this type.

99. Paragraph 4 of Article 26

4. Each State Party shall, in particular, ensure that legal persons held liable in accordance with this Article are subject to effective, proportionate and dissuasive criminal or non-criminal sanctions, including monetary sanctions.

Has your country adopted and implemented the measures described above? (Check one answer.)

Y) Yes

(P) Yes, in part

(N) No

Yes. The penalties for the crime of domestic bribery and foreign bribery include the suspension of the activities of the legal entity and the closure of its establishments or offices open to the public for a period of two (2) to four (4) years and fines depending on the gravity of the act. Regarding financial crimes there are further stipulations such as the penalty of definite prohibition to perform activities in which the crime was committed. In the case of the crime of money laundering it includes the possibility of a penalty of closure or cancellation of establishments .

Please cite the applicable measure(s):

Please cite the text(s)

CRIMINAL CODE contained in Decree No. 144-1983. BOOK II. SPECIAL PART. TITLE XIII. CRIMES AGAINST PUBLIC ADMINISTRATION. CHAPTER V. BRIBERY Articles 366 and 366-A. CHAPTER V-A Article 369-C. TITLE XIV. FINANCIAL CRIME AND PUNISHMENT. CHAPTER II. CRIMES IN THE ADMINISTRATION OF PUBLIC AND PRIVATE RETIREMENT AND PENSION FUNDS AND PENALTIES. Article394-Q.

SPECIAL LAW AGAINST MONEY LAUNDERING contained in Decree No.. 144 -2014. Article 43.

Please attach the texts

CHAPTER V-A

Article 369-C.- [...].

In any of the cases referred to in this Article, the judicial authority shall also apply **suspension of activities** individual person or **legal entity**, organization or office **and the closure of their establishments or offices open to the public** for a term of two (2) to four (4) years.

If available, please attach the text in any (other) official language of the United Nations (Arabic, Chinese, Spanish, French, English or Russian).

Please provide examples of cases and attach case law if available.

Joint case of the Public Ministry and the Attorney General's Office of the Republic that determines the responsibility and punishment of a legal entity.

As a result of an operation led by the Special Unit Against Tax and Related Crimes, in which the Fiscal Unit for the Protection of Intellectual Property, participated in an investigative proceeding against CZ in his capacity as **legal representative of the HONDUFARMA company** for the crime of smuggling medicinal drugs, toothbrushes, soap and wet wipes, the victim was the public administration.

On August 6, 2014, through investigations carried out simultaneously, several operations were carried out in different businesses, among them the Honduran Pharmaceuticals S.A. "HONDUFARMA". The operation was carried out in response to several complaints filed by legal representatives of different pharmaceutical companies, for the crime of Violation of Industrial Property. As a result, in the storeroom of HONDUFARMA different contraband merchandise was found, which had no supporting documentation regarding payment of entry into the country taxes by appropriate policies or single customs declaration; as well as merchandise exhibited for sale that because of its name, brand, packaging, presentation and appearance are likely to be confused with similar products that have legitimate patents or registration. This action is penalized by our substantial criminal law a a Violation of Industrial Property, so this finding led to the confiscation of goods and consequently the arrest of Ms. CZ

Indictment was presented, a conciliation meeting on August 26, 2014, took place at the request of the party, during which the criminal action was cancelled, due to having complied with the terms of the settlement proposed by the Attorney General of the Republic. Agreement was reached to repair the Damage to the State **through the payment of an amount equivalent to four hundred ninety thousand lempiras (L490,000.00)**, by Mrs. CZ, which **includes** payment of taxes and a fine.

If that information is available, please provide statistical data on the number of investigations, prosecutions, convictions and acquittals. Provide figures per year, according to their availability. Described how the information was collected and analyzed.

There are no such statistics available of this type.

100. Technical Assistance

The following questions on technical assistance relate to the Article under review in its entirety.

Do you require technical assistance for the (full) implementation of the Article under review? (Check one answer)

(Y) Yes

(N) No

Yes.

What difficulties do you face for adopting or (completely) implementing the provision under review? (Check all answers that apply and provide an explanation in the "Comments" field.)

Limited capacity

Which of the following forms of technical assistance, if available, would assist your country to (completely) apply the provision under review? (Check all the answers that apply)

Interinstitutional training program for public officials involved in the process.

Does your country already receive some form of the mentioned technical assistance? (Check one answer.)

(N) No ☐

27. Participation and Attempt.

101. Paragraph 1 of Article 27

1. Each State Party shall adopt such legislative and other measures as may be necessary to establish as a criminal offence, in accordance with its domestic law, participation in any capacity such as an accomplice, assistant or instigator in an offence established in accordance with this Convention.

**Has your country adopted and implemented the measures described above?
(Check one answer.)**

Y) Yes

(P) Yes, in part

(N) No

Yes, in part. Honduras applies this provision, separating the criminal responsibility of perpetrators and accomplices in the Chapter of the Penal Code which defines the forms of participation in the crime. The same happens with the money laundering crime regulated by a Special Law.

Please cite the applicable policy(s), law(s) or other measure(s):

Please cite the text(s)

CRIMINAL CODE contained in Decree No. 144-1983. CHAPTER I. INVOLVEMENT IN THE CRIME. Articles 31, 32 and 33.

SPECIAL LAW AGAINST MONEY LAUNDERING contained in Decree No. 144-2014. Articles 37, 38 and 39.

Please attach the text(s)

CRIMINAL CODE (1983)

CHAPTER I. PARTICIPATION IN THE CRIME

Article 31.- The perpetrators and **accomplices** of the crime are criminally responsible.

Article 32.- Perpetrators are considered as those who take a direct part in the execution of the act, who directly force or induce others to execute it and those that cooperate in the execution of the act by performing an act that without it, it would not have been done.

In crimes of omission, the authors are those who do not do what the law commands, and cause omission or cooperate in such deeds.

Article 33.- **Accomplices** are those who, finding themselves not included in the previous Article, cooperate in the execution of the deed by previous or simultaneous acts.

If the particular circumstances of the trial proves that the accused of complicity is uncooperative, but in a less serious act committed than that by the perpetrator, the penalty will be applied to the accomplice only to the degree of the act that he/she pretended to execute.

SPECIAL LAW AGAINST MONEY LAUNDERING (2015).

Article 37. See the answer in letter i) of item a) of paragraph 1 of Article 23.

Article 38. See the response to letter ii) of item b) of paragraph 1 of Article 23.

Article 39. See the response to Article 24.

If available, please attach the text in any (other) official language of the United Nations (Arabic, Chinese, Spanish, French, English or Russian).

Please provide examples of cases and attach case law if available.

No examples available.

If available, please provide related statistical data on number of investigations, prosecutions and convictions/acquittals. Please provide per annum figures, as available. Please describe how such information is collected and analyzed.

No related statistical data available.

102. Paragraph 2 of Article 27

2. Each State Party may adopt such legislative and other measures as may be necessary to establish as a criminal offence, in accordance with its domestic law, any attempt to commit an offence established in accordance with this Convention.

**Has your country adopted and implemented the measures described above?
(Check one answer.)**

Y) Yes

(P) Yes, in part

(N) No

Yes. Honduras applies this provision by defining attempted commission of a

crime in the Penal Code and the application of different penalties for this type of action.

Please cite the applicable policy(s), law(s) or other measure(s):

Please cite the text(s)

CRIMINAL CODE contained in Decree No. 144-1983. TITLE II. THE CRIME. TITLE II. CRIME Articles 15 and 16, 66, 67 and TITLE XI CRIMES AGAINST THE EXISTENCE AND SECURITY OF THE STATE Article 311.

Please attach the text(s)

CRIMINAL CODE (1983)

TITLE II. THE CRIME

Article 15.- There is an **attempt** when, with intent to commit a particular crime, unambiguous implementing acts are performed and not consummated for reasons beyond the control of the agent.

Article 16.- If the **attempt** is effected with means that are inadequate or improper objects, the punishment can be lessened or the deed declared as not punishable, according to the dangers revealed by its author.

CHAPTER IV. APPLICATION OF PENALTIES.

Article 66. The **author of an attempt** and the accomplice completed crime is punishable by the penalty applicable to the author of the completed crime reduced by one third (1/3).

In the event that the crime is punishable with life imprisonment, implementation will be of between twenty (20) to thirty (30) years of imprisonment.²⁴

Article 67.-The accomplice an **attempted** crime will serve a lesser imprisonment to four sixths (4/6) to five sixths (5/6) of the penalty applicable to the author of the completed crime.

In the event that the crime is punishable with life imprisonment, the accomplice of attempted complicity, will serve the penalty of twenty (20) to thirty (30) years imprisonment.

If available, please attach the text in any (other) official language of the United Nations (Arabic, Chinese, Spanish, French, English or Russian).

Please provide examples of cases and attach case law if available.

No examples available.

If available, please provide related statistical data on number of investigations, prosecutions and convictions / acquittals. Please provide per annum figures, as available. Please describe how such information is collected and analyzed.

No related statistical data available.

103. Paragraph 3 of Article 27

3. Each State Party may adopt such legislative and other measures as may be necessary to establish as a criminal offence, in accordance with its domestic law, the preparation for an offence established in accordance with this Convention.

Has your country adopted and implemented the measures described above? (Check one answer.)

Y) Yes

(P) Yes, in part

(N) No

No, Honduras does not comply with this provision.

Please provide your country's actions to date for the application of the disposition under review:

There are currently no actions taking place.

Briefly describe the measures or actions (and deadlines) that domestic or other authorities should take to ensure full compliance with the provision under review:

The Public Ministry or the Supreme Court should submit to Congress, within a maximum of twelve months, a draft amendment to the Criminal Code to criminalize this conduct as a crime and thus fully meet the provision of UNCAC.

104. Technical Assistance

The following questions on technical assistance relate to the Article under review in its entirety.

Do you require technical assistance for the (full) implementation of the Article under review? (Check one answer)

(Y) Yes

(N) No

Yes.

What difficulties do you face for adopting or implementing (completely) the provision under review? (Check all answers that apply and provide an explanation in the "Comments" field.)

(MYSYS) Specific characteristics in our legal system

Which of the following forms of technical assistance, if available, would assist your country to (completely) apply the provision under review? (Check all the answers that apply)

(BEST) Summary of good practices and lessons learned

(MOLEG) Type legislation

Does your country already receive some form of the mentioned technical assistance? (Check one answer.)

(Y) Yes

(N) No

No ☐

28. Knowledge, intent and purpose as elements of a crime.

105. Article 28

The knowledge, intent or purpose required as an element of a crime under this Convention may be inferred from objective factual circumstances.

In your country, the knowledge, intent or purpose required as an element of a criminal offence under the Convention, can be inferred from objective factual circumstances? (Check one answer.)

Yes. Honduras has a conception of criminality involving the subjective side, as is the intention, which can only be proved by objective circumstances.

Indicate attach laws, policies or other measures applicable

Please cite the text(s)

CRIMINAL CODE. Decree n°144-1983. TITLE II. CRIME Articles 13 and 27

Please attach the text(s)

CRIMINAL CODE (1983)

TITLE II. THE CRIME.

Article 13. Crime can be committed by act or omission and must necessarily be fraudulent or guilty.

The crime is fraudulent when the result reflects the **intention** that was there at the time of committing it or when the perpetrator is obliged to know, that as a result of the act or omission there is the possibility that a harmful effect that is a crime, however, therefore in executing the crime and accepts therefore, the consequences arising therefrom.

The crime is culpable when it is the result of imprudence, incompetence or negligence or when it is the result of failure to comply with a law, a regulation or of orders, resolutions or duties addressing the circumstances and personal situation of the delinquent. The culpable crime is punishable only in cases particularly specified by law.

The penalty of a culpable crime may be higher than that for the same crime if it is committed intentionally, when that occurs, the penalty of the culpable crime can be lowered by one sixth (1/6).

If available, please attach the text in any (other) official language of the United Nations (Arabic, Chinese, Spanish, French, English or Russian).

Please provide examples of cases and attach case law if available.

They are not available.

If that information is available, please provide statistical data on the number of investigations, prosecutions, convictions and acquittals. Provide figures per year, according to their availability. Described how the information was collected and analyzed.

There are no such statistics available of this type.

106. Technical assistance

The following questions are made on technical assistance in connection with the entire article under review.

Do you require technical assistance for (total) implementation of the article under review? (Check one answer.)

(Y) Yes

(N) No

Yes.

What difficulties do you face for adopting or implementing (completely) the provision under review? (Check all answers that apply and provide an explanation in the "Comments" field.)

Limited capacity

Which of the following forms of technical assistance, if available, would assist your country to (completely) apply the provision under review? (Check all the answers that apply)

Interinstitutional training program for public officials involved in the process.

Does your country already receive some form of the mentioned technical assistance? (Check one answer.)

(N) No ☐

29. Statute of limitations.

107. Article 29

Each State Party shall, where appropriate, establish under its domestic law a long statute of limitations period in which to commence proceedings for any offence established in accordance with this Convention and establish a longer statute of limitations period or provide for the suspension of the statute of limitations where the alleged offender has evaded the administration of justice.

Has your country adopted and implemented the measures described above? (Check one answer.)

(Y) Yes

(P) Yes, in part

(N) No

Yes. Honduras applies this provision by having prescription mechanisms that

are long enough to enable effective investigation of crimes of corruption. Particularly when the defendant is a public servant, prescription of prosecution does not begin to count from the moment he/she ceases in his/her functions in the position in which the crime was committed.

Please cite the applicable policy(s), law(s) or other measure(s):

Please cite the text(s)

CONSTITUTION OF THE REPUBLIC OF HONDURAS, contained in Decree No. 131-1982. Article 325

CRIMINAL CODE - Decree No. 144 (1983) Articles 97 to 104

Article 105 of Decree 134-2011 of the reform of the ORGANIC LAW OF THE SUPERIOR COURT OF ACCOUNTS.

Please attach the text(s)

CONSTITUTION OF THE REPUBLIC OF HONDURAS. (1982)

Article 325.- Actions to assign civil liability of servants of the State, are prescribed in the term of ten years; and to assign criminal responsibility for twice the period specified by the Criminal Law.

In both cases, the term for prescription shall begin from the date on which the public official has left office in the responsibility in which he/she incurred responsibility.

There is no prescription for cases of omission or willful acts and political motives, which may cause the death of one or more persons.

CRIMINAL CODE. (1983).

Article 97. The criminal action prescribes:

- 1) Over a period equal to the maximum duration of the penalty stated for the offence, increased by half, if it were that of prison.
- 2) However, the statute of limitations shall in no case, be less than two (2) years;
- 3) Within five (5) years in the case of an act for which was established, as the main penalty, that of disqualification;
- 4) In three (3) years, when the fine is imposed as the main penalty; and,

5) Within six (6) months if the case of violations.

The preceding rules are without prejudice to those established by the Constitution of the Republic.

Article 98.- The prescription of criminal action begins to take effect from the day the offence was committed; and with continuing crimes, from the day the last act or action was committed.

In the case of attempted crime, the prescription shall be counted from the day when its execution was suspended.

The prescription of prosecution for the crime of bankruptcy will start from the day when the declaration of fraudulent insolvency or guilt becomes final.

Article 99.- The prescription of criminal action will be discontinued from the moment that procedure is initiated against the culprit, and will start again from the time the prosecution is interrupted for any reason.

Article 100.- The punishments imposed as non-appealable judgments are prescribed in the terms stated in Article 97.

The time of this prescription will initiate from the date in which the judgment is non-appealable, or from the day of the violation of the court order, whichever is the case.

Article 101.- The prescription of the penalty is interrupted and the elapsed time will have no effect, when the convict commits another offence, with no regard to having time running again.

Article 102.- The exercise of action to claim civil liabilities arising from the crime does not interrupt prescription, the criminal action or the penalty.

Article 103.- The amnesty and pardon do not extinguish the right to compensation for damage caused by the crime.

Article 104.- When the accused appears or is duly represented, after half the time required to prescribe criminal prosecution or punishment has elapsed, the Judge must take into account that period for a reduction of one third (1/3) to half (1/2) the penalty to be applied or imposed by the sentence.

This reduction does not apply to the requirements that do not exceed one (1) year.

If available, please attach the text in any (other) official language of the United Nations (Arabic, Chinese, Spanish, French, English or Russian).

Please provide examples of implementation.

No examples available of this implementation.

If available, please provide information (statistics, types of cases, outcome) on related court or other cases related to instances when you established a longer statute of limitations period or suspended the statute of limitations where an alleged offender had evaded the administration of justice. Please provide per annum figures, as available.

According to information provided by the CEDIJ, in the last three years (2012, 2013, 2014) there have been a total of 11 cases involving crimes of corruption on which resolutions have been issued by prescription nationwide in Courts of First Instance.

A chart containing data disaggregated by year is attached, explaining that these statistics were extracted manually from the system as they cannot be done so automatically.

108. Technical Assistance

The following questions on technical assistance relate to the Article under review in its entirety.

Do you require technical assistance for the (full) implementation of the Article under review? (Check one answer)

(N) No

30. Prosecution, adjudication and sanction.

109. Paragraph 1 of Article 30

1. Each State Party shall make the commission of an offence established in accordance with this Convention liable to sanctions that take into account the gravity of that offence.

Is your country in compliance with this provision? (Check one answer.)

(Y) Yes

(Y) Yes, in part

(N) No

Yes. Honduran law and particularly the Criminal Code, make the conduct described in the UNCAC a crime with penalties ranging from 3 months to 20 years' imprisonment, absolute disqualification, special disqualification, civil interdiction, confiscation and fines based on minimum wages, up to a maximum of 120 wages. In addition, the Honduran Criminal Code defines circumstances that may aggravate criminal liability and the Criminal Procedure Code classifies crimes by severity.

In one of the chapters of Criminal Code offences against the public administration are classified and their penalties, many of which relate to criminal behavior under the UNCAC.

Please cite the text regarding applicable sanction(s) or other measure(s)

Please cite the text(s)

CRIMINAL CODE contained in Decree No. 144-1983. BOOK I. GENERAL PART. TITLE IV. CIRCUMSTANCES THAT MODIFY THE CRIMINAL LIABILITY. CHAPTER II. AGGRAVATING CIRCUMSTANCES Article 27. TITLE VI. PENALTIES. CHAPTER I. TYPES OF PENALTIES. Article 38. CHAPTER III. ABUSE OF AUTHORITY AND VIOLATION OF THE DUTIES OF OFFICIALS. Articles 349 and 353 to 357. CHAPTER V. BRIBERY. Articles 361 to 363 and 365 to 366-A, 368 and 369. CHAPTER V-A

CRIMINAL PROCEDURE CODE contained in Decree No. 9-99-E (2002). Article 445

Please attach the text(s)

CRIMINAL CODE (1983)

BOOK I. GENERAL PART.

TITLE IV. CIRCUMSTANCES THAT MODIFY THE CRIMINAL LIABILITY.

CHAPTER II. AGGRAVATING CIRCUMSTANCES

Article 27. Aggravating circumstances are:

- 1) Act for futile or wretched motives;

- 2) Execute the crime treachery. There is treachery when the guilty party commits any crimes against life and limb, through means, modes or forms in the execution of which tend to be direct and specially to secure them, without risk to the perpetrator, of what would come from the victims defense;
- 3) Commit the crime by means of a price, reward or promise of remuneration;
- 4) Commit it by means of flooding, fire, poison, explosion, derailment, ship stranding or malfunction or other device that may cause great havoc;
- 5) Deliberately increase the severity of the crime, causing other unnecessary evil for its execution;
- 6) Do so with known premeditation or employ cunning, fraud or disguise;
- 7) Abuse superiority or employ means to weaken the defense;
- 8) Act with breach of trust;
- 9) To prevail upon the public character that the guilty has;
- 10) Employ means or make concurring circumstances that add disgrace to the proper effects of the act;
- 11) Commit the crime during a fire, a shipwreck, or other calamity or misfortune;
- 12) Committing the crime with the aid of armed persons or those to ensure or provide impunity;
- 13) Committing the crime in a remote area or taking advantage of the darkness of the night; The Courts may not consider this circumstance, depending on the nature and circumstances of the crime;
- 14) Commit the act with contempt or offence towards a public authority, or in his/her presence, or where he/she performs their functions;
- 15) Execute it in place that deserves respect or reverence or in the house of the victim, when that person has not caused the event;
- 16) Commit the act in an offensive or contemptuous disrespectful manner that due to dignity, age or sex of the victim is not worthy;
- 17) Execute it with up-scaling;
- 18) Commit the act by breaking walls, roofs or pavement, or breaking doors or windows;
- 19) Commit it in a gang;
- 20) Deliberately getting drunk or intoxicated to prepare or execute the crime, provided that this situation is scientifically proven;
- 21) Commit it using an automobile, ship or aircraft, or any other similar means of sufficient effectiveness to ensure aggression or escape;

- 22) Commit the crime by initially interrupting the means of communication, or after cutting or interrupting exterior or interior electrical service, the elevator service in any of the scenes that the guilty would have used;
- 23) Have relationship to the victim and the offender by marriage or union, or be ascending or descending related to each other by blood or collateral to the fourth degree; by ties of adoption or affinity to the second degree.
- 24) This circumstance can not be taken into consideration by the courts, or be assessed in mitigation, depending on the nature, accidents and the effects of the crime;
- 25) The violation of special duties that impose relations of respect, friendship, gratitude, dependency or hospitality regarding the culprit towards the offended party;
- 26) That of being a repeat offender; and,
- 27) To prevail upon not attributable subjects to perpetrate the crime.

TITLE VI. PENALTIES.

CHAPTER I. TYPES OF PENALTIES.

Article 38. The punishments are divided into principal and accessory: The principal penalties are: Detention, imprisonment, fines, absolute disqualification and special disqualification.

The accessory penalties are: Civil interdiction and seizure.

The absolute disqualification or the special disqualification, will be imposed as an accessory penalty to imprisonment, provided the law does not impose it as a primary penalty for a certain crime.

CHAPTER III. ABUSE OF AUTHORITY AND VIOLATION OF THE DUTIES OF OFFICIALS.

Article 349. The official or public employee will be punished by imprisonment of three (3) to six (6) years and especial disqualification for twice the duration of the detention that:

1) [...]

When the lack of cooperation, is that of not complying due to malice or negligence towards an arrest warrant issued by a competent authority, the penalty is increased by one (1/3) third; and, [...]

When disclosure is not of grave importance, the penalty will be reduced by one (1/6) sixth.

The same penalty applies [...].

Article 353. Fine of five thousand (L. 5,000.00) to ten thousand (L. 10 000.00) lempiras will be issued and special disqualification of three (3) to six (6) years to the officer or employee that [...] knowingly arrests, processes or judges a public official who enjoys immunity without having exhausted the procedures established by law.

Article 354 The public official or employee who usurps functions specific to another responsibility shall be punished by imprisonment of two (2) to five (5) years, plus a fine of five thousand (L.5, 000.00) to ten thousand (L.10, 000.00) lempiras and special disqualification for twice the duration of the confinement.

Article 355 The official who is legally prohibited to continue acting resolved does so, before the question of competence is resolved shall be punished with a fine of from five thousand to ten thousand (L.5, 000.00 to L.10, 000.00) lempiras.

Article 356 The public official or employee, civilian or military to direct orders or injunctions [...] shall be punished with imprisonment of three (3) to six (6) years and a fine equal to three times the last salary received by the corresponding official or public employee, civil or military.

Article 357 The public official or employee who knowingly, proposes or names for a public office or employment persons who do not meet the requirements established by law, shall be punished with a fine of twenty five thousand (L. 25, 000.00) to fifty thousand (L . 50, 000.00) lempiras and special disqualification from one (1) to three (3) years.

Those cases in which the appointment is of a temporary nature and is based on special laws, are excepted.

CHAPTER V. BRIBERY

[OBJ]Article 361. The public official or employee who requests, receives or accepts [...] shall be punished by imprisonment of five (5) to seven (7) years, plus absolute disqualification for twice the duration of the detention, without prejudice to the penalty applicable to the crime committed because of the gift or promise.

Article 362 The public official who requests, receives or accepts, directly or indirectly [...] shall be punished by imprisonment of two (2) to five (5) years. If that act does not take place, the defendant will be condemned to imprisonment of from one (1) to three (3) years. In both cases absolute disqualification equal to twice the duration of the confinement shall apply.

Article 363 When the gift or present requested, received or promised had the object that [...], the penalty will be imprisonment of two (2) to five (5) years, plus special disqualification equal to twice the duration of the detention.

Article 365 The public official or employee who accepts a gift or benefit [...] is punishable by imprisonment of one (1) to four (4) years plus special disqualification equal to twice the duration of the detention.

[OBJ]Article 366. Domestic bribery. Any individual offering [...] shall be punished by imprisonment of five (5) to seven (7) years, plus absolute disqualification for the duration of the detention without prejudice to the penalty for the crime committed because of the gift or promise.

The individual who aids, abets or conspires to commit the acts described in the preceding paragraph, shall be punished with half the time of detention plus a special disqualification period equal to the duration of detention.

Legal entities involved in any of the acts described above will be penalized according to the following:

- 1) The penalties provided for in the second paragraph of Article 369-C of the Penal Code; or
- 2) A fine of one hundred thousand (L. 100, 000.00) to one million (L. 1 000.000.00) lempiras depending on the severity of the act, or of the benefit obtained; or
- 3) A combination of both.

What was established previously for legal entities applies without prejudice to the provisions of Article 34-A of this Code.

The persons who [...] relevant.

Article 366 Trans-national Bribery. Any individual subject to Honduran jurisdiction [...] shall be punished by imprisonment of five (5) to seven (7) years, plus a special disqualification equal to the duration of detention.

The individual who aids, abets or conspires to commit the acts described in the preceding paragraph, shall be punished with half the time of detention plus a special disqualification period equal to the duration of detention.

The legal entities subject to Honduran jurisdiction that participate in any of the acts described above will be penalized according to the following:

- 1) The penalties provided for in the second paragraph of Article 369-C of the Penal Code; or
- 2) A fine of one hundred thousand (L. 100, 000.00) to one million (L. 1 000.000.00) lempiras depending on the severity of the act, or of the benefit obtained; or
- 3) A combination of both.

What was established previously for legal entities applies without prejudice to the provisions of Article 34-A of this Code.

The persons who [...] relevant.

Article 368. The gifts or presents referred to the above items will be confiscated and publicly delivered to the municipal corporation having jurisdiction in the place where the offence for works of social interest was committed.

Article 369. The judge who accepts a gift [...] shall be punished by imprisonment of five (5) to seven (7) years, plus absolute disqualification for twice the duration of the detention.

The penalties provided in this article and in the precedents of this Chapter shall apply, as appropriate, to whom being a member of a collegial body or tribunal, votes in a certain way through bribery.

CHAPTER V-A

Article 369-A. The public official or employee to influence another public official or employee [...] will incur the penalty of imprisonment of four (4) to seven (7) years, plus a fine of one hundred thousand (L. 100, 000.00) to one hundred fifty thousand (L. 150, 000.00) lempiras, and absolute disqualification for twice the duration of the detention. If the benefit sought is obtained, detention will be for six (6) to nine (9) years, a fine equal to twice the profit made and disqualification of five (5) to eight (8) years.

Article 369-B. The particular influences on a public official or employee [...] shall be punished, as appropriate, with imprisonment and fines established in the previous article.

Article 369-C. Those volunteering to perform the acts described in previous articles [...] shall be punished with imprisonment of three (3) to six (6) years plus a fine of fifty thousand (L. 50, 000.00) to one hundred thousand (L. 100, 000.00) lempiras.

In any of the cases referred to in this Article, the judicial authority shall also apply suspension of activities of individuals or legal entities, organization or office and the closure of their establishments or offices open to the public for a term of two (2) to four (4) years.

Article 369-D. In the cases provided for in this chapter and the previous one, the gifts, presents, commissions or gifts will be forfeited.

CHAPTER VI. MISAPPROPRIATION OF PUBLIC FUNDS

Article 370. The public official or employee who appropriates funds [...] shall be punished by imprisonment of two (2) to five (5) years if the value of these does not exceed one thousand (L. 1 000.00) lempiras, and from six (6) to twelve (12) years if it exceeds that amount, plus absolute disqualification for twice the duration of the detention.

The provisions of this Article shall also apply to the directors of unions, small farmer associated businesses, cooperatives, neighborhood committees, charities or sports, and in general, all other similar civil bodies.

Article 371. The official or public employee and association directors referred to in the previous article that negligently [...] shall be punished with a fine of

fifty thousand (L 50, 000.00) to one hundred thousand (L 100, 000.00) lempiras and special disqualification of two (2) to four (4) years.

Article 372. The public official or employee to allocate the funds, [...] shall be punished with a fine of fifty thousand (L. 50, 000.00) to one hundred thousand (L 100, 000.00) lempiras and special disqualification of three (3) to five (5) years.

If this causes damages to these interests or hinders a public service, the penalty will be equal to one hundred percent (100%) of the value of the damage caused or expenses that the State has to take to normalize the corresponding public service, plus absolute disqualification of five (5) to eight (8) years, in no event shall the fine be less than that indicated in the preceding paragraph.

Article 373. Punishment will be given as provided in the first paragraph of the previous article, to the official or public employee who, having expedited funds unreasonably delays a legally enforceable payment.

The same sanction will be issued to the public official or employee that, when legally required, refuses to deliver a sum of money or funds, goods or effects that are under his/her administration or custody.

Article 373-A. The requirements of this chapter shall apply those persons responsible for any concept of the management of funds, annuities or municipal or departmental effects or that belong to a school or charity, as well as the administrators or custodian of mortgaged, sequestered or deposited funds by a public authority even if they belong to private individuals.

CHAPTER VII. NEGOTIATIONS INCOMPATIBLE WITH THE EXERCISE OF PUBLIC FUNCTIONS

Article 374. The public official or employee who directly or through another person [...] shall be punished with imprisonment of three (3) to six (6) years and absolute disqualification for twice the duration of the detention.

The provisions of the preceding paragraph shall apply to experts and private accountants who participated in pricing, partition or award of goods and to the tutors or conservators and to the trustees of a bankruptcy.

Article 375. The penalty established in the above Article shall apply to the officer or employee who, for remuneration, will apply his/her influence to obtain a resolution from any authority or judgment that it must rule on.

CHAPTER VIII. FRAUD AND ILLEGAL EXTORTION

Article 377. The public official or employee who requires payment of a tax or duty [...] shall be punished with imprisonment of three (3) to five (5) years, plus special disqualification for twice the duration of the detention.

The public official or employee who uses extortion for personal or third party benefit referred to in the preceding paragraph, will be punished by imprisonment of four (4) to eight (8) years, plus absolute disqualification for a period equal to twice the term of imprisonment.

CHAPTER IX. MISFEASANCE

Article 378. Will incur in imprisonment of three (3) to nine (9) years, plus special disqualification for twice the duration of the detention, the judge that [...] criminal.

Article 379. It is punishable by imprisonment of three (3) to five (5) years:

- 1) The judge that with malice and real awareness of injustice dictates sentence contrary to law in a non criminal trial; and,
- 2) An official that with malice or awareness of injustice makes a decision, agreement or decree contrary to the law on purely administrative matters.

Article 380. Will incur the penalty of special disqualification three (3) to five (5) years:

- 1) The judge who refuses to pass sentence, using the pretext that the law is dark, insufficient or silent;
- 2) ~~[OBJ]~~2) The judge that through negligence or inexcusable ignorance dictates a clearly illegal sentence; and,
- 3) The administrative officer that due to negligence or inexcusable ignorance dictates a manifestly unlawful agreement or resolution, in a matter that is purely administrative.

CHAPTER X. DENIAL AND DELAY OF JUSTICE

Article 383. The judge that did not process a request, demand, charge, complaint or accusation [...] it shall be punished with special disqualification of three (3) to six (6) years.

Article 384. The special public official or employee that not doing the duties of his office [...] shall be punished with a fine of thirty thousand (L. 30, 000.00) to sixty thousand (L. 60, 000.00) lempiras, and special disqualification of three (3) to six (6) years.

CHAPTER XI. PERJURY, FALSE ACCUSATIONS AND COMPLAINTS

Article 385. A witness, expert or interpreter in his/her deposition [...] shall be punished with imprisonment of three (3) to five (5) years.

The penalty shall be of three (3) to six (6) years, if perjury is committed in a criminal cause to the detriment of the accused.

In all cases, additionally, absolute disqualification for three (3) to eight (8) years will be imposed.

Article 386. The person who incurs in the respective sentence of the preceding article, is that who will knowingly present false witnesses at trial.

Article 387. The crime of false accusation or complaint is committed [...].

The false accusation or complaint shall be punishable by imprisonment of three (3) to six (6) years.

CHAPTER XII. CONCEALMENT.

Article 388. Will incur imprisonment of three (3) to five (5) years, the person who without prior agreement with the authors and accomplices of a crime, but with sufficient grounds to suppose the commission of this:

- 1) Hides the criminal [...]

When the concealment is done for profit the penalty shall be increased by one third (1/3). If the concealer executes the acts referred to in this article in a regular manner, the penalty will increase by fifty percent (50%).

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Article 445. Classification of Crimes. For criminal purposes, serious crimes will be those which are punishable by a greater penalty, defined as being in excess of five (5) years; and misdemeanors, those others whose sentence does not exceed five (5) years. If the penalty to be applied is a fine, crimes will be considered serious when they are sanctioned with a fine in excess of thirty thousand lempiras.

If available, please attach the text in any (other) official language of the United Nations (Arabic, Chinese, Spanish, French, English or Russian).

Please provide examples of the application.

There are no examples available.

If available, provide information on penalties imposed, both criminal and non-criminal:

Supreme Court of Justice: Case 1

Within record 112-2007 in the cause for the crime of ABUSE OF AUTHORITY, E.R.C.S. was sentence to THREE (3) YEARS OF IMPRISONMENT AND SIX (6) YEARS OF SPECIAL DISQUALIFICATION, on the ruling on Cassation against judgment delivered by the Court of Sentences of Santa Barbara.

Supreme Court of Justice: Case 2

Within File 81-2009 for the crime of VIOLATION OF THE DUTIES OF PUBLIC OFFICIALS IN MEDIAL CONTEST FOR THE CRIME OF BRIBERY, where D.A.C.B. AND P.G.C.A., were sentenced to THREE (3) YEARS NINE (9) MONTHS OF IMPRISONMENT, DISQUALIFICATION AND INTERDICTION declaring SPECIAL CIVIL RESPONSIBILITY of the sentenced in a verdict of Cassation against the judgment delivered by the Court of Sentences of La Ceiba.

If applicable, provide information on the enforcement of sentences (i.e., time spent in detention, the amount of money raised, etc.)

No availability of such information.

110. Paragraph 2 of Article 30

2. Each State Party shall take such measures as may be necessary to establish or maintain, in accordance with its legal system and constitutional principles, an appropriate balance between any immunities or jurisdictional privileges accorded to its public officials for the performance of their functions and the possibility, when necessary, of effectively investigating, prosecuting and adjudicating offences established in accordance with this Convention.

**Has your country adopted and implemented the measures described above?
(Check one answer.)**

Y) Yes

(P) Yes, in part

(N) No

Yes, Honduras does not have legal mechanisms to give immunity. However, there is a special procedure to prosecute senior officials and others.

Please cite the applicable measure(s) or rules

Please cite the text(s)

NEW CRIMINAL PROCEDURE CODE - Decree No. 9-99-E (2002) FROM THE PROCEDURE FOR PROCESSING THE HIGH STATE OFFICIALS. CHAPTER III. THE PROCEDURE FOR KNOWLEDGE OF THE PROCESSES INITIATED AGAINST THE HIGHEST STATE OFFICIALS AND THE DEPUTIES. Articles 414 to 417

CHAPTER IV. THE PREPARATORY TRAIL TO ASSIGN CRIMINAL LIABILITY TO JUDGES AND MAGISTRATES. Articles 420 to 423

LAW OF THE NATIONAL COMMISSION OF BANKS AND INSURANCE contained in Decree No. 155-95. Article 7.

Please attach the text(s)

CRIMINAL PROCEDURE CODE (2002)

FROM THE PROCEDURE FOR PROCESSING THE HIGH STATE OFFICIALS.

CHAPTER III. THE PROCEDURE FOR KNOWLEDGE OF THE PROCESSES INITIATED AGAINST THE HIGHEST STATE OFFICIALS AND THE DEPUTIES.

ARTICLE 414.- Senior State officials and Deputies against whom it is intended to proceed with criminal liability, can only be prosecuted in accordance with the provisions of the following Articles

ARTICLE 415.- The Supreme Court of Justice will meet the requirements, allegations or complaints that promotes competent authority or that of the victim, be that the case, against those in the preceding Article, the documents upon which it is based must be attached, and if it cannot be done, or their presentation is not possible, the place or office that are relevant for research purposes will be indicated.

ARTICLE 416.- The Supreme Court of Justice, will appoint one of its Magistrates to know the process in the preparatory and intermediate stages. For knowledge on the public and oral trial, a Trial Court will be integrated by four (4) of their Magistrates; the first three will act in the trial and the fourth will be the replacement. Of the three (3) sitting Judges, one will be designated to act as President, who will lead the process, to be developed in accordance with the provisions established in the Criminal Procedure Code. Similar appointments will be made should an appeal be appropriate.

When the commission of a crime involving persons holding those qualities, once the request, accusation or complaint, is declared admissible, the process will be done in relation to all the accused, the Magistrates appointed as Judges appointed will follow the terms mentioned in this same Article.

ARTICLE 417.- Against the judgment given by the Trial Court referred to in the previous Article, there will be allowed an Appeal Recourse, which will be processed by the Supreme Court through their Criminal Court. If there is no unanimity in the Court, it will be submitted to Plenary, in which the magistrates who have acted as judges in the preparatory and intermediate stages and at trial may not participate.

CHAPTER IV. THE PREPARATORY TRAIL TO ASSIGN CRIMINAL LIABILITY TO JUDGES AND MAGISTRATES

ARTICLE 420.- Processing judicial officials. Judges and Magistrates against whom there is intent to proceed to assign responsibility for the crimes committed in the exercise of their duties, may only be prosecuted after giving effect to the provisions of this Chapter.

ARTICLE 421.- Provisions on Preparatory Trials or Impeachment. The preliminary hearing will be promoted in writing by the Public Ministry or by the injured party, or if so required, to the superior hierarchy of the respective Judge or Magistrate. If it be a Magistrate of the Supreme Court of Justice, the procedure will be that of the provisions in the previous Chapter.

With the request, certified copies of the documents on which it is based will be attached .

If this submission is not possible, the office or the place where the original documents are found is to be indicated, so that they be apprehended.

ARTICLE 422.- The impeachment proceedings. The court called upon to hear the preliminary hearing, will provide the appropriate course within three (3) days following the date of receipt of the request, and order the accused officer to report within that same period, allowing for distance travel time. In its report, the defendant must pronounce himself/herself in a clear, specific and accurate manner on the charges placed before him/her.

As a result of the findings from the report and background, the court of jurisdiction shall render judgment within three (3) days following the date of receipt of the report, stating, without prejudging the merits, whether the accusation or complaint is appropriate or not.

If the indictment or complaint is declared appropriate, the Judge or Magistrate will be in the same position as any defendant and certification will be issued on the verdict to the Public Ministry or to the accused, where appropriate, to exercise the corresponding action.

The process will be carried out before the competent Judge, in accordance with the provisions of this Code. In the event that the accused is the competent Judge to hear the process, the respective Court of Appeals, stating that there are grounds for the accusation or complaint, will appoint the official as the substitute.

ARTICLE 423.- Appeals against The Ruling. Against the judgment declaring that there are or are not grounds for the indictment or complaint, there could be grounds for appeal and for protection recourse in his/her case.

LAW OF THE NATIONAL COMMISSION OF BANKS AND INSURANCE

Article 7. Members of the Commission shall be considered civil servants, will last four (4) years in the exercise of their functions and may be reappointed for further terms.

They will carry out their activities full time and cannot take another position, paid or ad-honorem, except for academic, cultural and social assistance positions.

No legal action may be exercised against members of the National Commission on Banking and Insurance, the Superintendents, mayors, the Preventive Auditor and Liquidator, by reason of the decisions and resolutions adopted by them in compliance with the law without previously having promoted the corresponding administrative contentious action and this result has been favorable to the claims of the plaintiff or applicant, by court order.

Without having met the requirement in the previous paragraph, no court or tribunal may be awarded the legal proceedings, personally, against the officers and employees mentioned in the preceding paragraph.

Notwithstanding the above, the Members of the National Commission of Banking and Insurance and other officials and employees nominated enjoy the benefit of impeachment under Article 78, attribution 4) of the Law of Organization and Attributions of the Courts.

Legal defense services for legal action to be exercised at any time against the persons mentioned in this article, because of the decisions and resolutions adopted in the performance of their duties, even after they have vacated in office, will be the responsibility of the National Commission on Banking and Insurance, without prejudice to the action for recovery by the State in case of proving fraud or negligence.

If available, please attach the text in any (other) official language of the United Nations (Arabic, Chinese, Spanish, French, English or Russian).

Please provide examples of the application

CRIMINAL COURT CP-202-2008. CHAIR MAGISTRATE JACOBO CALIX HERNANDEZ. . Nine (09) days of September, two thousand ten (2010).

Verdict is given knowing the PETITION TO APPEAL, Placed against the

verdict of May 16, two thousand eight, issued in the First Instance by the Court of Appeals of San Pedro Sula, Department of Cortés, in the SPECIAL IMPEACHMENT procedure against the First Instance Judge of El Progreso, Yoro Department, R.A.M., for the crime of ABUSE OF AUTHORITY, to the detriment of the PUBLIC ADMINISTRATION.-

FIRST: On March seven, two thousand eight the Public Ministry filed impeachment against the First Instance Judge of El Progreso Yoro Department, R.A.M., charged with the crime of abuse of authority to the detriment of the Public Administration, promoting such action before the Honorable Court of Appeals of San Pedro Sula, Department of Cortés; this same Court on May 16, two thousand eight, gave judgment in which it Dismissed the Impeachment Petition or Action afore mentioned, filing it on time and procedure by the Public Ministry of a Petition of Appeal against the ruling that stated that there is no procedural place for impeachment. SECOND: In the expression of grievances the Public Ministry argues that the previous judgment exceeded its legal powers to the detriment of the Administration of Justice and therefore of the Public Administration to revoke the injunction, that has as its basic foundation to guarantee that the accused is subject to due process without sustenance. Therefore the resolution of the Honorable Court of Appeals to affirm the decision of the judge causes harm, since it frames it within the area of discretion granted by law to judges and that therefore he acted under the constitutional rights of defense and appeal, in accepting the appeal and revoking the arrest warrant.

Accordingly after the analysis of the Criminal Court, the verdict dismisses the Appeal Petition filed and Confirms the judgment at first instance by the Court of Appeals of San Pedro Sula, Department of Cortés, which states that there are no grounds for the charges stated in the **impeachment brought against the Judge of El Progreso, Yoro Department, R.A.M.**, of alleged responsibility for the crime of Abuse of Authority to the detriment of the Public Administration.

Have there been specific cases in which the issue of official documents or other jurisdictional immunities or privileges granted to other public officials have been raised and addressed?

If, in official documents the prerogative has been stated, that High State Officials have their trials before a natural judge, appointed by the Supreme Court of Justice.

If there has been any official investigation or relevant report, cite, summarize and attach relevant documents:

If in the complaint 013-2014 itself, CM AND JP , former Under-Secretaries of State in the Ministry of Labor and Health, respectively, and MRZ, former director of the Honduran Institute of Social Security are charged among others, by the offenses of BRIBERY AND MONEY LAUNDERING.

In this line of research, it was identified that officials of the Senior Management and the Board of IHSS sought and received personally and through third parties sums exceeding 51 million lempiras, in exchange for expediting payments for contracts signed between private companies and the IHSS.

Because of the complexity of national and international financial transactions investigated, as well as having provoked the incorporation of suspicious transactions, the national financial system, the crime of money laundering was charged against people who actively participated in the concealment and use of these resources coming from illicit sources.

111. Paragraph 3 of Article 30

3. Each State Party shall endeavor to ensure that any discretionary legal powers under its domestic law relating to the prosecution of persons for offences established in accordance with this Convention are exercised to maximize the effectiveness of law enforcement measures in respect of those offences and with due regard to the need to deter the commission of such offences.

Is your country in compliance with this provision? (Check one answer.)

Y) Yes

(P) Yes, in part

(N) No

Yes. Honduran criminal law has established the discretionary faculty of the Criterion of Opportunity that can be granted in accordance with requirements and conditions set forth in the Code of Criminal Procedure, including some of the offenses that relate to the behaviors that the Convention seeks to combat.

Please cite the applicable measure(s):

Please cite the text(s)

CRIMINAL PROCEDURE CODE - Decree No. 9-99-E-2002 CHAPTER II.
THE STANDARD OF OPPORTUNITY. Articles 28 to 35

Please attach the text(s)

CRIMINAL PROCEDURE CODE (2002)

CHAPTER II. THE STANDARD OF OPPORTUNITY

ARTICLE 28.- Cases where appropriate. The Public Ministry has the obligation to exercise public criminal prosecutions in all cases where appropriate. However, criminal proceedings can be totally or partially abstained from processing, or limit it to one of the offences or any of the defendants, in the following cases:

- 1) When the penalty for the offence does not exceed five (5) years, the involvement of the public interest is minimal and, from the background and personal circumstances of the accused, his/her lack of dangerous behavior can be inferred;
- 2) When the accused has done what was within reach, to prevent the consummation of the effects of the crime, from the background and personal circumstances of the accused, his/her lack of dangerous behavior can be inferred;
- 3) When the accused, his/her spouse or the person with whom he/she lives in partnership or a relative within the fourth degree of consanguinity or second degree of affinity or by adoption, has suffered as a direct result of a culpable offence, serious physical or moral harm;
- 4) When the punishment to be applied for a crime, is of minor importance as compared to that what was imposed or will be imposed on the same person for a related offence; and
- 5) When it comes to cases of organized crime, violent crime carried out by groups or gangs of delinquents, or felonies of complex nature that hinder their investigation and prosecution and the accused cooperates effectively in the investigation, provides special information to prevent further crimes or others to be perpetrated, helps to clarify the facts investigated or others related, or provides useful information to prove the involvement of third parties, provided that the criminal action concerned prove milder than the offences whose prosecution is made easier or whose continuation is then avoided. In this case, the provisions relating to the imposition of measures, will be applicable when the situation calls for a conditional suspension of criminal prosecution.

In cases of paragraphs 1) and 2) of this Article, the Public Ministry may opt, alternatively, in the circumstances of the facts and the accused person, for

conditionally suspending criminal prosecution, under the terms established in Article 36 of this Code.

In the case of paragraph 4) of this Article, if the procedure concludes by final decision on a non guilty plea for the person accused of the crime prosecuted by the Public Ministry, this Ministry may, prosecute the crimes or misdemeanors not pursued, if in the meantime the term for prescription has not elapsed.

ARTICLE 29.- Application of Criterion. The criterion of opportunity must be authorized by the Chief Public Prosecutor of the Republic, who may delegate this authority to the Director of Public Prosecutors, and so forth in a descending hierarchy, except as provided in paragraph 5) of Article 28 whose authorization must be given by the Chief Public Prosecutor of the Republic.

If there were any damages as a result of a crime, it will be necessary in order to apply the criterion of opportunity, for the accused to repair the damages caused or done in agreement with the victim regarding repairs.

ARTICLE 30.- Administrative Case File. The criterion of opportunity will result in making an administrative case file, after hearing the victim, who must be notified once it is ready.

ARTICLE 31.- Non-compliance of Repair Agreement. When the agreement on the repair of the damage caused is not kept, the file will have no effect, and Public Ministry must institute criminal proceedings, if the limitation period has not elapsed.

ARTICLE 32.- Victim Action to Rescind the File. Within five (5) working days following the date of the notification of the file, the victim may request, the Competent Judge to control the preliminary investigation, to leave it without effect, for not having complied with any of the legal requirements for the Public Ministry to refrain from prosecutions.

The Competent Judge will request the Public Ministry to, within five working days, explain the reasons for his/her abstention, and within this period, will resolve in the next three days, ratifying or revoking the decision of the file.

ARTICLE 33.- File Revocation. In the case of revocation of the file, the Public Ministry is obliged to take criminal action, regardless of whether the victim also exercise it, becoming a Private Prosecutor.

ARTICLE 34.- File Confirmation. Except as provided in paragraph 5) of Article 28, confirmation of the file by the Judge, on the basis that there are conditions established by law to do so, shall not be an obstacle for the victim, within a term of forty-five (45) business days, starting the next day following such notification, can exercise the corresponding criminal action in accordance to the conversion process.

After this period, without the victim exercising criminal action, this is extinguished.

ARTICLE 35.- Confession of the Accused. The criterion of opportunity must not be used to obtain the confession of the accused.

If available, please attach the text in any (other) official language of the United Nations (Arabic, Chinese, Spanish, French, English or Russian).

Please provide examples of implementation

No implementation examples available.

If available, Please provide information (statistics, types of cases, outcome) on related cases or other processes. Please provide per annum figures, as available.

There are no statistics available.

112. Paragraph 4 of Article 30

4. In the case of offences established in accordance with this Convention, each State Party shall take appropriate measures, in accordance with its domestic law and with due regard to the rights of the defense, to seek to ensure that conditions imposed in connection with decisions on release pending trial or appeal take into consideration the need to ensure the presence of the defendant at subsequent criminal proceedings.

Has your country adopted and implemented the measures described above? (Check one answer.)

Y) Yes

(P) Yes, in part

(N) No

Yes. The Criminal Procedure Code provides that the decision on the imposition or not of precautionary measures is based on several aspects, including ensuring the presence of the accused and the regular production of the sources of evidence.

Please cite the applicable measure(s):

Please cite the text(s)

CRIMINAL PROCEDURE CODE - Decree No. 9-99-E (2002). Articles 172, 173 numerals 5 to 10 and Article 174.

Please attach the text(s)

CRIMINAL PROCEDURE CODE (2002)

Article 172.- Personal Precautionary Measures: Budgets and Purpose. Precautionary measures are intended to ensure the efficacy of the procedure, ensuring the presence of the accused and the regular production of the sources of evidence.

For a limited injunction of personal freedom to be adopted, the need will always be to:

- 1) Have sufficient evidence to reasonably argue that the accused perpetrator is the author or a participant in what is classified as a crime;
- 2) That the accused person has fled or there is reasonable cause to fear that he/she might flee should he/she remain free; and,
- 3) That there are grounds to fear that upon release, the accused will try to destroy or tamper with evidence sources.

Article 173.- Applicable Precautionary Measures. The court, concurring in the legal proposed conditions, may, by reasoned issue, order one or more of the following precautionary measures:

- 1) [...]
- 5) Subject the accused to the care or supervision of a certain person or institution who will report to the Judge periodically;
- 6) Compel the accused to appear periodically before a particular Judge or official designated by him/her;
- 7) Order the accused not to leave the country, from his/her place of residence or other territorial area as the court may determine;
- 8) Order not to attend certain meetings or certain places;
- 9) Order not to communicate with certain persons, provided that this does not

affect the right of defense;

10) Constitution in favor of the State, personally by the accused or by another person, any of the following warrantees: Deposit of money or securities, mortgage, pledge or personal security;

11) The provisional placement in a psychiatric establishment, after expert consulting; and,

12) Suspension of his/her duties, when a crime is attributed against the public administration.

For the same purposes provided for in this Article, and for the purposes of the investigation, the Public Ministry in the case of urgent need that would prevent court approval, may adopt one or more of the precautionary measures provided for in paragraphs 1), 2), 7), 9) and 11) of this Article. Will immediately inform the jurisdictional court, stating the reasons that prevented obtaining that authorization. The jurisdictional court, after hearing the accused person and his/her Counsel, will validate or will rescind the provisions of the Public Ministry.

Article 174.- Imposition, Revocation and Reform of Resolutions on Precautionary Measures. Personal protective measures shall be ordered by the competent court, by reasoned order in which the concurrence of the legal conditions be justified by invoking the evidence resulting from the investigation.

The jurisdictional court, by selecting the extent applicable, shall take into account the appropriateness and proportionality in relation to the purposes to be achieved, taking into account the seriousness of the act and the penalty that could be imposed, if convicted, and the personal circumstances of the accused.

The measures taken will not last longer than necessary to ensure the purposes for which they were implemented and, in any case, be extended beyond the maximum allowed by Article 181 of this Code.

The decision to impose an injunction as well as to reject it or replace it with another, may be revoked or amended on its own initiative or upon the request of a party, whatever the state in which the process is in.

If available, please attach the text in any (other) official language of the United Nations (Arabic, Chinese, Spanish, French, English or Russian).

Please provide examples of implementation.

The case of the Prosecution Against Corruption of the city of San Pedro Sula against J. A. U. A. accused in his capacity as Head Registrar at the Real Estate Institute.

As a result of investigations a Prosecuting Summons was issued for the crimes of FALSIFYING PUBLIC DOCUMENTS AND ABUSE OF PUBLIC AUTHORITY to the detriment of Public Faith and the Public Administration of the State of Honduras. The statement of the accused was taken and the initial hearing is pending, having issued the precautionary measures **ban on leaving the country and periodic reporting**.

If available, please provide information (statistics, types of cases, outcome) on related cases or other processes. Please provide per annum figures, as available.

There are no statistics available

113. Paragraph 5 of Article 30

5. Each State Party shall take into account the gravity of the offences concerned when considering the eventuality of early release or parole of persons convicted of such offences.

Is your country in compliance with this provision? (Check one answer.)

Y) Yes

(P) Yes, in part

(N) No

Yes. Honduran criminal law stipulates that parole may be granted in cases of prison sentence exceeding three years and not more than twelve

Please cite the applicable measure(s):

Please cite the text(s)

CRIMINAL CODE - Decree No. 144 (1983). CHAPTER VI. PROBATION. Articles 76 to 79.

Please attach the text(s)

CRIMINAL CODE (1983)

CHAPTER VI. PROBATION.

Article 76.- The Trial Court that initially heard the case, can grant parole to the offender who has completed more than half of the sentence in cases of conviction or imprisonment exceeding three (3) years and not exceeding twelve (12) years; or who has suffered three quarters (3/4) of the sentence, when this exceeds twelve (12) years, and also attend, in both cases, the following circumstances:

That the offender has not been enforceable convicted previously, for another criminal offence.

Having good behavior while in the correctional facility and contracted work habits, order and morality, which show repentance and purpose of amendment.

That whatever has been restored and the damage repaired in cases of crimes against property and met other civil obligations arising from the crime, or demonstrate his/her financial inability to meet these.

Article 77.- In the resolution where the benefit of parole is granted, the Judge may impose any of the security measures specified in paragraphs 4, 5 and 6 of Article 83.

Article 78.- The trial period of those who enjoy the benefits of parole will be equal to what remains to fulfill the sentence.

If a new offence or a violation of the security measures imposed occurs during the probation period, probation will be revoked and the effective period of the sentence will be restored, without taking into account the time spent in freedom.

Article 79.- After the trial test period has gone by without the person accused in the facts that gave rise to the revocation of parole being made, the penalty will be terminated.

If available, please attach the text in any (other) official language of the United Nations (Arabic, Chinese, Spanish, French, English or Russian).

Please provide examples of implementation.

No implementation examples available.

If available, please provide information (statistics, types of cases, outcome) on related cases or other processes. Please provide per annum figures, as available.

There are no statistics available.

114. Paragraph 6 of Article 30

6. Each State Party, to the extent consistent with the fundamental principles of its legal system, shall consider establishing procedures through which a public official accused of an offence established in accordance with this Convention may, where appropriate, be removed, suspended or reassigned by the appropriate authority, bearing in mind respect for the principle of the presumption of innocence.

Has your country established the procedures described above? (Check one answer)

(Y) Yes

(Y) Yes, in part

(N) No

Yes. A precautionary measure that can be imposed on a defendant is suspension in his tenure, when he is accused of a crime against the public administration. As mentioned many of the offences established in accordance with UNCAC are within the Chapter of crimes against Public Administration.

Please cite the applicable procedure(s) or other measure(s)

Please cite the text(s)

CRIMINAL PROCEDURE CODE - Decree No. 9-99-E (2002). Articles 173, numeral 12

ORGANIC LAW OF THE SUPERIOR COURT OF ACCOUNTS - Decree No. 10 (2002). Article 88.

Please attach the text(s)

CRIMINAL PROCEDURE CODE (2002)

Article 173.- Precautionary Measures Applicable. The jurisdictional court, concurring in the legal proposed conditions, may, by reasoned issue, order one or more of the following precautionary measures: [...] **12) Suspension in his tenure, when attributed a crime against the public administration.**

For the same purposes provided for in this Article, and for the purposes of the investigation, the Public Ministry in the case of urgent need, that would prevent court approval, may adopt one or more of the precautionary measures provided for in paragraphs 1), 2), 7), 9) and 11) of this Article. Will

immediately inform the Jurisdictional Court, stating the reasons that prevented obtaining that authorization. The jurisdictional court, after hearing the accused person and his/her counsel, will validate or will rescind the provisions of the Public Ministry.

ORGANIC LAW OF THE SUPERIOR COURT OF ACCOUNTS (2002)

Article 88.- SUSPENSION OF PUBLIC SERVANT. In the case when the public servant is in office, at the time when evidence of illicit enrichment is detected, notification will be made to the higher authority of the state body where his/her services are given or to the relevant appointing authority, so that, as its first action it suspends the responsibility of the position of the servant. If the indication of illicit enrichment was not confirmed in a final decision, or if the Public Ministry or the Attorney General of the Republic, in that case, does not initiate criminal prosecution within a period of sixty (60) days from receipt of respective file, or if the above mentioned servant was acquitted by a court, whatever this judgment, will be entitled to payment of salaries and other rights forgone, and at his/her choice, to refund or payment of his/her labor benefits, if applicable.

If available, please attach the text in any (other) official language of the United Nations (Arabic, Chinese, Spanish, French, English or Russian).

Please provide examples of implementation.

The case of the Public Ministry against Prosecutor Jimmy Gerson Valdivieso, assigned as the Local Prosecutor in Santa Barbara, who after due process of investigation and presentation of the indictment, was issued the formal order of prosecution for the crimes ABUSE OF AUTHORITY AND BRIBERY causing harm to the PUBLIC ADMINISTRATION.

The cause was raised to Public Oral Trial and the accused is currently under **precautionary measures such as** ban on leaving the country, regular reporting to the court and **suspension in his tenure**, under Articles 173 paragraph 6, 7, and 10 of the Criminal Procedure Code.

If available, please provide information (statistics, types of cases, outcome) on related cases or other processes. Please provide per annum figures, as available.

There are no statistics available.

[115. Subparagraph a\) of paragraph 7 of Article 30](#)

7. Where warranted by the gravity of the offence, each State Party, to the extent consistent with the fundamental principles of its legal system, shall consider establishing procedures for the disqualification, by court order or any other appropriate means, for a period of time determined by its domestic law, of persons convicted of offences established in accordance with this Convention from:

(a) Holding public office;

Has your country established the proceedings described above?

(Y) Yes

(Y) Yes, in part

(N) No

Yes. by penalty of absolute disqualification or special disqualification, which entails not being able to function in public office, particularly under Articles 48 and 49 of the Penal Code.

Please cite the applicable procedure(s) or other measure(s)

Please cite the text(s)

CRIMINAL CODE contained in Decree No. 144-1983. Articles 48 to 49.

SPECIAL LAW AGAINST MONEY LAUNDERING contained in Decree No. 144-2014 Article 40.

Please attach the texts

CRIMINAL CODE (1983)

Article 48. Absolute disqualification is meant for public posts or positions, political and professionals rights during the term of the sentence, and produces: □ 1) Deprivation of **all public posts or positions** and the exercise of professions that the convict might have, even if the positions are elected. 2) The deprivation of all political rights and the inability to obtain them, and; 3) The inability to obtain **public posts or positions**, professions and the rights mentioned.

Article 49 The penalty of special disqualification is meant for **certain public office or employment**, profession or political right for the duration of the sentence, and produces: 1) Deprivation from office, trade, law or practice of the profession upon which it rests. 2) Inability to obtain that office, trade, law, profession or similar.

SPECIAL LAW AGAINST MONEY LAUNDERING (2015)

Article 40. See the response to letter ii) of item b) of paragraph 1 of Article 23.

If available, please attach the text in any (other) official language of the United Nations (Arabic, Chinese, Spanish, French, English or Russian).

116. Subparagraph b) of paragraph 7 of Article 30

7. Where warranted by the gravity of the offence, each State Party, to the extent consistent with the fundamental principles of its legal system, shall consider establishing procedures for the disqualification, by court order or any other appropriate means, for a period of time determined by its domestic law, of persons convicted of offences established in accordance with this Convention from: [...]

(b) Holding office in an enterprise owned in whole or in part by the State.

Has your country established the procedures described above? (Check one answer)

(Y) Yes

(Y) Yes, in part

(N) No

Yes. By the provisions of the Code of the Labor Law which applies to employees of public enterprises. It describes the procedures for suspending contracts of employment, for reasons of detention or imprisonment and the applicable procedure.

Please cite the applicable procedure(s) or other measure(s)

Please cite the text(s)

LABOR CODE in Decree No. 189-1959. Articles 100 number 9), 111 paragraph 5) 112, letters e) and g).

Please attach the text(s)

LABOR CODE

Article 100. The following are causes of suspension of employment contracts without liability to the parties:

1) ... ; 2) ... ; 3) ... ; 4) ... ; 5) ... ; 6) ... ; 7) ... ; 8) ... ;

9) The arrest or imprisonment of the worker decreed by competent authority;

Article 106. In the case of clause 9) of Article 100, the worker shall notify the

employer within five (5) days following the day on which he began his arrest or detention, and shall be obliged to resume work within the next two (2) days of being released, plus the time for travel, as the case may be.

Failure to abide by one of these obligations, or detention of the worker for more than six (6) months will result in the termination of the contract, without liability to any party.

At the request of the worker or anyone on his/her behalf, the Head of the Jail will issue the certificates necessary for the issues referred to in the preceding paragraph refers.

In such cases the rules applied will be those of the last paragraph of Article 104.

Article 111. The causes of termination of employment contracts are;

1) ...; 2) ...; 3) ...; 4) ...; 5) Loss of freedom of workers as provided for in Article 106; 6) ...

Article 112. They are just grounds for the employer to terminate the employment contract without liability on his/her part:

a) ... ; b) ...; c) ... ; d) ... ; e) Any immoral or criminal act committed by the worker in the workshop, establishment or workplace, when duly verified by the competent authority; f) ... ; g) having the worker been convicted to suffer punishment for a crime or delinquency, in final judgment; h) ...

If available, please attach the text in any (other) official language of the United Nations (Arabic, Chinese, Spanish, French, English or Russian).

Please provide examples of implementation.

No implementation examples available.

If available, please provide information (statistics, types of cases, outcome) on related cases or other processes. Please provide per annum figures, as available.

There are no statistics available.

117. Paragraph 8 of Article 30

8. Paragraph 1 of this Article shall be without prejudice to the exercise of disciplinary powers by the competent authorities against civil servants.

Is your country in compliance with this provision? (Check one answer.)

Y) Yes

(P) Yes, in part

(N) No

Yes. In Honduras although the criminal proceedings and disciplinary processes are completely separate areas, if a person who being a public official commits an offence against the public administration, he/she may be prosecuted both criminally, because he committed a criminal offence, and disciplinarily, because with the same acts he/she committed a disciplinary offence that should be punished.

With the application of the Code of Ethical Conduct for Public Servants and the Civil Service Law for the employees subject to this regime (Executive Power). In the case of the Public Ministry it has a Statute and Regulations for the Public Ministry career. In the case of the Judiciary, it has the Law governing the Judiciary Council. The National Banking and Insurance Commission applies its own law also applies its own Law.

Please cite the applicable measure(s):

Please cite the text(s)

CODE OF ETHICAL CONDUCT FOR PUBLIC SERVANTS of 2007.

CIVIL SERVICE LAW - Decree No. 126 (1968). Articles 43, 44 and 47.

STATUTE AND REGULATIONS OF THE PUBLIC MINISTRY CAREER. TITLE V DISCIPLINARY ISSUE. CHAPTER I. FAULTS. Article 54. CHAPTER II THE SANCTIONS. Article 56. CHAPTER V. DISMISSAL. Article 60.

LAW OF THE JUDICIAL COUNCIL. Article 62.

REGULATION OF THE LAW OF THE JUDICIARY AND THE JUDICIAL CAREER. Articles 128, 136 and 139.

LAW OF THE NATIONAL COMMISSION OF BANKS AND INSURANCE. Article 24.

Please attach the text(s)

CODE OF ETHICAL CONDUCT FOR PUBLIC SERVANTS (2007)

Article 27.- Without prejudice to civil or criminal liability under the

Constitution of the Republic, the Organic Law of the Superior Court of Accounts, the Criminal Code and other laws of the Republic, a breach of this Code and violation of the rules contained therein, constitute disciplinary faults, which shall be subject to proportional penalty to the severity according to the Regulations of this Code, after following substantiation of the respective disciplinary procedure, in which the guarantee of defense will be ensured as will due process. Additionally, a penalty can also be established as a fine provided for in Article 100 of the Organic Law of the Superior Court of Accounts, in which case the affected party shall have the right to appeal to this Court on any decisions made. In implementing the aforementioned fines, the guarantees of due process should be observed, the person sanctioned is entitled to bring resources identified in the Law and when imposing the sanction, the authority shall take into account the gravity of the infringement and of any aggravating or mitigating circumstances, established by the regulations. The fines will be paid once the resolutions that contain them are final and within ten (10) business days from the date of notification. The late payment of fines accrue interest rates equal to the average lending rate of the domestic financial system, which is calculated from the date on which the final decision was notified.

CIVIL SERVICE LAW (1968)

Article 43.- Every offence committed by a public servant in the performance of their duties shall be liable to disciplinary action that reflects the seriousness of it and whose purpose is to have the server corrected without prejudice to the liability that applies.

Article 44.- To ensure good service and the proper performance of public servants in the exercise of their duties, the following disciplinary measures are established:

1.- private, verbal or written reprimand; 2.- suspension from work without pay for up to eight days; and, 3.- demotion on the rank of class or lower grade

Article 47.- Public servants may be dismissed from office for any of the following causes: 1.- breach or serious violation of any of the obligations or prohibitions contained in Articles 38 and 43 of this Law; 2.- for having been condemned to suffer punishment for a crime or misdemeanors, due to final judgment; 3.- manifested by inability and inefficiency in the performance of their duties; 4.- abandonment of office for three or more consecutive working days without cause; 5.- for the repeated commission of a serious offence; 6.-

any act of violence, libel, slander, ill-treatment or serious indiscipline incurred by the server during his/her work, against their superiors or coworkers; and 7.- all violence, libel, slander or ill treatment incurred by the server out of service at the expense of his/her superiors when committed proceeded without having any immediate and sufficient provocation from the other party.

STATUTE AND REGULATIONS OF THE PUBLIC MINISTRY CAREER.

TITLE V DISCIPLINARY ISSUE.

CHAPTER I. FAULTS.

Article 54 The servants who commit offences in service, shall be liable to disciplinary action in the LAW, after the exhaustion of disciplinary proceedings.

CHAPTER II. THE SANCTIONS.

Article 56. Disciplinary sanctions will be of two types, namely: disciplinary measures and dismissal. The disciplinary measures shall be applied according to the seriousness of the offence and will guided to cause changes in the behavior of the offender. Termination shall occur only when any of the events specified in this STATUTE and its object will be the termination of the relationship of service.

CHAPTER V. DISMISSAL.

Article 60 The following shall be grounds for dismissal: a); b); c) Have been convicted in **final judgment for committing a crime**; d) ...

LAW OF THE JUDICIARY COUNCIL AND JUDICIAL CAREER.

Article 62. The disciplinary responsibility of Judicial Employees and Officials will be based on following the procedures set out in this Subsection and in any case with respect to the principles that are part of due process.

The interpretation and application of Laws made by judges and magistrates in the performance of their duties, under no circumstances shall be liable to disciplinary correction.

REGULATION OF THE LAW OF THE JUDICIARY AND THE JUDICIAL CAREER.

Article 128. The disciplinary authority shall, once the results of the disciplinary procedures are set, inform the appropriate authority (Public Ministry) if, given the existence of objective facts, which presumes the existence of crime or fault thereof.

Article 136. Violations that cause disciplinary responsibility of judicial officials are classified as serious, less serious and minor.

Article 139. The following are considered serious offences: a) ...; b) ...; c) ...; d) ... e) Abusing their status as Judge, Magistrate, Director or other administrative or judicial office for: Lobbying, influence or recommendation of any kind; or to obtain favorable treatment from authorities, officials, professions or trades; f) ...; g) ...; h) ...; i) Assume behaviors that are objectively congruent to with criminal offences, either by action or omission; j) ...; k) ...; l) ...; m) ...; n) ...; ñ) ...; o) ...; p) To exercise direct or indirect influence on any officer or employee of the administration of justice in order to obtain a procedure in a certain way in the affairs known or to be seen; q) ...; r) ...; s) ...; t) ...; u) Prison sentence decreed against him/her for a crime or simple delinquency. If the sentence has not taken place within six months of the commission of the crimes, the dismissal shall take effect as of full legal right; v) ...;

LAW OF THE NATIONAL COMMISSION OF BANKS AND INSURANCE.

Article 24. The officers and employees of the Commission who breach the duties established in this Law and the regulations issued by the Commission in this regard, that abuse their rights or violate the established prohibitions, shall be subject to appropriate disciplinary sanctions. These actions are independent of civil or criminal liability that the sanctioned act may cause.

Offences committed by such officers and employees will cause disciplinary action, even though criminal procedures have begun or that the offender is not in service. When the penalty could not be enforced because the offender has been definitively retired from service, this finding shall be left in his service dossier to ensure effectiveness as example or impediment.

If available, please attach the text in any (other) official language of the United Nations (Arabic, Chinese, Spanish, French, English or Russian).

Please provide examples of implementation and related disciplinary cases

During 2012 and 2013 the Inspectors Office GENERAL COURT received 1770 complaints about the conduct of employees of the Judiciary Power of which 551 complaints were declared with merit, starting the corresponding disciplinary process in the Directorate of Personnel Administration of the Judiciary Career; 807 were declared without merit; 360 remain under investigation; and 52 were referred to the Public Ministry, considering that these are criminal acts.

118. Paragraph 10 of Article 30

10. States Parties shall endeavor to promote the reintegration into society of persons convicted of offences established in accordance with this Convention.

Is your country in compliance with this provision? (Check one answer.)

(Y) Yes

(Y) Yes, in part

(N) No

Yes. According to statements provided in the Constitution of the Republic of Honduras and the Penitentiary System Law.

Please cite the applicable reintegration program(s) or measure(s):

Please cite the text(s)

CONSTITUTION OF THE REPUBLIC OF HONDURAS (1982) Articles 87

NATIONAL PENITENTIARY SYSTEM LAW. Article 1.

Please attach the text(s)

CONSTITUTION OF THE REPUBLIC OF HONDURAS (1982)

Article 87.- Prisons are establishments of security and social defense. The rehabilitation of the detained and his/her preparation for work shall be provided.

LAW OF THE NATIONAL PRISON SYSTEM

Article 1. This Law regulates the organization and operation of the National Prison System.

The National Prison System has as its main purpose the rehabilitation and **social reintegration** of persons that are sentenced to penalties and measures

curtailing their freedom, as well as retention and custody of any arrested person in preventive custody or serving a prison sentence.

If available, please attach the text in any (other) official language of the United Nations (Arabic, Chinese, Spanish, French, English or Russian).

Please provide examples of implementation. ☐

There are no application examples.

If you collect statistics on recidivism rates, please provide them.

In Honduras no such statistics are carried.

119. Technical Assistance

The following questions on technical assistance relate to the Article under review in its entirety.

Do you require technical assistance for the (full) implementation of the Article under review? (Check one answer)

(N) No

31. Freezing, seizure and confiscation.

120. Subparagraph a) of paragraph 1 of Article 31 ☐

1. Each State Party shall take, to the greatest extent possible within its domestic legal system, such measures as may be necessary to enable confiscation of:

a) Proceeds of crime derived from offences established in accordance with this Convention or property the value of which corresponds to that of such proceeds;

Has your country adopted and implemented the measures described above? (Check one answer.)

Y) Yes

(P) Yes, in part

(N) No

Yes. In addition to the Criminal Code that defines confiscation, it also points out in its articles that the gifts and presents that are the products of bribery will be subject to forfeiture. The Criminal Procedure Code in turn defines the procedure to be followed for the realization of decisions on confiscation and

the Special Law against Money Laundering provides for the possibility of confiscation of property used to commit crimes or that were the product of a crime. In addition, other special laws establish the procedure regarding the procedure of deprivation of the property to the proceeds of the seizure and the destination it should be given.

Please cite the applicable policy(ies) or measure(s):

Please cite the text(s)

CRIMINAL CODE contained in Decree No. 144 -1983.□ Articles 55 and BOOK II. SPECIAL PART. TITLE XIII. CRIMES AGAINST THE PUBLIC ADMINISTRATION. CHAPTER V. BRIBERY. 368.

CODE OF CRIMINAL PROCEDURE contained in Decree No. 9-99-E -2002. Articles 217 to 220.

SPECIAL LAW AGAINST MONEY LAUNDERING contained in Decree No. 144 -2014. Articles 63, 65, 67 and 80.

WITNESS PROTECTION ACT IN CRIMINAL PROCEEDINGS contained in Decree No. 63-2007. Article 80.

LAW ON PERMANENT DEPRIVATION OF PROPERTY OF ILLEGAL ORIGIN contained in Decree 27-2010 as amended by the Decree 153-2010 and Decree 258-2011. Article 11, number 3).

Please attach the text(s)

CRIMINAL CODE (1983)

Article 55. The seizure is that of the loss of the effects stemming from a crime or offence, and the instruments used in the perpetration, unless they belong to a third party that are not responsible for the action.

BOOK II. SPECIAL PART.

TITLE XIII. CRIMES AGAINST THE PUBLIC ADMINISTRATION.

CHAPTER V. BRIBERY.

Article 368.- The gifts or presents referred to in the above Articles will be **confiscated** and publicly delivered to the municipal corporation having jurisdiction on the place where the offence was committed, to be used for

works of social interest.

CRIMINAL PROCEDURE CODE (2002)

Article 217. Deposit and Confiscation of Items and Sequestered Documents. The objects and documents related to the crime that may be relevant to the investigation and that may be subject to seizure, will be taken in trust by the respective authorities or secured and preserved in the best possible way.

Those who are in possession of items or documents mentioned in the previous paragraph, must present and deliver them at the sole requirement of the Public Ministry and, failing that, to the police authority or competent jurisdictional court. If such goods are not delivered, they will be sequestered and the trial will continue for the person responsible for the crime of disobedience.

218. Objects that cannot be Sequestered. The following may be subject to seizure:

- 1) Written communications that occurred between the accused and his Counsel or between the first and the people who, in accordance with Article 228, may lawfully refrain from testifying as witnesses by reason of kinship or who should not be obliged to do so due to professional secrecy;
- 2) Notes taken by persons referred to in Article 228 on information provided to them by the accused or any circumstance related to the facts that are investigated, regardless of its source; and,
- 3) The results of laboratory tests or medical diagnoses made under professional secrecy, unless the technical examination itself is under investigation.

The foregoing limitations will only be taken, when objects or documents are in the possession of those who legally can refrain from declaring as witnesses, except if they are suspected of having participated in the commission of the offence or who are covering or if the objects or documents are the product of the offence or were used in committing it.

Article 219. Orders for Seizure. Seizure orders shall be issued by the Judge by means of a reasoned decision.

Once the police are aware of the existence of things that can be seized by their relationship with a crime, they will immediately request the competent court

for a warrant and will protect these to prevent concealment, removal or destruction. The Judge shall decide on the seizure request immediately.

Article 220. Rules that Sequestered things remain subject to. The sequestered effects, after being subjected to expertise supporting their characteristics and status, will be inventoried and will be placed available to a Jurisdictional Court, under its responsibility, guarded and held by the person or establishment which it will designate.

The sequestered effects, may be deposited with any person proving to be its owner, holder or legitimate owner, warning them that they are to be kept available to the Jurisdictional Court, or be returned to them permanently, if they were not relevant to the process.

Firearms, after the experts review report, will be kept guarded in an administrative unit that provides reasonable assurance as decided by the Jurisdictional Court.

In the case of toxic drugs, narcotics or psychotropic substances, the Jurisdictional Court, after hearing the parties, will order their destruction, retaining sufficient samples of these substances to ensure further checks or investigations; notwithstanding that, exceptionally, the Jurisdictional Court, may, by reasoned order, provide that it all be kept.

Samples or all of the seized substances will be kept in the manner provided in the third paragraph of this Article.

In the case of objects of illicit trade, and where its conservation lacks an effective proving value, the Jurisdictional Court, after hearing the parties, may agree to its destruction or irreparable damage. If they were of criminological interest, they may be given to a museum or other specialized institution.

If the confiscated items are in danger of disappearing or of being altered or if they are difficult to preserve, reproductions or copies may be made or their existence and condition will be certified.

If within twelve (12) months from the date of the seizure, the seized property is unclaimed, once the report of the expert is made of its descriptive characteristics and status, its property may be conferred to a public or private institution of social assistance, a nonprofit, or other public entity that may need it, which may only be used to provide the service they provide to the public. This rule shall also apply to perishable goods which have, however, a

twenty-four (24) hours period after the seizure took place.

In case of judicial deposit, the warnings will be given to the depository concerning their civil and criminal liability.

In any case, the confiscated items will be insured with the seal and signature of the person responsible for their safekeeping. The documents will be signed and sealed on each of their pages. When such objects are to be moved to a technical laboratory, a public storeroom or other public or private agency, measures to prevent their loss, alteration or the necessary replacement guarantees must be adopted.

In case of doubts or disputes over ownership or possession of the property seized, these shall be deposited with whom the Judge deems to have a better right, until the matter is decided by the Jurisdictional Courts.

SPECIAL LAW AGAINST MONEY LAUNDERING (2015)

Article 63. CONFISCATION. In case of conviction for any offence under this Law, the confiscation of assets or funds used or intended for use to commit them must be ordered. Likewise, the forfeiture or confiscation of assets or funds that are the subject of crime, proceeds or instrumentalities thereof, must also be ordered .

Article 65. ORIGIN. When the Competent Jurisdictional Court or in the case of the Public Ministry, are aware of any of the acts constituting the crime of money laundering, they must issue without delay, without notice or prior hearings, the precautionary measures, injunctions or relevant assurances provided for in National Legislation, in order to preserve the availability of assets, products or instruments related to the crime of money laundering.

Article 67 ALLOCATION OF ASSETS WITH PRECAUTIONARY MEASURES. If the seizure of goods, products or instruments on which the necessary precaution, precautionary measures or insurance, must be given, the competent body should proceed to make them immediately available to the Administrative Office of Seized Assets (OABI), for their administration, safekeeping, custody or destruction, as the case may be.

Article 80. REQUESTS FOR PRECAUTIONARY MEASURES OR ASSURANCE . At the request of a Foreign State, the Competent Jurisdictional Court may order, in accordance with Domestic Law, the precautionary measures or assurances on assets, products or instruments

located in its jurisdiction, that were related to the crime of money laundering or any of the offences under this Law and those of previous crimes, which were committed in the Requesting State; the provisions of International Conventions should apply on the matter, as signed and ratified by Honduras, which have been invoked.

WITNESS PROTECTION LAW IN CRIMINAL PROCEEDINGS

Article 29 SEIZED ASSETS. The Administrative Office of Seized Assets, which is a dependence of the Public Ministry, will be responsible for ensuring the custody, administration and settlement of all goods, products or instruments of crime in which the judicial administrative authority had seized, secured or seized in accordance with the Law, and must assign twenty-five percent (25%) of the proceeds of liquidation to the Witness Protection Program.

LAW ON PERMANENT DEPRIVATION OF PROPERTY OF ILLEGAL ORIGIN.

Article 11. ORIGIN OF THE LAW ON PERMANENT DEPRIVATION OF PROPERTY. The law on permanent deprivation of property of goods, products, instruments or profits shall proceed and the deprivation of these shall be declared, by a ruling of the jurisdictional court, in any of the following cases: 1) [...]; 3) **When goods, products, instruments or profits involved, are directly or indirectly arising from illegal activities**, Regardless of whether they have been carried out on the territory of the Republic of Honduras or abroad; 4) [...]. The permanent deprivation of property regarding goods, products, instruments or profits, subject of succession upon death, shall proceed when they are matched to any of the cases mentioned in this Article.

If available, please attach the text in any (other) official language of the United Nations (Arabic, Chinese, Spanish, French, English or Russian).

Please provide examples of the application.

There are no application examples.

If available, give information on the number and types of cases in which the proceeds of crime were seized. Indicate annual figures, as available.

From the date of its creation in 2004 the Administrative Office of Seized Assets (OABI) has a total of 400 related cases in their database. On average it handles about 115 cases of deprivation of property, 277 of money laundering and eight isolated cases of other crimes.

Regarding crimes related to corruption there is one (1) case in 2013, two (2) in 2014 and one (1) so far in 2015, as seen in the following summary table.

OPERATION	Crime	DATE OF SEIZURE
HONDUTEL	CORRUPTION	04/06/13
MUNICIPALITY	CORRUPTION	02/07/14
IHSS (2014)	CORRUPTION	05/07/14
IHSS (2015)	CORRUPTION	02/06/15

Source: OABI, 2015

The statistical graphic tables attached provided by the Administrative Office of Seized Property.

If available, please provide information about the confiscated amounts of the proceeds of crimes established in accordance with the Convention. Indicate annual figures, as available.

As shown in the following table to date, the total amounts managed by the OABI for causes related to alleged acts of corruption are 157,262.73 Lempiras and 17,460.24 US dollars. In addition, forty-nine immovable and six movable properties have been seized.

CASES OF CORRUPTION (PROPERTIES)					ACCOUNTS B.	
OPERATION	CRIME	DATE OF SEIZURE	PROPERTY	MOVABLE ASSETS	LEMPIRAS (LPS)	DOLLARS
HONDUTEL	CORRUPTION	04/06/13	5	1	1212.21	15355.68
MUNICIPALITY	CORRUPTION	02/07/14	3	0	84,819.52	N/A
IHSS (2014)	CORRUPTION	05/07/14	34	3	N/A	N/A
IHSS (2015)	CORRUPTION	02/06/15	7	2	71,231.89	2,104.56
TOTAL			49	6	157,262.73	17,460.24.

Source: OABI, 2015

Attached are the graphed statistics provided by the Administrative Office of Seized Property.

121. Subparagraph b) of paragraph 1 of Article 31

1. Each State Party shall take, to the greatest extent possible within its domestic legal system, such measures as may be necessary to enable confiscation of:

[...]

(b) Property, equipment or other instrumentalities used in or destined for use in offences established in accordance with this Convention.

**Has your country adopted and implemented the measures described above?
(Check one answer.)**

(Y) Yes

(P) Yes, in part

(N) No

Yes. In addition to the Criminal Code defining confiscation, Honduran law provides that when goods, products or instruments in question have been used as a means or instrument to commit illegal activities or are intended for such illegal activities these will be object of deprivation of property.

Please cite the applicable policy(ies) or measure(s):

Please cite the text(s)

CRIMINAL CODE contained in Decree No. 144 -1983. Articles 55 and 368.

CRIMINAL PROCEDURE CODE - Decree No. 9-99-E (2002). Articles 217, 218, 219 and 220.

SPECIAL LAW AGAINST MONEY LAUNDERING contained in Decree No. 144 -2014. Articles 63, 65, 67 and 80.

WITNESS PROTECTION LAW IN CRIMINAL PROCEEDINGS contained in Decree no. 63 (2007). Article 29. □

LAW ON PERMANENT DEPRIVATION OF PROPERTY OF ILLEGAL ORIGIN contained in Decree 27-2010 as amended by Decree 153-2010 and Decree 258-2011. Article 11 number 4.

Please attach the text(s)

CRIMINAL CODE (1983)

Articles 55 and 368. See the response to Letter a) of paragraph 1 of Article 31.

CRIMINAL PROCEDURE CODE (2002)

Articles 217, 218, 219 and 220. See the response to Letter a) of paragraph 1 of Article 31.

SPECIAL LAW AGAINST MONEY LAUNDERING (2015)

Articles 63, 65, 67 and 80. See the response to Letter a) of paragraph 1 of Article 31.

WITNESS PROTECTION LAW IN CRIMINAL PROCEEDINGS

Article 29. See the response to Letter a) of paragraph 1 of Article 31.

LAW ON PERMANENT DEPRIVATION OF PROPERTY OF ILLEGAL ORIGIN.

Article 11. ORIGIN OF THE LAW ON PERMANENT DEPRIVATION OF PROPERTY. The law on permanent deprivation of property of goods, products, instruments or profits shall proceed and the deprivation of these shall be declared, by a ruling of the jurisdictional court, in any of the following cases: 1) [...]; 4) **When goods, products, instruments, profits or businesses in question have been used as a means or instrument to commit illegal activities or are intended for such unlawful activities or where appropriate to the object of the crime; [...].** The permanent deprivation of property regarding goods, products, instruments or profits, subject of succession upon death, shall proceed when they are matched to any of the cases mentioned in this Article.

If available, please attach the text in any (other) official language of the United Nations (Arabic, Chinese, Spanish, French, English or Russian).

Please provide examples of implementation.

There are no examples available of this type.

If available, give information on the amount and types of goods, equipment or other instruments confiscated.

As shown in the following table, of the property seized six are apartments, 24 are houses, seven are commercial facilities and ten are plots of land.

PROPERTY BY CORRUPTION CASE

OPERATIONAL	OPERATING YEAR	Apartments	Housing	Commercial Facilities.	Plots of Land
Hondutel	2013	N/A	4	N/A	1
IHSS	2014	6	14	7	6

Municipality		N/A	1	N/A	1
L.E.	2015	N/A	5	N/A	2

Source: OABI, 2015

The following table shows that of the personal property seized regarding vehicles three are station wagons and three are pick-ups.

VEHICLES FOR CORRUPTION

OPERATIONAL	OPERATING YEAR	TOURISM	Station wagon	PICK UP
Hondutel	2013	N/A	1	N/A
IHSS	2014	N/A	1	2
Municipality		N/A	N/A	N/A
IHSS	2015	N/A	1	1

Source: OABI, 2015

Attached are the graphed statistics provided by the Administrative Office of Seized Property.

If available, please provide information on recent cases in which such confiscations took place.

122. Paragraph 2 of Article 31

2 Each State Party shall take such measures as may be necessary to enable the identification, tracing, freezing or seizure of any item referred to in paragraph 1 of this Article for the purpose of eventual confiscation.

Has your country adopted and implemented the measures described above? (Check one answer.)

Y) Yes

(P) Yes, in part

(N) No

Yes. Honduras complies with this provision by requiring the precautionary measures for securing and seizure of assets, in order to ensure the confiscation.

Please cite the applicable policy(ies) or measure(s):

Please cite the text(s)

LAW ON PERMANENT DEPRIVATION OF PROPERTY OF ILLEGAL ORIGIN contained in Decree 27-2010 as amended by Decree 153-2010 and Decree 258-2011. Article 17.

CODE OF CRIMINAL PROCEDURE contained in Decree No. 9-99-E -2002. Articles 217 and 220.□

SPECIAL LAW AGAINST MONEY LAUNDERING contained in Decree No. 144 -2014. Articles 66 and 72.

Please attach the texts

LAW ON PERMANENT DEPRIVATION OF PROPERTY OF ILLEGAL ORIGIN.

Article 17. OBLIGATIONS OF COLLABORATION. All public and private institutions are obliged to provide to the Public Prosecutor or the competent authority within a period of twenty-four (24) hours the required information. Exceptionally for justified reasons, this period may be extended for up to forty-eight (48) hours. To fulfill this arrangement, the UIF and the financial institutions supervised by the National Commission of Banks and Insurance and the financial institutions not supervised by it, will have available the necessary staff during twenty-four (24) hours.

Article 33. THE SOURCE FOR PRECAUTIONARY MEASURES: At any stage of the process and in order to preserve the availability of the goods, products, instruments or profits, the competent court at the request of the Public Prosecutor may decree without notification or previous hearings, precautionary measures, injunctions, or assurances of those. Exceptionally, the Public Ministry, in an emergency or to prevent that the goods, products, instruments or profits are hidden or their persecution difficult to investigate or their availability by the authority or by any other circumstance can not be processed before the Jurisdictional Court, it can without notification or prior hearings, issue precautionary or assurance measures on goods, products, instruments or profits referred to in this Law. After execution of the resolution given by the Public Ministry, within the period of three (3) working days, the reinstatement process will be done before the official who issued the decision, and as warranted appeal to the hierarchical superior, who must resolve it in a period not exceeding three (3) days. The recourse in any of the stages provided in this Law shall not prevent the Public Ministry from promoting the process of permanent deprivation of property before the Jurisdictional Court. In the case that the law on deprivation of property has already been called before the Jurisdictional Court and the Public Ministry issues the injunction, interim or assurance, will inform the Competent Jurisdictional Court within a period of seventy two (72) hours and explain the reasons behind it. The judge

will then validate or overrule all or part of the proceedings. Against the decision of the Jurisdictional Court accessing the validation or cancellation, an appeal can be made, which will be resolved by following the procedure indicated in the Criminal Procedure Code. After a period of twelve (12) months has gone by after the issuance and precautionary measures, interim or assurance measures taken, without the Public Ministry having promoted the law on deprivation of property, these can be revoked. The term indicated in this Article may be extended by judicial authorization for an equal period only once, and starting from the entry in the corresponding register.

CRIMINAL PROCEDURE CODE (2002)

Article 217.- Deposit and Confiscation and Sequestered Documents. The objects and documents related to the crime that may be relevant to the investigation and that may be subject to seizure, will be taken in trust by the respective authorities or secured and preserved in the best possible way. Those who are in possession of items or documents mentioned in the previous paragraph must present and deliver them at the sole requirement of the Public Ministry and, failing that, to the police authority or jurisdictional court. If those mentioned goods are not delivered, their sequestration will be arranged and the trial will continue for the person responsible of the crime of disobedience.

Article 220.- Rules to which Sequestered objects remain subject. The sequestered effects, after being subjected to expertise supporting its characteristics and status, will be inventoried and will be placed available to Jurisdictional Court, under its responsibility, guarded and held by the person or establishment which it designates. The sequestered effects, may be deposited with any person proving to be its owner, holder or legitimate owner, warning them that they are to be kept available to the Jurisdictional Court, or be returned to them permanently, if that were relevant to the process. Firearms, after the experts review report, will be kept guarded in an administrative unit that provides reasonable assurance by the judgment of the Jurisdictional Court. In the case of toxic drugs, narcotics or psychotropic substances, Jurisdictional Court, after hearing the parties, will order their destruction, retaining sufficient samples of these substances to ensure further checks or investigations; notwithstanding that, exceptionally, Jurisdictional Court, by reasoned order, provide for the conservation of the whole. Samples or all of the seized substances will be kept in the manner provided in the third paragraph of this Article. In the case of objects of illicit trade, and

conservation lacks a proving value, Jurisdictional Court, after hearing the parties, will agree to its destruction or irreparable damage. If they are of criminological interest, they may be given to a museum or other specialized institution. If the confiscated items are in danger of disappearing or of being altered or if they are difficult to custody, reproductions or copies or their existence and condition will be certified. If within twelve (12) months from the date of the sequestering, there is unclaimed seized property, once the descriptive expertise is practiced of its characteristics and status, its property will be conferred to a public or private institution of social assistance, nonprofit, or other public entity that would need them, where they can only be used to provide the service they provide to the public. This rule shall also apply to perishable goods, which have, however, a twenty-four (24) hours window after the seizure took place. In case of legal deposit, the depository will be given the warnings concerning their civil and criminal liability. In any case, the confiscated items will be insured with the seal and signature of the person responsible for their safekeeping. The documents will be signed and sealed on each of their pages. When these objects must be moved to a technical laboratory, public storeroom or other public or private agency, measures to prevent their loss, alteration or replacement, the necessary guarantees will be adopted. In case of doubts or disputes over ownership or possession of the property seized, these shall be deposited with whom the Judge deems to have a better right, until the jurisdictional courts decide the matter.

SPECIAL LAW AGAINST MONEY LAUNDERING (2015).

Article 66. IMPLEMENTATION OF THE INTERIM MEASURE OR ASSURANCE. For purposes of implementation and effectiveness, the precautionary, preventive measures or assurances given, shall be communicated by any legal means to the institution where these must be executed.

The competent authority must submit such a request in writing, within the following twenty-four (24) hours, when due to the urgency of the request had been made other than in writing.

The institutions obligated to execute registration measures, must proceed immediately to execute them in cases where goods, companies or their owners were fully identified, and where they were not, prior to the identification, should take measures to ensure the availability of goods, products or instruments which are held on behalf of the persons described in the order of

assurance.

In the records of real estate and commercial property as well as in other public or private institutions, that must implement the measures, no prior relation can be claimed in order to delay or not to carry out the measure. Any entry ignoring the provisions of this Article is null and brings administrative, criminal and civil liability to the offender.

In the event that the precautionary or interim measure, falls on financial products, this must be made effective through the Compliance Units of the Supervised Institutions, without invalidating that other officials of those institutions may execute them.

Article 72. EQUIVALENT ASSETS. Where it is not possible to locate, identify or materially investigate the impairment of assets or claim by confiscation or forfeiture, it is inappropriate for the recognition of the rights of a third party in good faith, that the Jurisdictional Court must order the confiscation of assets up an equivalent to that of the goods that are not likely to be affected in value.

If available, please attach the text in any (other) official language of the United Nations (Arabic, Chinese, Spanish, French, English or Russian).

Please provide examples of implementation.

Example 1. HONDUTEL

The case of the former head of the Honduran Telecommunications Company (HONDUTEL), against whom investigations for deprivation of property were initiated in 2013, a total of five (5) properties were seized.

Example 2. IHSS

The case of former director of the Honduran Institute of Social Security (IHSS) to whom a total of thirty-four (34) properties were seized, among which one (1) has already been auctioned and awarded.

If available, please provide information on the cases and amount of money/value of property frozen or seized. Please provide per annum figures, as available

In the case of Example 2 above, an apartment in Sky Tower building was seized, which is in the property of highest accrued value in the city of

Tegucigalpa, whose value is \$ 694,934.60 which was already auctioned and awarded. The procedures are underway to deed them for obtaining funds and restore them to the injured Institution (IHSS).

123. Paragraph 3 of Article 31

3. Each State Party shall, in accordance with its domestic law, adopt such legislative and other measures as may be necessary to regulate the administration, by the competent authorities of mortgaged, seized or confiscated property covered in paragraphs 1 and 2 of this article.

**Has your country adopted and implemented the measures described above?
(Check one answer.)**

Y) Yes

(P) Yes, in part

(N) No

Yes, the Administrative Office of Seized and Forfeited Assets (OABI) is the specialized technical body attached to the Ministry of State in the Office of the Presidency, responsible for the care, custody and administration of assets seized, confiscated or abandoned, that the competent authority makes available to it. This entity must follow the measures regulating the administration of property that has been mortgaged, seized, confiscated and forfeited.

Please cite the applicable policy(s), law(s) or other measure(s):

Please cite the text(s)

LAW OF EFFICIENCY IN INCOME AND PUBLIC SPENDING contained in Decree No. 113-2011. Article 20.

SPECIAL LAW AGAINST MONEY LAUNDERING contained in Decree No. 144 -2014. Articles 73, 74, 75 and 76.

Please attach the text(s)

LAW OF EFFICIENCY IN INCOME AND PUBLIC SPENDING

ARTICLE 20. The Administrative Office of Seized Assets (OABI), was created as an agency of the Executive Branch to be attached to a Ministry of State that the President of the Republic will appoint in the Council of Secretaries of State.

The OABI will be responsible for the care, custody and management of all assets, products or instruments of crime, that competent authority makes available to them.

The OABI, following a decision or judgment of the Jurisdictional Court or the Public Ministry, as the case may be, will proceed to return the assets, products or instruments to the persons who prove the conditions contained in Article 17 of the Money Laundering Law.

For the care and management of the assets in currency referred to in the previous paragraph, the OABI will make the deposits in special accounts for this purpose that it will open in the Central Bank of Honduras or any institution of the National Financial System, according to investment rules previously approved by the President of the Republic, in which they will observe the safety requirements and profitability. In the case of movable assets these will be deposited in a bonded warehouse or in hangars or naval bases of the Armed Forces of Honduras when the case so requires.

In regard to bank accounts in financial institutions, the OABI may order the transfer of funds to special accounts opened in the Central Bank of Honduras.

When a definitive ruling is issued on the legal status of the seized assets, the provisions of Article 73 will be applied of the Final Law of Deprivation of Property of Illegal Assets.

For the operation of the OABI the Secretary of State in the Office of Finance will take the necessary budgetary provisions, as well as will form part of its budget the percentage of resources set out in Article 23 and what is set in Article 40 of this law.

SPECIAL LAW AGAINST MONEY LAUNDERING (2015).

Article 73. The Administrative Office of Seized Assets (OABI) is a specialized technical body attached to the Secretariat of State in the Office of the Presidency, with legal personality, enjoys technical, administrative and financial autonomy, for the direct management of the matters entrusted by law; becoming a specialized technical body for proper care, custody and administration of seized, confiscated or abandoned assets that competent authority makes available to them.

For the care and management of the assets in money referred to in the

preceding paragraph, the Administrative Office of Seized Assets (OABI), must make deposits in special accounts opened for this purpose in any institution or the National Financial System the Central Bank of Honduras (BCH), according to the Rules of Management of Seized and Forfeited Assets and the Investment Regulations as approved by the President of the Republic based on the proposal of the Interagency Commission for the Prevention of Money Laundering and Financial Terrorism (CIPLAFT), in which the safety and profitability requirements must be observed. In the case of movable assets, they must be stored in bonded warehouses or in the facilities of the Armed Forces of Honduras that are intended to that effect when the case so requires it.

Article 74. TEMPORARY USE OF MANAGED ASSETS. In the cases of goods, products, instruments or profits that are being administered by the Administrative Office of Seized Assets (OABI), and where no final judgment or resolution defining their legal status has been made, and with the prior authorization of the Secretary of State in the Office of the President or the National Council of Defense and Security (CNDS), when this instance is subjected to that end, it must approve subscription of the agreements regarding the provisional use of seized assets.

The Administrative Office of Seized Assets (OABI) in compliance with the relevant conventions, must assign the goods in provisional use, provided that in due time the documents certifying the insurance contract coverage against damage, fire or other casualty.

The insurance must be designed to ensure compensation for damage or destruction, when the nature and value of the property so warrants.

Expenses incurred by contracting the insurance policy, maintenance, operation and others, must be paid by the institution or body that is assigned, therefore steps should be taken to make budget estimates for each fiscal year for the compliance of this provision.

The procedure to be followed for the assignment and its enforcement is subject to the Regulation of Management of Seized and Confiscated Assets.

The authorization or the delivery for provisional use, without fulfilling the requirements may result in the imposition of civil, administrative or criminal penalties.

Article 75. ASSETS SUSCEPTIBLE TO SPOILAGE OR COSTLY

ADMINISTRATION. When the precautionary measures or assurance are those for goods at risk of perishing, of being lost, depreciated, devalued, or the administration of same would involve prejudice, disproportionate cost to the state when returning them as the case may be, or that they become useless when sentence is passed, these, with prior authorization from the Secretary of State in the Office of the President and / or the National Council of Defense and Security (CNDS), may be transferred, auctioned or sold in advance by the Administrative Office of Seized Assets (OABI), that strive to maintain the productivity of these. The same is applicable in the case of livestock or other animals. All the above is without prejudice to the relevant valuation that to that effect, the Directorate General of National Assets or any other competent body should make, depending on the assets to be auctioned.

If the hearing sale or auction is conducted, and offers are not received or for any other reason this does not take place, the Administrative Office of Seized Assets (OABI) should donate the proceeds to a public charity and non-profit social development organizations. The Regulation for the Administration of Seized or Confiscated Assets should be issued by the President of the Republic, to regulate the auction, sale or donation established in this Article. The Competent Judge and the Public Ministry must be notified of all proceedings.

The proceeds from the auction or advance sale must be deposited in the special fund of seized money.

Article 76. ABANDONED ASSETS. After a period of thirty (30) days from notification that is referred to in Article 68 of this Law, with no claims by proven ownership made for the return, the Administrator of Seized Asset Organization (OABI) with the approval of a Competent Jurisdictional Court, must publish once, in a newspaper of national circulation, a written notice of the seizure of such assets, with the warning that if within thirty (30) days no one person has come forward demanding its return and proving to be the owner or legitimate keeper, the competent authority will declare them to be abandoned.

Once abandonment is declared, the Administrative Office of Seized Assets (OABI) should proceed automatically to make the distribution in accordance with Article 78 reformed of the Law on Permanent deprivation of Property of Property of Illegal Origin contained in Decree No. 27- 2010, of November 18, 2010.

If a person comes forth within the terms provided in this Article to the process, and proves to be the owner of the property, the competent authority must continue the process.

If available, please attach the text in any (other) official language of the United Nations (Arabic, Chinese, Spanish, French, English or Russian).

Please provide examples of the application.

There are no application examples.

Provide any report or assessment regarding the administration of assets seized, confiscated or forfeited:

No availability of reports.

124. Paragraph 3 of Article 31

4. When that issue born of a crime has been transformed or converted, in part or in full, into other assets, they shall be subject to the measures applicable to that issue within the meaning of this article.

Is your country in compliance with this provision? (Check one answer.)

Y) Yes

(P) Yes, in part

(N) No

Yes. In Honduras the Special Law against Money Laundering provides for the possibility of pursuing the goods that are a direct or indirect proceed of crime when they are mixed or covered with assets of lawful origin, or processed into other goods.

Indicate and attach the laws, policies or other measures that are applicable:

Indicate the texts

SPECIAL LAW AGAINST MONEY LAUNDERING contained in Decree No. 144 -2014. Article 36.

Please attach the texts

SPECIAL LAW AGAINST MONEY LAUNDERING (2015).

Article 36. See in response to item i) of subparagraph a) of paragraph 1 of Article 23.

If available, please attach the text in any (other) official language of the United Nations (Arabic, Chinese, Spanish, French, English or Russian).

Please provide examples of the application.

There are no examples available.

If available, give information (statistics, types of cases, outcomes) on related court cases or other processes. Indicate annual figures, as available.

There are no such statistics available of this type.

125. Paragraph 5 of Article 31

5. If such proceeds of crime have been intermingled with assets acquired from legitimate sources, such assets shall be liable to confiscation, up to the assessed value of the intermingled assets, without prejudice to any powers relating to preventive mortgage or seizure.

Is your country in compliance with this provision? (Check one answer.)

Y) Yes

(P) Yes, in part

(N) No

Yes. Honduras complies with this provision by establishing an article in the Law on Permanent Deprivation of Property of an Illegal Nature defined by equivalent assets.

Indicate and attach the laws, policies or other measures that are applicable:

Please cite the text(s).

LAW ON PERMANENT DEPRIVATION OF PROPERTY OF ILLEGAL ORIGIN contained in Decree 27-2010 as amended by Decree 153-2010 and Decree 258-2011. Article 12.

SPECIAL LAW AGAINST MONEY LAUNDERING contained in Decree No. 144 -2014. Article 72.

Please attach the texts

LAW ON PERMANENT DEPRIVATION OF PROPERTY OF ILLEGAL ORIGIN.

Article 12. EQUIVALENT ASSETS. In those circumstances where it is not possible to locate the assets, products, instruments or profits, or to issue the permanent deprivation property of certain assets on which the action is brought, the Judge, in the sentence, will declare the permanent deprivation of property on assets or equivalent securities of the same holder. The provisions of the preceding paragraph shall not be construed to prejudice the rights of third parties in good faith free of responsibility.

SPECIAL LAW AGAINST MONEY LAUNDERING (2015).

Article 72. See what is described in Paragraph 2 of Article 3.

If available, please attach the text in any (other) official language of the United Nations (Arabic, Chinese, Spanish, French, English or Russian).

Please provide examples of the application.

There are no examples of this type.

If available, give information (statistics, types of cases, outcomes) on related court cases or other processes. Indicate annual figures, as available.

There are no such statistics available of this type

126. Paragraph 6 of Article 31

6. The income or other benefits derived from such proceeds of crime, of assets that have been transformed or converted or of assets that have been intermingled with such proceeds of crime, will also be subject to the measures provided for in this Article, in the same manner and to the same extent as the proceeds of crime.

Is your country in compliance with this provision? (Check one answer.)

(Y) Yes

(Y) Yes, in part

(N) No

Yes. Honduras complies with this provision by establishing an article in the Law on Definite Privation of Dominion of Assets from Illegal Sources, that mentions transformed of mixed assets with others.

Please cite the applicable policy(s), law(s) or other measure(s):

Please cite the text(s)

SPECIAL LAW AGAINST MONEY LAUNDERING contained in Decree No. 144 -2014. Article 75.

Please attach the text(s)

SPECIAL LAW AGAINST MONEY LAUNDERING (2015).

Article 75. See what is described in Paragraph 3 of Article 31.

If available, please attach the text in any (other) official language of the United Nations (Arabic, Chinese, Spanish, French, English or Russian).

Please provide examples of the application

There are no application examples.

If available, give information (statistics, types of cases, outcomes) on related court cases or other processes. Indicate annual figures, as available.

There are no such statistics available of this type.

127. Paragraph 7 of Article 31

7. For the purposes of this article and Article 55 of this Convention, each State Party shall empower its courts or other competent authorities to order the presentation or seizure of bank, financial or commercial documents. States Parties may not refuse to apply the provisions of this paragraph on the grounds of bank secrecy.

Has your country adopted and implemented the measures described above? (Check one answer.)

Y) Yes

(P) Yes, in part

(N) No

Yes. Honduras complies with this provision.

Please cite the applicable policy(s), law(s) or other measure(s):

Please cite the text(s)

CRIMINAL CODE contained in Decree No. 144 -1983. BOOK II. SPECIAL PART. TITLE XIV. ☐ FINANCIAL CRIME AND PUNISHMENT. Article 394-H.

SPECIAL LAW AGAINST MONEY LAUNDERING contained in Decree

No. 144 -2014. Article 47.

LAW OF THE NATIONAL COMMISSION OF BANKS AND INSURANCE contained in Decree No. 155-95. Article 15.

FINANCIAL SYSTEM LAW contained in Decree no. 129-2004. Article 34.

Please attach the text(s)

CRIMINAL CODE (1983).

TITLE XIV. □FINANCIAL CRIME AND PUNISHMENT.

CHAPTER I. FINANCIAL CRIME AND PUNISHMENT

Article 394-H. Disclosure or dissemination of Confidential Information. The person that reveals or discloses any confidential information on matters communicated to the supervised institutions, or that with them they have been treated, or related to the operational and physical security of banks, and those who, for personal advantage in detriment of the institution or third parties, shall be punished by imprisonment of six (6) to nine (9) years. The same penalty shall be applied to whom, without authorization and with the purpose of obtaining his/her own or third party benefit, uses any type of information that is not publicly known and has been kept secret.

The official or public employee of the regulating entity or public official who knowing confidential information from an institution supervised by virtue of his/her office, reveals or discloses it causing prejudice, shall be subject to the same penalty increased by one third (1/3).

Exchanging Information between the National Banking and Insurance Commission, the Central Bank of Honduras, the Deposit Insurance Fund and supervised Institutions or among themselves is not considered as disclosure or dissemination of confidential information . **It is not considered disclosure or dissemination of confidential information that which is related to compliance with the Law, court orders or agreements of exchange of information subscribed in relation to cross-border supervision and prevention of Asset Laundering and Financing of Terrorism.**

Likewise, no disclosure of confidential information is considered, in the exchange of data between financial institutions or credit bureaus, in order to protect the accuracy and security of credit operations.

SPECIAL LAW AGAINST MONEY LAUNDERING

Article 47. For purposes of the application of this Law and in safeguarding the fundamental rights of the person, bank secrecy, professional or tax secrecy cannot be invoked.

LAW OF THE NATIONAL COMMISSION FOR BANKS AND INSURANCE.

Article 15. The members of the Commission and officials and employees thereof will keep the strictest confidence over the papers, documents and information of supervised institutions that they have knowledge of, and will be liable for damages incurred in the disclosure thereof. **Exceptions to this provision are the reports, documents and information which the Commission must provide, to comply with court orders and obligations arising from international agreements on exchange of information that the Commission has with similar institutions** and, in particular, those that are provided by the Central Bank of Honduras.

FINANCIAL SYSTEM LAW.

ARTICLE 34. RESPONSIBILITY. The members of the Council of Administrators or Board of Directors, the general manager and other officers and employees of an institution of the financial system will be civil, administrative and criminally liable for their actions and omissions in the performance of their duties and attributes, that involve contravening the legal provisions, regulations or norms of practice and, therefore are personally liable for the damages caused to the institution and in responsibility with it before third parties.

In the same responsibility will incur those who reveal or disclose any information of a confidential nature on matters communicated to the institution or that in them would have been dealt with, and that information for personal purposes in detriment of the institution or third parties.

The following will not be included in the previous paragraph, **information legally required by the judicial authorities** and others authorized by Law, neither the ordinary exchange of confidential information between institutions of the financial system for the sole purpose of protecting credit operations in general, and the information that institutions provide regarding the financial system on active operations of its customers to established risk centers or

credit bureaus, approved and supervised by the Commission.

The members of Council of Administrators or Board of Directors who have expressed their displeasure at the time of the deliberation or decision of the case, approval of the minutes, shall be exempt from responsibility .

If available, please attach the text in any (other) official language of the United Nations (Arabic, Chinese, Spanish, French, English or Russian).

Please provide examples of the application

There are no application examples.

If available, give information (statistics, types of cases, outcomes) on related court cases or other processes. Indicate annual figures, as available.

There are no such statistics available of this type.

128. Paragraph 8 of Article 31

8. State Parties may consider the possibility of requiring that a delinquent demonstrate the lawful origin of alleged proceeds of crime or other assets liable to confiscation, to the extent that this be consistent with the fundamental principles of his/her internal rights and with the nature of the judicial process or other processes.

Has your country adopted and implemented the measures described above? (Check one answer.)

Y) Yes

(P) Yes, in part

(N) No

Yes. Honduran legislation establishes the obligation to prove the lawful origin of the property subject to the process of permanent deprivation of property.

Indicate and attach the laws, policies or other measures that are applicable:

Please cite the text(s)

LAW ON PERMANENT DEPRIVATION OF PROPERTY OF ILLEGAL ORIGIN contained in Decree 27-2010 as amended by Decree 153-2010 and Decree 258-2011. Article 42.

SPECIAL LAW AGAINST MONEY LAUNDERING contained in Decree No. 144 -2014. Article 70.

Please attach the texts

LAW ON PERMANENT DEPRIVATION OF PROPERTY OF ILLEGAL ORIGIN.

Article 42. THE OBLIGATION OF ESTABLISHING LAWFUL ORIGIN. The person affected or owner of the assets, products or instruments subject to a permanent deprivation process of property must prove through evidence, that they consider appropriate, the legal origin of their assets, products, instruments or profits, so that they are not affected under this Law. The bona fide third parties can intervene in the process by providing the evidence they deem appropriate to achieve the non-application of assets, products or instruments.

SPECIAL LAW AGAINST MONEY LAUNDERING (2015).

Article 70. CASES OF REPEAL OF MEASURES OF ASSURANCE. The Competent Jurisdictional Court should revoke the precautionary, protective or assurance measures and return to the claimant of the assets, products or instruments when any of the following circumstances occurs:

- 1) The claimant proves the legal origin and his/her legitimate interest in the assets, products or instruments;
- 2) ... ; 3) ...; 4) ...; 5) ...

If available, please attach the text in any (other) official language of the United Nations (Arabic, Chinese, Spanish, French, English or Russian).

Please provide examples of the application

There are no application examples.

If available, provide information on recent cases where it has been required that a delinquent demonstrate the lawful origin of alleged proceeds of crime or other property liable to confiscation:

There is no information available.

129. Paragraph 9 of Article 31

9. The provisions of this article shall not be construed to prejudice the rights of bona fide third parties.

Is your country in compliance with this provision? (Check one answer.)

Y) Yes

(P) Yes, in part

(N) No

Yes. Honduras meets this provision by establishing norms within its legal framework to protect third parties in good.

Indicate and attach the laws, policies or other measures that are applicable:

Please cite the text(s)

LAW ON PERMANENT DEPRIVATION OF PROPERTY OF ILLEGAL ORIGIN contained in Decree 27-2010 as amended by Decree 153-2010 and Decree 258-2011. Article 42.

SPECIAL LAW AGAINST MONEY LAUNDERING contained in Decree No. 144 -2014. Article 71.

Please attach the texts

LAW ON PERMANENT DEPRIVATION OF PROPERTY OF ILLEGAL ORIGIN.

Article 4. CONCEPT OF DEPRIVATION OF PROPERTY. The permanent deprivation of property is that of giving to the State without consideration or compensation of any kind, for the person alleging the right of ownership and other real rights attached (primary or accessories), the transferable personal rights, respect of assets, products, instruments or profits, which are found in any of the circumstances referred to in Article 11 of this Law. **It is understood that deprivation of property will be applied safeguarding the rights of bona fide third parties.**

SPECIAL LAW AGAINST MONEY LAUNDERING (2015)

Article 71. REVOCATION OF CONTRACTS. A contract is void that is contained in a public or private instrument or any other document, granted free of charge or onerous, between the living or upon death, whose purpose is to put assets beyond the reach of the application of the precautionary measures or assurance or that confiscation or seizure is ordered, referred to in this Law.

Nullity must be declared by the court which is hearing the criminal case in the judgment to be issued once the process is completed. In case of invalidity of a contract for onerous title, the price should only be returned to the buyer, to the

extent that indeed it has been paid and the contract has been entered into in good faith by the latter.

Against the resolution ordering the annulment, recourse can be lodged for replacement and the appeal in one sole effect.

If available, please attach the text in any (other) official language of the United Nations (Arabic, Chinese, Spanish, French, English or Russian).

Please provide examples of the application and, if available, provide information on recent cases in which there were bona fide third parties and their rights were protected

There is no information available.

130. Technical Assistance

The following questions on technical assistance relate to the Article under review in its entirety.

Do you require technical assistance for the (full) implementation of the Article under review? (Check one answer)

(Y) Yes

(N) No

(N) No

32. Protection of witnesses, experts and victims.

131. Paragraph 1 of Article 32

1. Each State Party shall take appropriate measures in accordance with its domestic legal system and within its means to provide effective protection from potential retaliation or intimidation for witnesses and experts who give testimony concerning offences established in accordance with this Convention and, as appropriate, for their relatives and other persons close to them.

Has your country adopted and implemented the measures described above? (Check one answer.)

Y) Yes

(P) Yes, in part

(N) No

Yes, in part. Honduras has a legal framework to provide a broad range of

protective measures for witnesses, victims and their families and close friends that are affected. However, some difficulties were noticed in the implementation of the protection program since the law extends only to individuals who have appeared in court proceedings and excludes those who are still in the process of investigation (preparatory phase).

Moreover, the judicial authorities are reluctant to use audiovisual mechanisms, considering that the better appreciation of injunction is direct (by obligation they admit the use of the so-called HEZZEL camera).

Please cite the applicable policy(ies) or measure(s):

Please cite the text(s)

NEW CRIMINAL PROCEDURE CODE - Decree No. 9-99-E (2002). Articles 5, 236, 237 and 248.

LAW OF WITNESS PROTECTION IN THE CRIMINAL PROCEDURE - Decree No. 63 (2007). Articles 1 and 2.

Please attach the text(s)

CRIMINAL PROCEDURE CODE (2002)

Article 5.- Protection of those involved in the process. The State through its appropriate organs, will provide ex officio assistance and protection to victims, witnesses and other parties involved in the process when so required.

Article 236.- How the Testimony should be presented. Before the witness presents his/her testimony, the witness shall swear to tell the truth and shall be instructed on his/her duties and responsibilities thereby assumed, if he/she violates the oath.

Each witness will be questioned separately from the others and his/her name, marital status, age, occupation, nationality and address shall be recorded.

Any family ties he/she may have with any party or interest in the matter at issue in the process shall also be noted in the record.

If the witness fears for his/her safety or is in any danger regarding another person, he/she may let the court know, in confidence, where he/she lives or can be found at, but may not hide his/her identity. Once the above is complied with, the witness will be asked about the facts under investigation.

A detailed certification will be recorded in the minutes based on the statements made at the preparatory and intermediate stage. Those who provide testimony in oral hearings or in the oral and public trial, shall be subject to the rules of debate.

The witness is entitled to read or ask that the minutes be read before signing it.

Art. 237.- Witness Protection. When the jurisdictional court, on its own initiative or by manifestation of the witness, rationally appreciates that there is serious danger to the person or property of the witness, his spouse or life partner, or a parent, child or sibling of either, as a result of the testimony to be provided, it must, upon hearing the parties, adopt protective measures it deems appropriate and, among them include any of the following: 1) That there are no actions carried out, that record the name, address, place of work and profession of the witness (all of which will appear in a document placed in a closed and sealed envelope, and will only be known to the Jurisdictional Court, and the secretary), no data that could serve to know his identity and location, a detailed certification will be recorded in the minutes, a number or code will be used to identify him/her during the process x; 2) That those appearing for the practice of the court proceedings, using any method that prevents normal visual identification by the defendant and the public; and, 3) To set as an address, for communication purposes, the address itself of the jurisdictional court, through which they will be confidentially sent to the recipient.

ARTICLE 248. Protection of Experts. The protective measures provided for by Article 237 of this Code regarding witnesses, experts involved in the procedure shall also apply, as long as the circumstances are the same of that precept that is considered for adoption.

LAW OF WITNESS PROTECTION IN THE CRIMINAL PROCEDURE

Article 1.- ESTABLISHMENT OF THE PROGRAM. This Law has the objective to create the Witness Protection Program in Criminal Proceedings, which will be under the direction and coordination of the Public Ministry.

Article 2.- PURPOSE. The Program to which the preceding Article is referring to is intended to provide protection to Witnesses in the Criminal Proceedings that, as a result of its efficient and effective participation in it, are admitted in the Program. Program protection will extend to the spouse, home

partner(s), family members or others involved with the Witness who, by virtue of his/her testimony, are at risk in accordance with this Law and its Regulations.

If available, please attach the text in any (other) official language of the United Nations (Arabic, Chinese, Spanish, French, English or Russian).

Please provide examples of the application

There are no application examples.

If such information is available, indicate the number of witnesses or experts and their relatives and other close people who have needed protection. Also mention how long they have needed such protection. Indicate annual figures, as available.

No availability of such information.

If your country has a witness protection program, how many witnesses or experts and their relatives and other persons close to them have accessed it? Indicate annual figures, as available.

The National Police is responsible for the execution of a large number of security mechanisms to protect witnesses, more specifically, personal custody and monitoring. Currently the number of beneficiaries of these mechanisms is more than 360 people in total for **all types of crimes**.

As reported by the Director of the Witness Protection Program, to date there are three files related to **corruption** issues.

Do you know the approximate cost of providing protection for every person?

No

132. Subparagraph 2 (a) of Article 32

2. The measures envisaged in paragraph 1 of this Article may include, inter alia, without prejudice to the rights of the defendant, including the right to due process:

(a) Establishing procedures for the physical protection of such persons, such as, to the extent necessary and feasible, relocating them and permitting, where appropriate, non-disclosure or limitations on the disclosure of information concerning the identity and whereabouts of such persons;

Has your country adopted and implemented the measures described above?

(Check one answer.)

Y) Yes

(P) Yes, in part

(N) No

Yes, Honduras complies with this provision to establish additional protective measures.

Please cite the applicable policy(ies) or measure(s):

Please cite the text(s)

WITNESS PROTECTION ACT IN CRIMINAL PROCEEDINGS contained in Decree no. 63-2007. Article 3 paragraph 2 and Article 11.

Please attach the text(s)

Article 3.- PRINCIPLES: Any action on the protection referred to in this Law shall be governed by the following principles:

- 1) [...]
- 2) BOOK ON PROTECTION MEASURES: Those with knowledge of protective measures or having participated in its preparation, approval and implementation, whether public or private servers, are obliged to keep the identity of the beneficiary or beneficiaries of the Program strictly confidential and any other information leading to their revelation or location. Violation of this provision will lead to criminal, civil and administrative penalties that may be applicable to the law;
- 3) [...]

Article 11. PROTECTION MEASURES. The Director(s) of the Program may adopt any one of the following measures:

- 1) Removal from the place of risk; 2) Temporary or permanent protection of the Witness within the country or abroad; 3) Change of identity; 4) Modification of physical features; and 5) Other necessary to guarantee the life and physical, psychological, occupational safety and integrity of individuals.

If available, please attach the text in any (other) official language of the United Nations (Arabic, Chinese, Spanish, French, English or Russian).

Please provide examples of implementation

There are no application examples.

If applicable and available, please provide information on the number of witnesses or experts who have received physical protection, type of protection received and cost.

According to the "Significant Events" report of the Public Ministry (2015) three individuals are currently being provided protection for cases of **corruption** (measures that are being implemented are personal safety, transfer of location and monitoring of these individuals situations directly or by the police).

133. Subparagraph 2 (b) of Article 32

2. The measures envisaged in paragraph 1 of this Article may include, inter alia, without prejudice to the rights of the defendant, including the right to due process:

[...]□b) Providing evidentiary rules to permit witnesses and experts to give testimony in a manner that ensures the safety of such persons, such as permitting testimony to be given through the use of communications technology such as video or other adequate means.

Has your country adopted and implemented the measures described above? (Check one answer.)

Y) Yes

(P) Yes, in part

(N) No

Yes, Honduras complies with this provision to establish additional protective measures.

Please cite the applicable rule(s), policy(ies) or other measure(s):

Please cite the text(s)

CODE OF CRIMINAL PROCEDURE contained in Decree no. 9-99-E (2002). Articles 237.

WITNESS PROTECTION ACT IN CRIMINAL PROCEEDINGS contained in Decree no. 63-2007. Article 12.

Please attach the text(s)

CRIMINAL PROCEDURE CODE (2002)

Article 237. View described in Paragraph 1 of Article 32.

Article 12.- ADDITIONAL MEASURES. Additionally, the measures contained in the preceding article, the director of the Program may recommend to the prosecutor in the case, prior technical study, momentum before other authorities, establishing among others, the following additional measures: police measures, prison or judicial proceedings, which are described as follows:

POLICE MEASURES

1) Immediate Withdrawal Witness and his family rather than risk; 2) Surveillance, monitoring and policing; 3) Means and methods of police emergency communication; and 4) Accompaniment of the witness by a police officer (guard).

PRISON MEASURES □

1) Prison protection measures.

JUDICIAL PROCESS MEASURES

1) Voice distortion or physical appearance measures and other technical instrument that protects the identity and / or physical integrity of the witness; 2) Anonymity or proof of identity and its disclosure; 3) **Video-conferencing**; and 4) Guarantee of preference in processing the case in the court process, ensuring confidentiality.

If available, please attach the text in any (other) official language of the United Nations (Arabic, Chinese, Spanish, French, English or Russian).

Please provide examples of implementation.

Information not available.

If applicable and available, please provide information on recent cases in which witnesses or experts have given testimony using video or other communications technology:

There is no information in this regard.

134. Paragraph 3 of Article 32

3. States Parties shall consider entering into agreements or arrangements with other States for the relocation of persons referred to in paragraph 1 of this Article

**Has your country adopted and implemented the measures described above?
(Check one answer.)**

Y) Yes

(P) Yes, in part

(N) No

Yes. Honduras complies with this provision by establishing this possibility within the Witness Protection Law.

Please cite the text(s)

WITNESS PROTECTION ACT IN CRIMINAL PROCEEDINGS contained in Decree no. 63-2007. Article 14.

Please attach the text(s)

Article 14.- AGREEMENTS. The Chief Public Prosecutors Office, as the central authority, may sign agreements with institutions or bodies of other States, international organizations and NGOs on cooperation in order to gain support for Program development.

If available, please attach the text in any (other) official language of the United Nations (Arabic, Chinese, Spanish, French, English or Russian).

Please provide examples of implementation.

There is a Framework Agreement with Canada for the relocation of witnesses in that country.

If applicable and available, please provide information on the number of victims who have been relocated to other States through arrangements or agreements. Please provide per annum figures, as available.

According to the report "Significant Events" of the Public Ministry (2015) in the last three years 4 witnesses were relocated to Canada.

135. Paragraph 4 of Article 32

4. The provisions of this Article shall also apply to victims insofar as they are witnesses.

In your domestic legal system, do the provisions of this Article also apply to victims insofar as they are witnesses? (Check one answer)

(Y) Yes

(P) Yes, in part

(N) No

Yes. Honduras meets with this provision since the Criminal Procedure Code and other applicable laws do not differentiate between whether the witness is a victim or not.

Please cite the applicable policy(ies), arrangement(s) agreement(s) or other measure(s)

Please cite the text(s)

CRIMINAL PROCEDURE CODE contained in Decree No. 9-99-E -2002. Articles 5, 236, 237 and 248.

WITNESS PROTECTION ACT IN CRIMINAL PROCEEDINGS contained in Decree No. 63-2007. Articles 1 and 2.

Please attach the text(s)

CRIMINAL PROCEDURE CODE (2002)

Article 5. See the answer to Paragraph 1 of Article 32.

Article 236. See the answer to Paragraph 1 of Article 32.

Article 237. See the answer to Paragraph 1 of Article 32.

Article 248 See the answer to Paragraph 1 of Article 32.

WITNESS PROTECTION LAW IN CRIMINAL PROCEEDINGS (2007)

Article 1 See the answer to Paragraph 1 of Article 32.

Articles 2. See the answer to Paragraph 1 of Article 32.

If available, please attach the text in any (other) official language of the United Nations (Arabic, Chinese, Spanish, French, English or Russian).

If you have a protection program, how many victims have been protected by it and in how many different cases? Please provide per annum figures, as available.

There is no information available.

If applicable and available, Please provide information on the number of victims Who Have received physical protection. Please provide per annum figures, as available.

There is no information available.

If applicable and available, Please provide information on the number of victims who have been permitted to give testimony in a manner that ensures their safety,; such as video or other communications technology. Please provide per annum figures, as available.

Please provide examples of implementation.

There are no examples available of this type.

136. Paragraph 5 of Article 10 32

5. Each State Party shall, subject to its domestic laws, enable the views and concerns of victims to be presented and considered at appropriate stages of criminal proceedings against offenders in a manner not prejudicial to the rights of the defense.

Is your country in compliance with this provision? (Check one answer.)

(Y) Yes

(Y) Yes, in part

(N) No

Yes. The Criminal Procedure Code states both the rights of crime victims to be heard and informed and the right of defense of all defendants to be respected.

Please cite the applicable measure(s):

Please cite the text(s)

CODE OF CRIMINAL PROCEDURE contained in Decree no. 9-99-E (2002). Articles 16, 32, 45, 334.

Please attach the text(s)

CRIMINAL PROCEDURE CODE (2002

ARTICLE 16. Rights of the Victim of a Crime or Offence. The victim of a crime or offence shall be entitled to:

1) Become Private Prosecutor or Complainant and to intervene as such in the

whole process as set forth in this Code. To achieve this, if required, he/she shall be entitled to be assisted by the Public Ministry in the case of lack of funds;

2) Be informed of the results of the process even if he/she has not intervened in it, whenever requested;

3) To be heard before any decision entailing the termination or suspension of prosecution, whenever requested;

4) Participate in public hearings as established by this Code;

5) To object before the Attorney's superior involved in the process, regarding undue administrative record of the proceedings, in cases provided in this Code; and,

6) Other recorded in other Laws.

The victim will be informed of its rights at the time of submitting his complaint to the prosecutor or the prosecution, or the complaint with the competent Judge or at the time of his/her first appearance in the process.

ARTICLE 32.- Victim's Action to rescind File. Within five (5) working days following the notification of the file, the victim may request, the competent Judge in control of the preliminary investigation, to leave it without effect, not attending any of the legal requirements for the Public Ministry to refrain from prosecutions.

ARTICLE 45. Settlement. In offences, in the crimes of private action, public action dependent on particular instance and any instance supporting conditional suspension of criminal prosecution, shall proceed to settlement between the **victim** and the charged individual, at any time, before the opening of the trial.

In such cases, if the parties have not proposed it previously, at the appropriate procedural moment, the court may urge them, in order to express under what conditions they would accept settlement.

To facilitate agreement between the parties, advise may be requested from specialized persons or entities, or encourage the parties to appoint a conciliator. The conciliators must keep secret what they learn in the deliberations and discussions of the parties.

When the settlement occurs, the court shall approve the agreement and declare the criminal action extinguished.

However, the termination of criminal proceedings shall take effect from the time when the accused complies with all obligations. For this purpose a maximum period of one year may be set, during which the prescription of prosecution is suspended.

If the defendant fails to comply, without just cause the obligations agreed in the settlement, the proceedings will continue as if no settlement has been reached.

In case of default for cause, the parties may extend the deadline by six months. If **the victim** does not agree to extend the deadline, or it is extinguished without the defendant complying with the obligation, even for a just cause, the process will continue its course without being able to apply new rules of conciliation.

The court does not approve the settlement, when it has reasonable grounds to believe that any of the parties is not in equal conditions to negotiate, or has acted under duress or threat.

Notwithstanding the foregoing, in crimes of sexual character, in those committed against children and in domestic assaults, the court shall not seek settlement between the parties, unless expressly requested by the victim or their legal agents.

ARTICLE 334.- Final Discussion and Closing of Debate. After the reception of the evidence, the President shall, grant successive opinion from the Prosecutor, the Private Prosecutor and the Defendant, in that order to express their conclusions.

During the presentation of the findings, the parties shall avoid thorough reading of these, although they can use notes to sort or to assist their memory. The Prosecutor and the representatives of the parties may speak a second time, with the permission of the President, to clarify concepts.

The President will prevent the ramblings, repetitions or interruptions.

If the Prosecutor or the Private Prosecutor, were to amend the initial characterization of the act, considering it an offence, the court's jurisdiction will extend to the pronouncement on this point.

The victim may make use of the word for one (1) time only, not even having intervened in the process.

Finally, the President shall ask the accused if he has anything more to express. Immediately after he/has has expressed himself/herself, the debate shall be declared closed.

If available, please attach the text in any (other) official language of the United Nations (Arabic, Chinese, Spanish, French, English or Russian).

Please provide examples of implementation.

There are no application examples.

If available, please provide information on the number of victims who have presented their views and concerns at any stage of criminal justice proceedings against offenders. Please provide per annum figures, as available.

There is no information of this type.

137. Technical Assistance

The following questions on technical assistance relate to the Article under review in its entirety.

Do you require technical assistance for the (full) implementation of the Article under review? (Check one answer)

(Y) Yes

(N) No

No

33. Whistleblower protection.

138. Article 33

Each State Party shall consider incorporating into its domestic legal system appropriate measures to provide protection against unfair treatment of people who report to the competent authorities, in good faith and on reasonable grounds, any facts concerning offences established in accordance with measures to this Convention.

Has your country adopted and implemented the measures described above? (Check one answer.)

(Y) Yes

(P) Yes, in part

(N) No

Yes, in part. The Honduran Criminal Code provides protection for whistleblowers on charges of domestic bribery and transnational bribery.

Indicate and attach the applicable measures:

Please cite the text(s)

CRIMINAL CODE contained in Decree No. 144 -1983. Section 366 B final paragraph.

CODE OF CRIMINAL PROCEDURE contained in Decree no. 9-99-E (2002). Article 270.

ORGANIC LAW OF THE COURT OF ACCOUNTS contained in Decree no. 10-2002-E. Article 72.

ORGANIC LAW OF THE NATIONAL HUMAN RIGHTS COMMISSIONER contained in Decree no. 15,395. Article 22.

FINAL ACT OF DEPRIVATION OF PROPERTY OF ILLEGAL ORIGIN contained in Decree no. Article 25.

CODE OF ETHICAL CONDUCT FOR PUBLIC SERVANTS, contained in Decree no. 36-2007. Article 6.

Please attach the text(s)

CRIMINAL CODE (1983)

Article 366 B. [...]

People who in good faith report acts of corruption described above shall be protected by the appropriate authorities.

CRIMINAL PROCEDURE CODE (2002)

ARTICLE 270.- Form and content of the complaint. The complaint may be submitted orally or in writing.

Verbal complaints shall be left on record to be taken for such purposes, which shall contain:

1) The indication of the place and date;

- 2) The name and address of the complainant, having submitted the personal identification document;
- 3) The detailed account of the allegation;
- 4) Indication of the name and address of all persons, involved in the event or who can provide information about what happened or if these data are not known, an indication of any others that may be used for the identification and location of such persons; and,
- 5) The signature of the complainant and of the authority who took the declaration.

Written complaints must meet the requirements outlined in the previous paragraph.

The authority receiving the complaint, may require the complainant to provide further information deemed necessary to assess the reliability of the information.

The complainant is entitled to have his/her name and his/her identity kept confidential and entitled to a copy of the declaration stating the complaint, if any.

ORGANIC LAW OF THE SUPERIOR COURT OF ACCOUNTS. (2002)

ARTICLE 72. Public servants who have knowledge of infringements or violations of legal norms in the civil service, must immediately notify their superiors or to the Court.

Public servants and the persons mentioned in this Article shall enjoy the **widest protection of the State** in accordance with the law.

ORGANIC LAW OF THE NATIONAL COMMISSIONER OF HUMAN RIGHTS

Article 22. The National Commissioner of Human Rights shall use his/her own means and shall enjoy absolute independence to determine what **individuals need his/her protection.**

LAW ON PERMANENT DEPRIVATION OF PROPERTY OF ILLEGAL ORIGIN.

Article 25. The Office of the Republic; the Superior Court of Accounts; the Secretary of State in the Ministry of Finance; the Executive Directorate of Income; the Secretary of State for Security; the Directorate against Drug Trafficking; the National Commission of Banking and Insurance; natural and legal persons referred to in the amended Article 37 of the Law Against Money Laundering and those performing the actions described therein; any public or private institution, the Fiscal Agent or Courts; Judge of the Court; or any other natural person in the development of any activity or process obtains knowledge of the existence of goods, products, instruments or profits of doubtful or unusual origin, must inform FESCO of the Public Ministry about it, so they can undergo the process of deprivation.

FESCO shall give the corresponding process to the information received. **It is understood that all protective measures shall be taken regarding the identity of the natural person providing the information [...]**

CODE OF ETHICAL CONDUCT FOR PUBLIC SERVANTS (2007).

ARTICLE 6. Public servants are required to meet the following standards of ethical conduct: 1) ...; 19) Report to their superiors or the authorities or entities to whom it may concern, acts of those who have knowledge and could harm the State or constitute an offence, violations of the law or lack of any provision of this Code, its rules or those contained in their manuals and instructions. **The superior or the authorities receiving the complaint are required to maintain and protect the confidentiality of the whistleblower's identity.**

If available, please attach the text in any (other) official language of the United Nations (Arabic, Chinese, Spanish, French, English or Russian).

Please provide examples of the application.

There are no application examples.

139. Technical Assistance

The following questions on technical assistance relate to the Article under review in its entirety.

Do you require technical assistance for the (full) implementation of the Article under review? (Check one answer)

(Y) Yes

(N) No

(N) No

34. Consequences of acts of corruption.

140. Article 34

With due consideration of the rights acquired by third parties in good faith, each State Party in accordance with the fundamental principles of its domestic law, shall undertake measures to eliminate the consequences of acts of corruption. In this context, Party States may consider corruption a relevant factor in legal proceedings to annul or rescind a contract or withdraw a concession or other similar instrument or take any other remedial action.

**Has your country adopted and implemented the measures described above?
(Check one answer.)**

Y) Yes

(P) Yes, in part

(N) No

Yes. Honduras complies with this provision

Please cite the applicable policy(s), law(s) or other measure(s):

Please cite the text(s)

SPECIAL LAW AGAINST MONEY LAUNDERING contained in Decree No. 144-2014. Article 71.

Please attach the text(s)

SPECIAL LAW AGAINST MONEY LAUNDERING (2015).

Article 71. See content in the response to paragraph 9 of Article 3.

If available, please attach the text in any (other) official language of the United Nations (Arabic, Chinese, Spanish, French, English or Russian).

Please provide examples of the application.

There are no application examples.

141. Technical Assistance

The following questions on technical assistance relate to the Article under review in its entirety.

Do you require technical assistance for the (full) implementation of the Article under review? (Check one answer)

(Y) Yes

(N) No

(N) No

35. Compensation for damages.

142. Article 35

Each State Party shall take such measures as are necessary, in accordance with the principles of its domestic law, to ensure that entities or persons injured as a result of an act of corruption have the right to initiate legal action against those responsible for that damage in order to obtain compensation

Has your country adopted and implemented the measures described above? (Check one answer.)

Y) Yes

(P) Yes, in part

(N) No

Yes. Honduras complies with this provision by establishing civil responsibility for crimes and faults.

Please cite the applicable measure(s):

Please cite the text(s)

CRIMINAL CODE contained in Decree No. 144 (1983) □ BOOK I.
GENERAL PART. TITLE IX. PUBLIC LIABILITY. Articles 105 and 107 to 111.

CODE OF CRIMINAL PROCEDURE contained in Decree No. 9-99-E 2002.
Article 49, 50, 51, 52, 53, 432, 433, 436, 437, 438, 439 and 440.

Please attach the text(s)

CRIMINAL CODE (1983)

Article 105. Anyone who incurs in criminal responsibility for a crime or offence is also civilly liable.

Article 107. The liability includes:

- 1) Restitution; ☐
- 2) The reparation of material and moral damage; ☐
- 3) Compensation for damages.

Article 108. The restitution must be made the same thing, whenever possible, with payment of deterioration or impairment judged by the Court and although the thing is found in the possession of a third party who may have lawfully acquired it, except the right of recourse against the appropriate parties. The latter does not apply to the third party that has acquired the thing in the manner and with the requirements established by law to make it irreivindicable.

Article 109. Reparation for the material damage will be done through monetary compensation to be determined by assessing the entity of all economic damages caused by the act or omission punishable, taking the price of the thing, and whenever possible, the value of affection it had for the victim; and it will only be required where there is no place for restitution.

Article 110. Reparation for moral damage, regarding offences against honor, dignity or honesty, or in other cases of damage to the interests of moral order, shall consist on financial compensation prudently determined by the judge according to the circumstances of the offence, the conditions of the injured person and the nature and possible or undertaken consequences of the suffered wrongdoing.

Article 111. Compensation for injury shall include not only those that may have been caused to the offended, but that would have been the loss suffered by reason of the offence, his family or a third party. The Court will regulate the amount of this compensation on the same terms set out in Articles 109 and 110 for reparation of the damage.

CRIMINAL PROCEDURE CODE (2002)

ARTICLE 49.- Exercising Civil Action. Action to deduct civil liability arising from an offence, can only be brought by the injured party or his heirs.

The action shall be brought against the participants in the crime or their inheritors and, where appropriate, against third parties resulting from civil liability.

ARTICLE 50.- Civil Action and the Attorney General of the Republic. The civil action will be brought by the Attorney General of the Republic, in the case of offences that have damaged the State.

ARTICLE 51.- Representation of the Attorney General of the Republic. The Attorney General of the Republic may bring a civil action on behalf of people who, for economic reasons, are not able to sue, and when the victim lacks an agent or legal representative.

ARTICLE 52.- Effects of Termination of Criminal Action over Civil Action. The extinction of the criminal action does not affect the civil action.

ARTICLE 53.- Civil Liability in cases of Termination of Criminal Responsibility. When an individual objects or is covered by amnesty as a cause of extinction of criminal liability, he/she shall be subject to action from deducting the liability of the offence, with no prejudice of corresponding security measures being implemented. If on behalf of the accused or their heirs, in case of death of the former, innocence is claimed, the trial shall have to be carried out under the ordinary procedure provided in this Code, to determine whether or not the liability proceeds as a result of the accused having been guilty or not. In the event that the accused had died the trial will continue with a representative who shall designate heirs.

PROCEDURE TO DEDUCT THE CIVIL LIABILITY

ARTICLE 432.- Origin. The criminal conviction being firm or the criminal liability being excluded in cases of inimputability, irresistible force, unsurpassed fear, and state of necessity, to which the Criminal Code refers to, the victim or his heirs or the Attorney General of the Republic, in its case, may request the Execution Judge by means for collection to order the restitution, the reparation of material and moral damages and compensation for damages in cases where appropriate.

A victim who has not intervened in the proceedings, may choose this path within three (3) months of being informed of the final decision.

ARTICLE 433.- Lawsuit. The lawsuit shall be directed against the condemned, against civilly liable pursuant according to the Criminal Code or

against third parties who, by legal provision or contractual relationship, are civilly liable as a result of the conduct of which was known in the respective process.

ARTICLE 436.- Provisional Order of Restitution, Reparation or Indemnification. Once the lawsuit is admitted, the judge shall issue a reasoned decision provisionally ordering restitution, reparation or indemnification as requested.

The decision shall contain:

- 1) The identity and address of the applicant, and where appropriate, of his attorney;
- 2) The identity and address of the defendant.
- 3) The order to restore, repair material or moral damage or compensate the losses, with its specific and detailed description, and the exact amount; and,
- 4) The order to seize sufficient assets to respond to the restitution, reparation or indemnification and costs, or any other precautionary measure of real character.

If the measures taken imply movement of goods of the executed person, he/she who executes shall provide bond as security for the final outcome of the pending execution.

If the seized goods remain in possession of the owner, he/she shall be warned that he/she may be held liable for concealment of assets, in accordance with the provisions of the Criminal Code, in the event of disposal or encumbrance, if there is no prior judicial authorization.

In the same resolution the Court shall site the respondent so that within ten days may contest the decision.

In matters not covered in this article, and as for the collateral securing of the civil liability of the offence, these will be as provided in the Common Procedure Code.

ARTICLE 437.- Objection. The defendant may only challenge the legitimacy of the applicant and the amount of the claim.

The liable third party may also object to the existence or legitimacy of their

own responsibility.

The notice of objection must be founded and accompanied by all the evidence to support the objection.

If the resolution is not objected by the deadline established, the order of restitution, reparation or indemnification shall be issued and the Judge shall execute the decision. Where relevant, the rules of Common Procedure Code shall apply.

Once the objection has been filed, the judge shall summon the parties to a settlement hearing and trial within the following ten working days.

ARTICLE 438.- Hearing. On the day and hour indicated, the judge shall hold the hearing, shall endeavor to reconcile the parties, there shall be evidence offered and shall hear the merits of the claims.

The applicant's failure to appear means abandoning the demand and its archiving. If the defendant fails to appear, the resolution referred to in Article 436 shall be issued and will proceed to its execution.

In case there are several defendants and some of them do not appear, the defendant that did not appear shall be bound by the results of the procedure without contesting it.

Finally, the judge shall issue the final resolution of restitution, reparation or indemnification, or reject the request.

The appropriate resolution shall be appealed in both effects.

ARTICLE 439.- Prescription. The action to deduce the liability through this special procedure, shall lapse five years after the respective conviction has been prescribed.

ARTICLE 440.- Recourse. The defendants must comply third resolution without prejudice to the right of recourse against the directly liable, in subsequent ordinary civil trial. They may also exercise action by the same route against the complainant himself, on the grounds that there was insufficient cause for the obligation enforced upon them.

If available, please attach the text in any (other) official language of the United Nations (Arabic, Chinese, Spanish, French, English or Russian).

Please provide examples of the application and, if available, provide information on recent legal actions (also include the amounts and the types of compensation) initiated by a victim against those responsible for damages or prejudices caused by an act of corruption.

This information is not available.

143. Technical Assistance

The following questions on technical assistance relate to the Article under review in its entirety.

Do you require technical assistance for the (full) implementation of the Article under review? (Check one answer)

(Y) Yes

(N) No

No.

36. Specialized authorities.

144. Article 36

"Each State Party in accordance with the fundamental principles of its legal system, ensures that a body or bodies or persons specialized in combating corruption through law enforcement are available. Such body or bodies or persons shall be granted the necessary independence, in accordance with fundamental principles of the legal system of the State Party, so they can perform their functions effectively and without any undue influence. Such persons or staff of such body or bodies shall be provided proper training and sufficient resources to carry out their duties. "

Has your country adopted and implemented the measures described above? (Check one answer.)

(Y) Yes

(Y) Yes, in part

(N) No

Yes. In Honduras there are several specialized agencies that complement their actions by law enforcement, in prevention as well as in detection, investigation and punishment of corruption. The Superior Court of Accounts, the Attorney General of the Republic, the Public Ministry, the National Police and the Judiciary are constitutional bodies. The Institute for Access to Information and the National Anti-Corruption Council are bodies created under special laws.

Indicate and attach policies, institutional arrangements, laws or other applicable measures:

Please cite the text(s)

CONSTITUTION OF THE REPUBLIC, contained in Decree No 131-1982. Articles 222, 230, 232, 293, 303, 304, 307 and 318.

ORGANIC LAW OF THE SUPERIOR COURT OF ACCOUNTS contained in Decree no. 10-2002-E. Articles 3, 6, 7, 30 and 68.

ORGANIC LAW OF THE ATTORNEY GENERAL OF THE REPUBLIC contained in Decree no. Article 1, 5 and 7.

PUBLIC MINISTRY LAW contained in Decree no. 228-93. Article 1 and 62.

ORGANIC LAW OF THE NATIONAL POLICE OF HONDURAS contained in Decree no. 67-2008. Articles 1, 3 and 22.

LAW OF TRANSPARENCY AND ACCESS TO PUBLIC INFORMATION contained in Decree no. 170-2006. Article 1, 2, 8, 36 and 38.

NATIONAL COUNCIL OF ANTI-CORRUPTION LAW contained in Decree no. 7-2005. Articles 1, 2 and 8.

Please attach the text(s)

CONSTITUTION OF THE REPUBLIC (1982)

THE SUPERIOR COURT OF ACCOUNTS

Article 222.- The Superior Court of Accounts is the governing body of the control system of public resources, with functional and administrative autonomy of the branches of government, subject only to compliance with the Constitution and Laws, shall be liable to National Congress for acts performed in the exercise of their functions.

The Superior Court of Accounts has the post function of funds, goods, and administered resources by the State Powers, decentralized and decentralized institutions, including state or mixed banks, the National Banking and Insurance Commission, municipalities and any special organ or public or private entity that receives or manages public resources from internal or external sources.

In fulfilling its role, it should carry out financial control, management and results, based on effectiveness and efficiency, economy, equity, truthfulness and legality. It is also responsible of establishing a system of transparency in the management of public servants, the determination of **illicit enrichment** and control of the assets, liabilities and, in general, the properties of the State. To fulfill its role as the Superior Court of Accounts shall have the powers established in its Organic Law.

ATTORNEY GENERAL OF THE REPUBLIC

Article 230.- The civil and criminal actions **that may result from the audit interventions of the Superior Court of Accounts**, Shall be exercised by the Attorney General of the Republic, except those related to the municipalities, which will be in charge of officials that the law establishes and, in its absence, by the Attorney General's Office.

Public Ministry

Article 232.- The Public Ministry is the **specialized professional body** Responsible for the presentation, defense and protection of the defense and protection of the interests of society, functionally independent of the branches of government and free from all sectarian political interference. The Public Prosecutor has **administrative, technical, financial and budgetary autonomy**, for this purpose in the General Budget of Revenues and Expenditures of the Republic, it will have an annual allocation gradually to complete the three percent (3.0%) in current income. The Executive will credit quarterly in advance, the corresponding budget items. The Public Prosecutor is responsible for the diligent exercise of public prosecutions. In matters within its competence the Attorney General's Office shall exercise the law regarding the actions that apply to private persons. Also, the Public Ministry is responsible for coordination, technical direction and legal management of criminal and forensic investigation.

Article 293.- The National Police is a permanent professional state institution, non-political in the partisan sense, purely civil, responsible for ensuring the preservation of public order, the prevention, control and fight against crime; protecting the safety of people and their properties; carry out resolutions, regulations, mandates and legal decisions of the authorities and public officials, all with strict respect for human rights. The National Police is governed by special legislation.

JUDICIAL BRANCH

Article 303.- The power to dispense justice emanates from the people and is administered free of charge on behalf of the State, by magistrates and independent judges, subject only to the Constitution and laws. The Judiciary is composed of the Supreme Court, by the Courts of Appeal, the courts and tribunals with exclusive jurisdiction in areas of the country subject to special arrangements created by the Constitution of the Republic and also dependency stipulated by law.

In no trial must there be more than two instances; the judge or magistrate who has exercised jurisdiction in one of them, cannot meet in the other, or in a special appeal for the same case, without incurring liability.

Nor can spouses and relatives to the fourth degree of consanguinity or second degree of affinity be judged on the same cause.

Article 304.- It is the responsibility of the courts to apply the law to specific cases, judge and enforce judgments. At no time may courts of exception be set up. The jurisdictional privileges of the Special Development Regions are exceptions to this provision. The judges of these privileges shall be appointed by the National Congress by qualified majority of the (2/3) two-thirds of the entire membership, as proposed by the administration authorities of the Special Development Region concerned.

Article 307.- The law, without affecting the independence of judges and magistrates, will make arrangements to ensure the proper and normal operation of the courts, providing an effective means to meet their functional and administrative needs as well as the organization of ancillary services.

Article 318.- El Judiciary enjoys complete administrative and financial autonomy. The General Budget of Revenues and Expenditures of the Republic, will have an annual allocation of not less than three percent (3.0%) in current income. The Executive will credit quarterly in advance, the corresponding budget items.

ORGANIC LAW OF THE SUPERIOR COURT OF ACCOUNTS. (2002)

ARTICLE 3.- POWERS. This Court as the governing body of the control system and its constitutional role is to audit a posteriori funds, assets and resources managed by the branches of the State, of decentralized and independent institutions, including state or mixed banks, the National

Commission of Banks and Insurance, the municipalities and any other special body or public or private entity that receives or manages public resources from internal or external sources.

In fulfilling its role, it should carry out financial control, management and results, based on effectiveness and efficiency, economy, equity, truthfulness and legality. It is also responsible of establishing a system of transparency in the management of public servants, the **determination of illicit enrichment** and control of the assets, liabilities and, in general, the properties of the State.

ARTICLE 6.- INDEPENDENCE. The Court in the performance of its duties will act with **functional and administrative autonomy** from the powers of the State, subject only to the Constitution of the Republic, this Act and its regulations.

ARTICLE 7.- ESSENTIAL OBJECTIVES. The Court shall have the direction, orientation, organization, implementation and monitoring of the control system which is regulated by this Act. Consequently its responsibilities are essentially economic-financial control, management and results: The probity and public ethics, as well as that of state assets.

ARTICLE 30.- APPROVAL. The Court will submit its budget proposal through the Secretariat of State for Finance, for the approval of Congress.

The General Treasury of the Republic will provide quarterly in advance the funds allocated to the Court.

ARTICLE 68.- PREVENTIVE MEASURES. The Tribunal will implement the Inter-American Convention against Corruption in accordance with this Act and its regulations.

ORGANIC LAW OF THE ATTORNEY GENERAL OF THE REPUBLIC

Article 1.- The Attorney General's Office represents the interests of the state; its organization and functions are determined by this Law.

Article 5.- **Civil and criminal actions as a result of the audit interventions Superior Court of Accounts**, shall be exercised by the Attorney General, except those corresponding to the Central District and the Municipalities, which will be exercised by the officials that their respective laws assign.

Article 7.- The functions of the Attorney General's Office are **autonomous** except in cases that, according to law, must meet special instructions. **The budget of the Attorney General's Office and its agencies listed in the special section of the General Budget of the Republic** and disbursement agreements signed by the Attorney General, or in his absence the Deputy Attorney. The auxiliary officers of the Attorney General of the Republic [...] coordinate the functions that the law attributes to them under the direction of Attorney General.

PUBLIC MINISTRY LAW (1993)

Article 1.- The Public Ministry is a specialized professional body, free from all sectarian political interference, **independent** its powers and functions of state entities, which will be responsible for meeting the following objectives and purposes:

- 1) [...]; 4) combating drug trafficking **and corruption** in any form; [...].

Article 3.- The Public Ministry in the exercise of its legal and regulatory powers, enjoys complete **operational, administrative, technical, financial and budgetary independence**.

Article 62.- Public directly or in collaboration with the National Autonomous University of Honduras and the judiciary, will hold **training programs, training and staff development at all their units** and training of candidates for open positions, in order to achieve greater efficiency in the different services provided to society.

ORGANIC LAW OF THE NATIONAL POLICE OF HONDURAS

ARTICLE 1.- This Act is to regulate the organization and functioning of the National Police of Honduras, hereinafter identified as "National Police", will be integrated into the public administration and directed by the President, who shall coordination and management by the Secretariat of State for Security.

ARTICLE 3.- It is the responsibility of the Secretary of State for Security to propose the national policy for domestic security, formulate programs, plans, projects and strategies in the context of the approved policy and coordinate, direct and manage the National Police.

The national police has the authority to ensure the maintenance of public order. **the prevention, control and combat of crime, misdemeanors and**

infractions; protect the safety of persons, their lives, their physical, psychic and moral integrity, their freedom, goods and rights; aid in the preservation of the environment, of public morality and the State property; **execute resolutions, provisions, mandates and decisions issued by the authorities and public officials**, and be of assistance to public authorities, within the framework of the law; security in legal migration and illegal trafficking in persons; **the repression of organized crime, drug trafficking and money laundering**; the regulation and control of private security services; registration and control of activities potentially risky for the maintenance of public order such as production, marketing and possession of chemicals, weapons, explosives and similar as well as other activities likely to be implemented for the Commission of crimes.

ARTICLE 22.- The National Police of Honduras is a **professional and permanent State, institution, apolitical** in the partisan sense, purely civil, responsible for ensuring the preservation of public order; the prevention, control and fight against crime; protecting the safety of people and property; for implementing the resolutions, regulations, mandates and legal decisions of the authorities and public officials, all with strict respect for the law in general and human rights.

The services provided by the National Police will be free [...] matter.

The uniforms, weapons and equipment used or carried by members of the National Police will be provided free for use by the Secretary of State for Security.

LAW OF TRANSPARENCY AND ACCESS TO PUBLIC INFORMATION (2006)

ARTICLE 2.- OBJECTIVES OF THE LAW. The objectives of this Act establish mechanisms for:

- 1) [...]
- 4) **Combat corruption and illegal acts of the State;**
- 5) [...].

ARTICLE 8.- CONSTITUTION AND PURPOSE OF THE INSTITUTE FOR ACCESS TO PUBLIC INFORMATION. The Institute of Access to Public Information (IAIP) is a decentralized body of public administration with

operational, decisional and budgetary independence responsible for promoting and facilitating the access of citizens to public information, as well as for regulating and supervising the procedures of required institutions for protection, classification and custody of public information, according to this Law. The Presidency of the Republic will support the operation of the Institute and act as liaison Secretariat of State in the Office of the Presidency.

Article 36.- The Secretary of State in the Ministry of Finance will include on an annual basis in the Draft General Budget of Revenues and Expenditures of the Republic, the **necessary budget allocations** for the Institute for Access to Public Information (IAIP) to ensure effective enforcement of this Act.

ARTICLE 38.- SPECIAL QUALITY OF THE INSTITUTE. The Institute of Access to Public Information (IAIP) will be the body **responsible for compliance** with the obligations that the Inter-American Convention against Corruption and the **United Nations Convention against Corruption**, require of the State of Honduras specifically on transparency and accountability.

NATIONAL ANTI-CORRUPTION COUNCIL LAW

ARTICLE 1.- The National Anti-corruption Council is created (hereafter the Council or the CNA) and will be an **independent** organism with legal personality, its own assets and indefinite duration, composed as indicated below, based in the city of Tegucigalpa, Central District Municipality, and shall function throughout the republic.

The CNA will support the policies and actions towards **combating corruption**, undertaken by the Government of the Republic. It will have access to the Presidents of the Branches of Government and to other officials and employees, in matters within its competence and in accordance with applicable priorities.

ARTICLE 2.- The Government of the Republic will include annually in the national budget a **an adequate budget item line** for the expenditure of the CNA, notwithstanding that this Council will seek additional funds for its operation.

ARTICLE 8.- The functions of the General Assembly of the CNA are as follows:

- 1) Propose policies, strategies and action plans to prevent and combat corruption in Honduras.

- 2) Arrange with relevant government institutions to implement the actions contained in the National Anti-Corruption Strategy and Action Plans;
- 3) Cooperate with the authorities in the design of the mechanisms for monitoring and evaluation and participate in the implementation.
- 4) Encourage the formation of strategic anti-corruption alliances and / or pro-transparency between institutions of public and private, domestic and foreign sectors.
- 5) Advise the authorities or individuals who request it and local and regional organizations referred to in Article 7, in matters within their competencies.
- 6) Promote a national culture against corruption with all sectors of society, through ongoing awareness campaigns and public awareness;
- 7) Learn about, reports of cases and situations that come to their attention, through the Executing Unit, transferring, if necessary, the reports and recommendations to relevant government agencies for appropriate legal follow-up;
- 8) Promptly respond to requests, in its field of competence, to inquiries made by the public prosecutor or other authorities;
- 9) Discuss and agree joint bilateral activities with the controllers, auditors and justice organs and, with them, define verifiable and measurable compliance goals around anti-corruption strategies and action plans.
- 10) Design and implement mechanisms for raising funds, making sure they do not compromise the independence of the CNA.
- 11) Enter into agreements for technical and financial cooperation;
- 12) Discuss and approve the operating plan and the annual budget of the ANC and meet quarterly settlement of the same, adopting appropriate measures;
- 13) Adopt the necessary regulations and submit them for approval by the Executive, through the Secretary of State in the Ministry of Interior and Justice;
- 14) Approve manuals necessary for the proper administration and,
- 15) Any other functions that apply to it and are consistent with its essential function of combating corruption in Honduras.

If available, please attach the text in any (other) official language of the United Nations (Arabic, Chinese, Spanish, French, English or Russian).

Please provide examples of the application.

There are no examples available of this type.

Please provide information on measures taken to ensure the independence of the specialized body.

Regarding the Public Ministry, its law was recently modified, since according to article 16 paragraph four, one of the powers of this institution is to offer guidance in technical-legal aspects of criminal investigation services under the responsibility of the National Police. However, beginning in 2014 the Technical Agency for Criminal investigation (ATIC) was created as research entity that is aware of severe offences and offences of strong social impact including crimes related to corruption.

If possible, explain how you select and train staff.

A according to the report "Relevant Facts" the ATIC was put into operation with a Director, a Sub Director and a National Coordinator of Operations, with the initial collaboration of 97 agents, who were selected under a rigorous and strict procedure of contest, psychometric testing, psychosocial studies, confidential interviews, toxicological, polygraphic interviews, investigation of assets, police and judicial records, programs for verification of information provided by applicants, knowledge tests, basic training courses and others, that allow us to introduce staff as the ideal elements for working in investigation, providing a certified and excellent service to the Honduran society.

145. Technical Assistance

The following questions on technical assistance relate to the Article under review in its entirety.

Do you require technical assistance for the (full) implementation of the Article under review? (Check one answer)

(Y) Yes

(N) No

No.

37. Cooperation with law enforcement authorities

146. Paragraph 1 of Article 37

1. Each State Party shall take appropriate measures to encourage individuals who participate or have participated in the commission of offences covered by this

Convention to provide the competent authorities with useful information for investigative and evidentiary purposes and to provide them with effective and concrete aid measures that may contribute to depriving offenders of the proceeds of crime and to recovering such proceeds.

**Has your country adopted and implemented the measures described above?
(Check one answer.)**

(Y) Yes

(Y) Yes, in part

(N) No

Yes. Within the Honduran criminal proceedings is possible that investigated or prosecuted individuals may obtain legal benefits in exchange for supplying information leading to truth and enlightenment of offences through the figure of Principle of Opportunity enshrined in Article 28 of the Code of Criminal Procedure .

Please cite and attach the applicable measure(s):

Please cite the text(s)

CODE OF CRIMINAL PROCEDURE contained in Decree No. 9-99-E 2002. BOOK ONE GENERAL PROVISIONS. TITLE II OF CRIMINAL AND CIVIL ACTIONS. CHAPTER II. THE CRITERIA OF OPPORTUNITY. Article 28, paragraph 5).

Please attach the text(s)

CRIMINAL PROCEDURE CODE (2002)

BOOK ONE. GENERAL PROVISIONS

TITLE II. OF CRIMINAL AND CIVIL ACTIONS

CHAPTER II. THE CRITERIA OF OPPORTUNITY.

Article 28. Cases where appropriate. The Public Ministry [...] may refrain from exercising all or part of criminal proceedings, limit it to one of the offences or any of the defendants, in the following cases:

- 1) [...] 5) In the case of [...] felonies of complex realization that hinder their investigation and prosecution and **the defendant effectively cooperates with the investigation, provides special information to**

prevent further perpetration of crime or others, helps to clarify the fact investigated or other related or provide useful information to prove the involvement of third parties Provided that the criminal action of which concerned prove milder than the offences whose prosecution facilitates or avoids the continuance. In this case, the provisions will apply, as appropriate, regarding the imposition of measures when conditional suspension of criminal prosecution is appropriate.

In cases [...] prescription.

If available, please attach the text in any (other) official language of the United Nations (Arabic, Chinese, Spanish, French, English or Russian).

Please provide examples of the application.

There are no examples in this case.

If such information is available, indicate the number and nature of cases that have contributed to deprive criminals of the proceeds of crime and recover it. Indicate annual figures, as available.

There is no such information.

147 Paragraph 1 of Article 37

2. Each State Party shall consider, in appropriate cases, mitigating punishment of an accused person who provides substantial cooperation in the investigation or prosecution of offences under this Convention.

Has your country adopted and implemented the measures described above? (Check one answer.)

(Y) Yes

(Y) Yes, in part

(N) No

Yes, in part. In Honduras there is no specific provision establishing the mitigation of the penalty for cooperation in cases of corruption offences. The Principle of Opportunity and Conditional Suspension of Prosecution are powers of the Public Ministry, in the circumstances prescribed by law within which are found effective cooperation to prevent a crime to continues to be executed, or to prevent others, or when effective information is supplied to prevent the continuation of the crime.

Please cite the applicable measure(s):

Please cite the text(s)

CODE OF CRIMINAL PROCEDURE contained in Decree No. 9-99-E (2002). FIRST BOOK GENERAL PROVISIONS. TITLE II OF THE CRIMINAL AND CIVIL ACTIONS. CHAPTER II. THE CRITERION OF OPPORTUNITY. Article 28. CHAPTER III. SUSPENSION OF CRIMINAL PROSECUTION. Article 36.

Please attach the text(s)

CRIMINAL PROCEDURE CODE (2002)

FIRST BOOK GENERAL PROVISIONS.

TITLE II. CRIMINAL AND CIVIL ACTIONS

CHAPTER II. THE CRITERION OF OPPORTUNITY.

Article 28. See response in paragraph 1 of article 37

CHAPTER III. SUSPENSION OF CRIMINAL PROSECUTION.

Article 36. Conditional suspension of criminal prosecution. The judge, at the request of the Public Ministry, may authorize the suspension of the prosecution when the following circumstances occur concurrently:

(1) That the average of the penalty applicable to the offence does not exceed six (6) years; ☐

(2) that the accused has not been convicted previously for the commission of a crime or misdemeanor; and, ☐

(3) That nature or modalities of the crime fact, character and background of the accused, as well as the motives that drove him to commit a crime, lead the judge to the conviction that he is not dangerous. ☐

In the situation referred to in this article, the judge shall submit the accused to any of the measures referred to in the following article. The implementation of this resolution, will require the consent of the accused.

The application of the Public Ministry shall contain: ☐ [...]

The Public Ministry, before submitting the request referred to in the preceding paragraph, shall verify that the victim and the accused have reached agreement on the repair of the damage caused, on sufficient settling on repair or on the formal assumption of the obligation of reparation by the accused.

If available, please attach the text in any (other) official language of the United Nations (Arabic, Chinese, Spanish, French, English or Russian).

Please provide examples of the application.

There are no examples in this case.

If available, give information (statistics, types of cases, outcomes) on court cases (civil, administrative or criminal) or other related cases in which the sentence of a defendant who provided substantial cooperation was mitigated. Indicate annual figures, as available.

There is no such information.

148. Paragraph 3 of Article 37

3. Each State Party shall consider providing, in accordance with the fundamental principles of its domestic law granting immunity from prosecution to a person who provides substantial cooperation in the investigation or prosecution of offences under this Convention.

Has your country adopted and implemented the measures described above? (Check one answer.)

(Y) Yes

(Y) Yes, in part

(N) No

Yes. The Public Ministry can waive prosecution, among other circumstances, where the accused or defendant provides effective cooperation in criminal investigations of any crime including offences under the Convention, as provided in paragraph 5 of Article 28 of the Code of Criminal Procedure.

Please cite the applicable measure(s):

Please cite the text(s)

CODE OF CRIMINAL PROCEDURE contained in Decree No. 9-99-E (2002). FIRST BOOK GENERAL PROVISIONS. TITLE II OF THE CRIMINAL AND CIVIL ACTIONS. CHAPTER II. THE CRITERION OF OPPORTUNITY. Article 28 paragraph 5.

Please attach the text(s)

CRIMINAL PROCEDURE CODE (2002)

FIRST BOOK GENERAL PROVISIONS.

TITLE II OF THE CRIMINAL AND CIVIL ACTIONS.

CHAPTER II. THE CRITERION OF OPPORTUNITY.

Article 28. See response in Paragraph 1 of Article 37

If available, please attach the text in any (other) official language of the United Nations (Arabic, Chinese, Spanish, French, English or Russian).

Please provide examples of the application.

There are no examples available.

If available, give information (statistics, types of cases, outcomes) on court cases (civil, administrative or criminal) cases or other processes related to judicial immunity granted to persons who have provided substantial cooperation. Indicate annual figures.

As stated earlier, in Honduras there is the possibility of encouraging individuals who have committed criminalized offences pursuant to the UNCAC to provide useful information for evidentiary, and investigative purposes through the use of these benefits under the heading of Criterion of Opportunity.

As reported by the Public Ministry, the cases of Organized Crime are those where more use has been made of such benefits, which have allowed to present Demands against other people.

It has also been used in cases of offences linked to corruption particularly in relation to a fairly recent case, but it is not possible to report on the number of people because it is confidential information of an open case.

149 Paragraph 3 of Article 37

4. Protection of such persons shall be, mutatis mutandis, as provided for in article 32 of this Convention.

Is your country in compliance with this provision? (Check one answer.)

(Y) Yes

(Y) Yes, in part

(N) No

Yes. The protective measures provided to victims and witnesses may also be applied to the accused or defendants in criminal proceedings, to the extent that they may require protection while being part of a process.

Indicate and attach policies, laws or other measures applicable:

Please cite the text(s)

CODE OF CRIMINAL PROCEDURE contained in Decree No.9-99-E-2002.
BOOK ONE GENERAL PROVISIONS. TITLE I BASIC PRINCIPLES.
CHAPTER ONE PROVISIONS COMMON TO ALL PROCEEDINGS.
Article 5.

Please attach the text(s)

CRIMINAL PROCEDURE CODE (2002)

BOOK ONE. GENERAL PROVISIONS

TITLE I BASIC PRINCIPLES.

SOLE CHAPTER. PROVISIONS COMMON TO ALL PROCEEDINGS

Article 5.- Protection of those involved in the process. The State through its appropriate organs, will provide ex officio assistance and protection to victims, witnesses and **other parties involved in the process when so required.**

If available, please attach the text in any (other) official language of the United Nations (Arabic, Chinese, Spanish, French, English or Russian).

If such information is available, indicate the number of accused criminals or collaborators who received physical protection, how long they needed it, what kind of protection was received and how much it cost. Indicate annual figures, as available.

There is no information available.

If your country has a program for the protection of defendants / offenders, how many cooperating defendants or offenders have agreed to it? Indicate annual

figures, as available.

There is no information available.

Where appropriate and if such information is available, specify in how many cases cooperating defendants or offenders have been allowed to testify by video conference or other technological media. Indicate annual figures, as available.

There is no information available.

If applicable and if information is available, enter the number of cooperating defendants or offenders who have been relocated to other States through agreements or arrangements. Indicate annual figures, as available.

There is no information available.

Please provide examples of the application.

There are no examples available.

150. Paragraph 5 of Article 37

5. When a person referred to in paragraph 1 of this article is located in a State Party and can provide substantial cooperation to the competent authorities of another State Party, the States Parties concerned may consider entering into agreements or arrangements, in accordance with their domestic law, concerning the potential provision by the other State Party of the treatment set forth in paragraphs 2 and 3 of this article.

Is your country in compliance with this provision? (Check one answer.)

(Y) Yes

(Y) Yes, in part

(N) No

Yes. Honduran law allows granting the broadest cooperation in judicial matters. Such is established in Treaties of Mutual Assistance in Criminal Matters both bilateral and multilateral, signed by Honduras, which form part of domestic law, as established by the Constitution of the Republic. ☐

Indicate and attach agreements, arrangements or other measures applicable:

Please cite the text(s)

THE INTER-AMERICAN CONVENTION ON MUTUAL ASSISTANCE IN CRIMINAL MATTERS, 1992. ☐

OPTIONAL PROTOCOL TO THE INTER-AMERICAN CONVENTION ON MUTUAL ASSISTANCE IN CRIMINAL MATTERS, 1993. □

INTER-AMERICAN CONVENTION ON RECEPTION OF EVIDENCE ABROAD, in 1975. □

TREATY ON MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS BETWEEN THE REPUBLICS OF COSTA RICA, EL SALVADOR, GUATEMALA, HONDURAS, NICARAGUA AND PANAMA (Dec. 18 1997)

INTER-AMERICAN CONVENTION ON ROGATORY AND ROGATORY LETTERS (March 22, 1979)

INTER-AMERICAN CONVENTION ON RECEPTION OF EVIDENCE ABROAD (March 22, 1979).

TREATY ON MUTUAL LEGAL ASSISTANCE ON CRIMINAL MATTERS BETWEEN THE GOVERNMENT OF THE REPUBLIC OF HONDURAS AND THE GOVERNMENT OF THE UNITED STATES OF MEXICO (December 30, 2007).

Please attach the text(s)

See the answer to Paragraph 1 of Article 44.

If available, please attach the text in any (other) official language of the United Nations (Arabic, Chinese, Spanish, French, English or Russian).

Please provide examples of the application.

There are no examples available.

151. Technical Assistance

The following questions on technical assistance relate to the Article under review in its entirety.

Do you require technical assistance for the (full) implementation of the Article under review? (Check one answer)

(Y) Yes

(N) No

(N) No

38. Cooperation between national entities.

152. Article 38.

Each State Party, in accordance to its domestic law, shall take such measures as may be necessary to, on the one hand, encourage cooperation between its public authorities, as well as its public officials, and, on the other hand, the entities responsible for investigating and prosecuting criminal offences. (Please refer to the two issues listed below for possible measures in relation to a) and b) and include here only measures which do not apply to those sections.)

a) Inform the latter entities, by the initiative of the State Party, when there are reasonable grounds for suspecting that any of the offences under Articles 15, 21 and 23 of this Convention have been committed; or

(b) Provide, upon request, to the latter entities all necessary information.

Is your country in compliance with this provision? (Check one answer.)

(Y) Yes

(Y) Yes, in part

(N) No

Yes. Honduran law requires public servants to cooperate in criminal matters both in terms of research as well as prosecution. So provides the law of the Public Ministry, the Criminal Procedure Code and some laws including the Special Law against Money Laundering and the Code of Ethical Conduct for Public Servants.

Indicate and attach the applicable measures:

Please cite the text(s)

THE LAW OF THE PUBLIC MINISTRY, contained in Decree No. 228-93. Article 3.

CODE OF CRIMINAL PROCEDURE contained in Decree No. 9-99-E 2002. Article 147 and 148.

SPECIAL LAW AGAINST MONEY LAUNDERING contained in Decree No. 144 -2014. Article 5 paragraphs 2), 5) and 7).

FINANCIAL SYSTEM ACT contained in Decree no. 129-2004. Article 88.

ETHICAL CODE OF CONDUCT FOR PUBLIC SERVANTS contained in Decree No. 36-2007. Article 6 paragraph 20).

NATIONAL COUNCIL OF ANTI-CORRUPTION LAW contained in Decree no. 7-2005. Article 3, 8, 9, 10.

Please attach the text(s)

LAW OF THE PUBLIC MINISTRY (1993).

Article 3. [...].

On the other hand all the civilian and military authorities of the Republic shall be obliged to provide collaboration and assistance required by the Public Ministry for the best performance of its functions.

Officials and employees who unreasonably deny any requested cooperation and assistance, shall be punished as a violator of the duties of their position and disobedience to authority.

CRIMINAL PROCEDURE CODE (2002)

COMMUNICATIONS BETWEEN AUTHORITIES

Article 147. Duty to Cooperate. Authorities and public officials cooperate with the judges, prosecutors and the police, in carrying out their duties, for which they shall process the requirements addressed to them without delay.

Article 148. Breach, Delay and Rejection of a Request. When the request is met only partially or improperly, or is delayed or refused without good cause, the applicant may apply to the Supreme Court. The Attorney General's Office or the Secretary of State for Security, as appropriate, for them to order or manage the immediate and proper compliance of the communication. These authorities also shall apply the appropriate disciplinary measures to the respective official and, in the case of rejection without justification, provided for in this Article 43, shall report to the Attorney General, for the purposes of the provisions of the Criminal Code.

FINANCIAL SYSTEM LAW (2004)

ARTICLE 88.- POWERS. The Commission is also in charge of investigation and punishment of financial failures and also shall cooperate with the Public

Ministry in the investigation and combating financial crimes referred to the Criminal Code.

SPECIAL LAW AGAINST MONEY LAUNDERING (2015)

Article 5. ROLES. The role of the Inter-institutional Commission for the Prevention of Money Laundering and Financing of Terrorism (CIPLAFT), is to design and implement public policies to prevent, control and combat these illegal activities. For this purpose it must comply with the following functions among other:

- 1) [...]; 2) Ensure the effective intervention of the inter-institutional system against money laundering and terrorist financing culminating in the imposition of sanctions on violators of this Act, and other applicable sanctions; 3) [...]; 5) **Promote inter-institutional cooperation mechanisms between existing or future bodies for the practical application of this Act within the public and private sectors of the country;** 6) [...]; 7) To promote and coordinate training programs and training of human resources responsible for preventing and combating crimes of money laundering and terrorist financing, in order to ensure the effective implementation of their respective powers.

CODE OF ETHICAL CONDUCT FOR PUBLIC SERVANTS (2007)

ARTICLE 6. Public servants are required to meet the following standards of ethical conduct: 1) [...]; 20) To facilitate the investigation in the case of being charged with a felony offence and **cooperate with the authorities for administrative and judicial measures to be executed to clarify the situation in order to safeguard his honor and the dignity of his office.**

NATIONAL COUNCIL OF CORRUPTION LAW (2005)

ARTICLE 3. The Presidents of the Branches of Government will maintain constant communication with the CNA, through the coordinator of this body on matters within its jurisdiction and when issues arise whose knowledge warrants, they will meet with the General Assembly having presented a request to the CNA in due time, specifying the issues that are to be discussed.

The other officials and employees of the State must address the calls from the CNA through the Executive Unit and shall provide the information they request or the help they demand in those issues concerning the CNA.

When the CNA needs information from individuals or other kind of cooperation to fulfill its responsibilities, it shall request it directly and in case of refusal by the Public Prosecutor.

ARTICLE 8. The functions of the General Assembly of the CNA are as follows:

- 1) Propose policies, strategies and action plans to prevent and combat corruption in Honduras.
- 2) **Arrange with relevant government institutions to implement the actions contained in the National Anti-Corruption Strategy and its Action Plans;**
- 3) Cooperate with the authorities in the design of the mechanisms for monitoring and evaluation and participate in the implementation.
- 4) **Encourage the formation of strategic anti-corruption alliances and / or pro-transparency between institutions of public and private, domestic and foreign sectors.**
- 5) Advise the authorities or individuals who request it and local and regional organizations referred to in Article 7, on matters within their competencies.
- 6) Promote a national culture against corruption with all sectors of society, through ongoing awareness campaigns and public awareness;
- 7) **Learn about reports of cases and situations that come to their attention, through the Executing Unit, transferring, if necessary, the reports and recommendations to relevant government agencies for appropriate legal follow-up;**
- 8) **Promptly respond to requests that, in its field of competence, to inquiries made by the public prosecutor or other authorities;**
- 9) **Discuss and arrange joint bilateral activities with the controllers, auditors and justice organs and, with them, define verifiable and measurable compliance goals regarding anti-corruption strategies and action plans.**
- 10) Design and implement mechanisms for raising funds, making sure they do not compromise the independence of the CNA.
- 11) Enter into agreements for technical and financial cooperation;
- 12) Discuss and approve the operating plan and the annual budget of the CNA and be aware of the quarterly liquidations of the same, adopting appropriate measures;
- 13) Adopt the necessary regulations and submit them for approval by the Executive, through the Secretary of State in the Ministry of Interior and

Justice;

- 14) Approve manuals necessary for a proper administration and,
- 15) Any other functions that apply to it and are consistent with its essential function of combating corruption in Honduras.

ARTICLE 9.- All government entities are obliged to provide the CNA, within legal limits, the collaboration and support that is required of them.

Article 10.- In carrying out the duties assigned by this law, the CNA may act;

- 1) On its own initiative;
- 2) At the request of the Public Ministry;
- 3) At the request of any of the Presidents of the Branches of Government, through whom other bodies of public administration will channel their requests , and
- 4) At the request of any person or entity whose existence and reputation will be previously approved by the Executive Committee.

If available, please attach the text in any (other) official language of the United Nations (Arabic, Chinese, Spanish, French, English or Russian).

If available, give information on the number of occasions in which you have shared such information. Indicate annual figures, as available.

The legal obligation of providing support to the Public Ministry has been heeded by all institutions that participate in the investigative processes in matters of corruption, for example, the Superior Court of Accounts (TSC) in accordance with its own Law is required to send information to the Public Ministry in the case of evidence of liability, in addition, the TSC issues reports and provides experts for the investigation and prosecution of cases.

Another institution with which there is a great deal of collaboration is the Institute of Property (IP) particularly with the Inspectorate Department, investigating complaints and, if appropriate, referring them to the Public Ministry.

Also the National Registry of Persons (RNP) provides constant information for physical identification of the investigated or charged as well as data on his/her whereabouts in order to identify the people involved and proceed with the arrest warrants.

Also, on April, 8th 2015 the "Agreement of Interinstitutional Cooperation for the Fight against the Corruption" was signed between the National Commission of Banks and Insurance, the Executive Directorate of Revenue, Superior Court of Accounts and Secretary of General Coordination of Government Presidential Directorate of Transparency, Modernization and Reform of the State, Public Ministry, Supreme Court of Justice and the Attorney General of the Republic creating the Inter-agency Anti-corruption Table in order for the parties to act in a coordinated and complementary manner so as to enable institutions to comply efficiently and effectively with their powers and functions in the fight against corruption.

Copy of the full text of the agreement is attached.

153. Technical Assistance

The following questions on technical assistance relate to the Article under review in its entirety.

Do you require technical assistance for the (full) implementation of the Article under review? (Check one answer)

(Y) Yes

(N) No

(N) No

39. Cooperation between national authorities and the private sector.

154. Paragraph 1 of Article 39

1. Each State Party shall take such measures as may be necessary to encourage, in accordance with its domestic law, cooperation between national investigating and prosecuting authorities and entities of the private sector, in particular financial institutions, relating to matters involving the commission of offences established in accordance with this Convention.

Has your country adopted and implemented the measures described above? (Check one answer.)

(Y) Yes

(Y) Yes, in part

(N) No

Yes. The National Banking and Insurance Commission establishes the procedures for the supervised financial sector entities for them to duly cooperate with the competent authorities in the framework of the risk involved in the crime of Money Laundering.

Please cite the applicable measure(s):

Please cite the text(s)

SPECIAL LAW AGAINST MONEY LAUNDERING Articles 5.

NATIONAL COUNCIL OF ANT-CORRUPTION LAW contained in Decree no. 7-2005. Article 8.

REGULATIONS FOR THE PREVENTION AND DETECTION OF MISUSE OF SERVICES AND FINANCIAL PRODUCTS IN MONEY LAUNDERING. RESOLUTION No.869/29.10.2002

Please attach the text(s)

SPECIAL LAW AGAINST MONEY LAUNDERING (2015).

Article 5. See what is described in Article 38.

NATIONAL COUNCIL OF ANTI-CORRUPTION LAW (2005).

Article 8. See what is described in Article 38.

LAW OF THE FINANCIAL SYSTEM. (2004).

CHAPTER X. IRREGULAR COLLECTION OF PUBLIC FUNDS

ARTICLE 68. IRREGULAR COLLECTION. Raising capital from the public will be considered on an irregular basis, that which is carried out by individuals or legal entities, national or foreign, within the country, without being authorized to do so under the Law. Also considered irregular collection, is that done by the authorized financial system institutions to operate in the country on behalf of similar institutions; to its parent company; or related parties abroad.

When the Commission has knowledge or evidence that an individual or legal entity, raises capital from the public in an irregular manner, it will require that suspected offenders make promptly available to them for inspection and review, all books, documents and any other information

that may be related to the events under investigation, of which it may make copies, notes and transcripts.

ARTICLE 69. PENALTIES FOR NON-COOPERATION. If the persons referred to in the preceding article do not provide the Commission with the cooperation required by it, they shall be penalized in accordance with Article 346 of the Penal Code, without prejudice to any other offence arising out of the facts and civil responsibilities and administrative cases that might arise.

If the Commission is impeded in the implementation of its power of supervision, including not allowing the inspection it orders, they will request the assistance from the police, and also being accompanied in all procedures by the representatives of the Public Ministry. In this case, the Commission shall publish a notice in two (2) national newspapers, warning the public about the facts investigated.

REGULATIONS FOR THE PREVENTION AND DETECTION OF MISUSE OF SERVICES AND FINANCIAL PRODUCTS IN MONEY LAUNDERING

RESOLUTION No.869/29.10.2002

CHAPTER VI. REPORTS AND RECORDS OF TRANSACTIONS IN CASH, NON-TYPICAL AND MULTIPLE

ARTICLE 33. REPORTING AND REGISTRATION OF TRANSACTIONS CASH. Supervised institutions must register on the form "Cash Transaction Registry" the operations that equal or exceed the amount, that for the purpose the Central Bank of Honduras will set, these forms should be submitted to the FIU within the first ten (10) working days of each month by email that will be provided to that effect, preserving the original report of each transaction for a period of five (5) years, which may be required by the FIU, when it deems it convenient.

ARTICLE 34.- REPORT OF MULTIPLE TRANSACTIONS IN CASH. Supervised institutions will verify during the workweek, successive money deposits or withdrawals that are lower in value than the limit set by the Central Bank of Honduras, which added together equal or exceed this limit and if that were the case be considered as a single transaction for the purposes of Article 34 of the Law. Supervised institutions will declare the operation through electronic devices that must be sent to FIU within the first ten (10) business days of each month, using the email provided for that effect. The institution

shall retain the documents supporting these transactions for a period of five (5) years, which may be required by the FIU when deemed appropriate.

ARTICLE 35.- OTHER TRANSACTIONS REPORT FINANCIAL. The supervised institution will report to the FIU within the first ten (10) business days of each month, by electronic means all those other non-cash financial transactions carried out in accordance with the limits set by the Central Bank of Honduras, and shall keep the supporting documentation for a period of five (5) years.

ARTICLE 36.- REPORTING AND REGISTRATION OF TRANSACTIONS NOT TYPICAL. In the "Report Non-Typical Transactions", the supervised institutions must immediately notify the FIU, on those transactions carried out by individuals or companies that the previous analysis entity considered as non-typical; then later creating a file for each individual case, it shall contain all information necessary to support, protect and assess that situation.

When the FIU receives the report of the non-typical transaction, it will acknowledge receipt, indicating the code assigned to the transaction reported, using it as sole reference in the later analysis of it.

To facilitate the monitored system in identifying probable transactions that may be linked to criminal acts, the Commission will periodically send updated communication examples of unusual or non-typical operations that may be used for the misuse of financial services.

ARTICLE 37.- MONITORING SYSTEM USERS SUPERVISED. When business relationship are established with a client, the parameters under which to proceed to its analysis must be defined, according to the size or type of transaction made in order to determine whether the transactions they execute correspond or not to documented knowledge on them.

Monitoring should be applied individually to all clients of the supervised institution, to enable the effective detection of so-called non-typical transactions.

To this end the supervised institutions should develop or acquire software enabling them to determine all operations that deviate from the previously determined parameters in the customer profile at the time of opening the account. However, the financial institutions through the Compliance Committee may, upon previous strict knowledge, analysis and evaluation of the current customer profile, modify the parameters to suit the new

circumstances, leaving documentary evidence of these matters in the customer file.

The transaction monitoring should focus mainly on recording important transactions in cash, or any other monetary instrument. In this sense, the supervised institution shall keep a daily record of transactions and the amount exceeding the limit set by the Central Bank of Honduras for each product or service.

CHAPTER VII. MANUAL OF PROCEDURES FOR THE PREVENTION OF MISUSE OF FINANCIAL SERVICES.

ARTICLE 38.- PROCEDURAL MANUAL. Control mechanisms adopted by the supervised institutions must be designed into a Procedures Manual, approved by the Board of Directors, which would consider the characteristics of each entity and that of its various services and products. This Manual should provide a clear list for the development of the institutional policy of the company in preventing the crime of asset laundering. It is an integral part of the Compliance Program.

All aspects mentioned in this Regulation should be contained in the Manual; additionally it should also include the following:

- a) Control policies and channels of communication between the main office and its branches and agencies.
- b) Procedures for monitoring compliance with the standards contained in the Manual.
- c) Procedures for compliance of the knowledge of employees by Human Resources.
- d) Procedures for the implementation of the policy of customer knowledge by their officers and employees, and how they must record that they verified the information in the client accounts.
- e) Procedure for identification of market segments that have an increased risk for misuse of financial services and products.
- f) Everything else that the supervised institution considers relevant.

The Procedural Manual should be constantly updated according to the needs of the institution. Any modification to the mechanisms adopted should be

reported to the Superintendence.

CHAPTER VIII. PREVENTION OF FINANCING TERRORISM

ARTICLE 39.- REPORT OF TRANSACTIONS. When the supervised institutions suspect or have reasonable grounds to suspect that funds are linked or related to, or which may be used to finance terrorism should immediately report their suspicions to the FIU.

ARTICLE 40.- OBLIGATION TO ADDRESS THE LISTINGS SENT BY THE COMMISSION. Supervised institutions should respond promptly to required listings on individuals or corporations that pose a significant risk of committing acts of terrorism that threaten national and international security.

ARTICLE 41.- INSURANCE OF ACCOUNTS. When the supervised institutions detect transactions with persons included in the lists mentioned in the previous Article, they must inform the Financial Intelligence Unit so that the Public Ministry can immediately request freezing the related accounts.

CHAPTER IX. SUPERVISION

ARTICLE 42.- SUPERVISORY PERSONNEL. The Commission will monitor compliance in the implementation of the Comprehensive Exam for supervised institutions with the human resources of each one of the Superintendence (Superintendence of Banks, Financial Institutions and Savings and Loan Associations, Superintendence of Insurance and Pensions and Superintendence of Securities and Other Institutions).

CHAPTER X. SANCTIONS TO INSTITUTIONS SUPERVISED BY THE COMMISSION

ARTICLE 43.- SANCTIONS. Without prejudice to any criminal liability that may be incurred by the crime regulated in the Law, the institutions supervised by the Commission that do not comply with the obligations imposed by these regulations and by the Law, shall be punished by a fine of ten (10) one hundred (100) minimum monthly wages based on the higher wages of the area where the infringement was done, that will be defined in the current tables, according to the seriousness of the offence, to be imposed by the Commission, subject to the provisions made in Title III of Sanctions, Sole Chapter on Sanctions, Articles 68 and 69 of the Law of Institutions of the Financial System.

CHAPTER XI. OTHERS RESPONSIBLE

ARTICLE 44.- OTHER RESPONSIBILITIES REQUIRED.

To those entities they are not supervised, the provisions relating to the institutions supervised by the National Banking and Insurance Commission will be implemented, relating to the crime of money laundering and will be required to report to the FIU all transactions made in amounts higher than those established by the Central Bank of Honduras. To this end, the FIU will provide Transactions Reporting model that have to be sent. They will be required to report non-typical transactions that are discovered and the multiple transactions that would be made in the period and for amounts established .

They will be required to keep the relevant information for a period of five (5) years.

ARTICLE 45.- PREVENTION OF FINANCING OF TERRORISM. They will apply what is described in Articles 39 to 41 of this Regulation.

If available, please attach the text in any (other) official language of the United Nations (Arabic, Chinese, Spanish, French, English or Russian).

Please provide examples of implementation.

There are no examples available.

If available, please provide information on recent cases in which entities of the private sector have collaborated with national investigating or prosecuting authorities:

Regarding financial institutions, the Public Ministry (Prosecution) requested the National Banking and Insurance Commission (CNBS), through the Attorney General, information on accounts, transactions and other financial arrangements of users asking for full identification only on the person under investigation through their national identification number. These financial institutions provide the information by the same route. Collaboration is carried out smoothly.

155. Paragraph 2 of Article 39

2. Each State Party shall consider encouraging its nationals and other persons with a habitual residence in its territory to report to the national investigating and

prosecuting authorities the commission of an offence established in accordance with this Convention.

**Has your country adopted and implemented the measures described above?
(Check one answer.)**

(Y) Yes

(P) Yes, in part

(N) No

Yes. In Honduras, every citizen has the general obligation to denounce the acts that constitute crime. Likewise, every public institution has a transparency portal as well as a system of anonymous reporting online (line 130).

The National Anti-Corruption Council launched in December 2014 a citizen complaint mechanism for acts of corruption. In particular it encourages the reporting of crimes including bribery, embezzlement of public funds, incompatible negotiations, extortion and illicit enrichment.

Please cite the applicable measure(s):

Please cite the text(s)

Program: "Your Voice does Count".

Please attach the text(s)

<http://www.tuvozsicuenta.gob.hn/proyecto.html>

If available, please attach the text in any (other) official language of the United Nations (Arabic, Chinese, Spanish, French, English or Russian).

If financial incentives are offered to encourage such reports, please provide details, available reports and relevant statistics. Please provide examples of implementation.

No financial incentives are offered.

If anonymous reports are given due consideration by appropriate authorities, how many of the reports received have contributed to the investigation or prosecution of an offence established in accordance with the Convention? Please provide per annum figures, as available.

Not available.

Give examples of the application.

No examples of application.

If you have hotlines or other mechanisms for offences to be reported, how many reports have you received? Please provide per annum figures, as available.

According to a report by Presidential Transparency, Modernization and State Reform Directorate, the central telephone complaints line 130 has received 14,000 calls since last February 19, 2015.

Of the 14,000 calls received 1,400 were processed as accusations, complaints and suggestions filed by persons for various reasons.

Allegations of wrongdoing are around 800, which have been transferred to the Superior Court of Accounts (TSC) and the Public Ministry to proceed based on law.

156. Technical Assistance

The following questions on technical assistance relate to the Article under review in its entirety.

Do you require technical assistance for the (full) implementation of the Article under review? (Check one answer)

(Y) Yes

(N) No

No.

40. Bank secrecy.

157. Article 40

Each State Party shall ensure that, in the case of domestic criminal investigations of offences established in accordance with this Convention, there are appropriate mechanisms available within its domestic legal system to overcome obstacles that may arise out of the application of bank secrecy laws.

Has your country adopted the mechanisms described above? (Check one answer)

(Y) Yes

(P) Yes, in part

(N) No

Yes. Honduras applies this provision. Currently financial institutions, as required by law in accordance with the law on prevention of money laundering and terrorist financing, send to the FIU the financial information of the subjects covered by that requirement. With regard to banking secrecy regulated by the Commercial Code the special legal framework prevails, of Article 47 of the Special Law Against Money Laundering which provides that for this Law, banking, professional or tax secrecy can not be applied.

Furthermore, Article 34 of the Financial System Law establishes responsibilities incurred by those who reveal or disclose any confidential information, and establishes clearly that these will not be applied regarding information legally required by the judicial authorities and other authorities under this Law.

Please cite the applicable mechanism(s):

Please cite the text(s)

SPECIAL LAW AGAINST MONEY LAUNDERING contained in Decree No. 144 -2014. Article 47.

LAW ON PERMANENT DEPRIVATION OF PROPERTY OF AN ILLEGAL ORIGIN contained in Decree 27-2010. Article 21.

LAW AGAINST TERRORIST FINANCING contained in Decree 141-2010. Article 53.

COMMERCIAL CODE OF HONDURAS. Article 956.

LAW OF THE NATIONAL COMMISSION OF BANKS AND INSURANCE contained in Decree No. 155-95. Article 15.

FINANCIAL SYSTEM LAW contained in Decree No. 129-2004. Article 34.

Please attach the text(s)

SPECIAL LAW AGAINST MONEY LAUNDERING (2015)

Article 47. See the answer to Paragraph 7 of Article 31.

LAW ON PERMANENT DEPRIVATION OF PROPERTY OF ILLEGAL ORIGIN

Article 21.- BANK, PROFESSIONAL AND STATE SECRECY. For purposes of the applicability of this Law, Bank Secrecy will not be invoked, nor will Professional Secrecy or State Secrets. The protocols of Notaries may be inspected by the Public Ministry or if needed seized without judicial authorization.

LAW AGAINST FINANCING TERRORISM

Article 53.- For purposes of the applicability of this Law, Bank Secrecy will not be invoked, nor will Professional Secrecy or State Secrets, always safeguarding the fundamental rights of individuals, Banking, Professional or State secrecy may not be invoked.

COMMERCIAL CODE OF HONDURAS

Article No. 956.- The institutions may not give news of deposits and other operations, except to the depositor, debtor or beneficiary, or their legal representatives or who may have the power to dispose of the account or to intervene in the operation; unless the applicant requests judicial authority under orders made at a tax purposes trial in which the depositor is a party, and the banking authorities. Officials of the credit institutions shall be liable under the terms of the law for the violation of the secrecy imposed and institutions are obliged, in case of disclosure of secret, to repair the damages caused.

If available, please attach the text in any (other) official language of the United Nations (Arabic, Chinese, Spanish, French, English or Russian).

LAW OF THE NATIONAL COMMISSION OF BANKS AND INSURANCE

Article 15. See what is described in Paragraph 7 of Article 31.

FINANCIAL SYSTEM LAW.

Article 34. See what is described in Paragraph 7 of Article 31.

Please provide examples of implementation.

There are no application examples.

If available, give information (statistics, types of cases, outcomes) on related court cases or other processes. Indicate annual figures, as available.

There is no statistical information on these cases.

158. Technical Assistance

The following questions on technical assistance relate to the Article under review in its entirety.

Do you require technical assistance for the (full) implementation of the Article under review? (Check one answer)

(Y) Yes

(N) No

No

41. Criminal record.

159. Article 41

Each State Party may adopt such legislative or other measures as may be necessary to take into consideration, under such terms as and for the purpose that it deems appropriate, any previous conviction in another State of an alleged offender for the purpose of using such information in criminal proceedings relating to an offence established in accordance with this Convention.

Has your country adopted and implemented the measures described above? (Check one answer.)

(Y) Yes

(P) Yes, in part

(N) No

Yes. Honduras complies with this provision.

CRIMINAL RECORD

The Honduran Criminal Code provides in Article 6, that res judicata will not have value of criminal sentences handed over by foreign judgments, on the crimes referred to in Articles 3 and 4 above. The penalty that the prisoner has complied with fully or partially, under some of these judgments, or those issued in relation to numbers 1), 2) and 4) of Article 5, above, will be deducted from that which is imposed under Honduran law if both are similar in nature; if they are not, the new penalty will be prudentially lessened, therefore, if that information is used in criminal proceedings relating to offences under the Convention.

160. Technical Assistance

The following questions on technical assistance relate to the Article under review in its entirety.

Do you require technical assistance for the (full) implementation of the Article under review? (Check one answer)

(Y) Yes

(N) No

No.

42. Jurisdiction.

161. Subparagraph one (a) of Article 42

1. Each State Party shall adopt measures such as may be necessary to establish its jurisdiction over the offences established in accordance with this Convention when:

a) The offence is committed in the territory of that State Party; or

Is your country in compliance with this provision? (Check one answer.)

(Y) Yes

(P) Yes, in part

(N) No

Yes. Honduran jurisdiction and its limits are established in the Criminal Code and is complemented by the Criminal Procedure Code. The Special Law of the Jurisdiction Entities that are Nationally Competent, regarding Criminal Matters gives a broader definition of jurisdiction for the crime of money laundering.

Please cite the applicable measure(s):

Please cite the text(s)

CRIMINAL CODE contained in Decree No. 144 -1983. BOOK I. GENERAL PART. TITLE ONE CRIMINAL LAW ENFORCEMENT. Article 3.

CRIMINAL PROCEDURE CODE TITLE III. OF PROCEDURAL SUBJECTS. CHAPTER ONE. OF THE COURTS AND TRIBUNES. SECTION ONE OF JURISDICTION. Article 54.

SPECIAL LAW OF THE JURISDICTIONAL ENTITIES WITH APPLICATION NATIONWIDE IN CRIMINAL MATTERS contained in Decree No. LAW. 247-2010. Articles 2 and 6.

Please attach the text(s)

CRIMINAL CODE (1983)

BOOK ONE. GENERAL SECTION

TITLE I CRIMINAL LAW ENFORCEMENT.

Article 3.- Honduran Criminal Law shall apply to any person who commits an offence in the national territory and any other places under the jurisdiction of Honduras, with the exceptions mentioned in International Law.

CRIMINAL PROCEDURE CODE (2002)

TITLE THREE, OF PROCEDURAL SUBJECTS

CHAPTER ONE, OF THE COURTS AND TRIBUNES.

SECTION ONE OF JURISDICTION □

Article 54. Criminal jurisdiction. Criminal courts will hear crimes and misdemeanors.

The organs of criminal jurisdiction shall, exclusively, have the public power to hear criminal cases, resolve them and execute their sentences.

Jurisdiction in criminal matters shall not be postponed and include:

- 1) The **hearing of the crimes and offences committed in the national territory**, except as provided by the Penal Code, by this Code and the rules of International Law applicable in the Republic; and, □
- 2) Hearing of the crimes committed abroad in cases where the Criminal Code states [...]

SPECIAL LAW OF THE JURISDICTIONAL ENTITIES WITH APPLICATION NATIONWIDE IN CRIMINAL MATTERS

Article 2. DEFINITIONS: For the purposes of this law, understanding must be given for:

- 1) Organized Criminal Group: A structured group of three or more persons, that exists during a certain time and acting in concert, with the purpose of committing the following crimes: [...] e) **Money**

Laundering; [...].

Article 6. OBJECTIVE COMPETITION. By reason of the matter it therefore corresponds to the national courts with territorial jurisdiction in criminal matters, the following: 1) Knowledge of crimes committed by organized criminal groups described in Article 2, number 1) of this Law, **committed anywhere in the country** or outside it in accordance with the provisions of the Criminal Code, except for the cases provided in this Code and the rules of International Law recognized in International Treaties and Conventions approved and ratified by the State of Honduras. 2) Knowledge of the processes initiated by the action of permanent deprivation of property.

If available, please attach the text in any (other) official language of the United Nations (Arabic, Chinese, Spanish, French, English or Russian).

Please provide examples of implementation, including related court or other cases

There are not examples of this implementation.

162. Subparagraph 1(b) of Article 42

1. Each State Party shall adopt measures such as may be necessary to establish its jurisdiction over the offences established in accordance with this Convention when: ☐ [...] ☐ b) The offence is committed on board a vessel that is flying the flag of that State Party or an aircraft that is registered under the laws of that State Party at the time that the offence is committed.

Is your country in compliance with this provision? (Check one answer.)

(Y) Yes

(P) Yes, in part

(N) No

Yes. Honduran jurisdiction includes crimes that are committed abroad, aboard ships and aircrafts flying the national flag, according to the Criminal Code, as long as the accused is in Honduras and has not previously been tried, or when, having been tried there, evaded justice and has not complied fully or partially with the sentence .

Indicate and attach the applicable measures:

Please cite the text(s)

CRIMINAL CODE. contained in Decree No. 144 -1983.

BOOK ONE GENERAL PART. TITLE ONE. CRIMINAL LAW ENFORCEMENT. Article 5, Number 1.

Please attach the text(s)

CRIMINAL CODE (1983)

BOOK ONE GENERAL PART.

TITLE ONE. CRIMINAL LAW ENFORCEMENT.

Article 5.- Honduran Courts will also be notified of crimes committed abroad when the accused is in Honduras and any of the following situations take place: :

1) When he/she has not been tried for the crime committed **on board a ship or Honduran merchant or private aircraft, or when having been judged has escaped and has not complied fully or partially the sentence; [...]**

If available, please attach the text in any (other) official language of the United Nations (Arabic, Chinese, Spanish, French, English or Russian).

Please provide examples of implementation, including related court or other cases.

There are no examples available of this type.

163. Subparagraph 2 a) of Article 42

2. Subject to Article 4 of this Convention, a State Party may also establish its jurisdiction over any such offence when:

a) The offence is committed against a national of that State Party;

Has your country adopted measures to establish its jurisdiction as described above? (Check one answer)

(Y) Yes

(P) Yes, in part

(N) No

Yes. Honduran jurisdiction includes crimes that are committed abroad against Hondurans, as long as the accused is in Honduras and has not been previously judged, or having been tried has evaded justice and has not complied fully or partially with the sentence.

Indicate and attach the applicable measures:

Please cite the text(s)

CRIMINAL CODE contained in Decree No. 144 -1983. BOOK ONE
GENERAL PART. TITLE ONE. CRIMINAL LAW ENFORCEMENT.
Article 5, number 4.

Please attach the text(s)

CRIMINAL CODE (1983)

BOOK ONE GENERAL PART

TITLE I. CRIMINAL LAW ENFORCEMENT.

Article 5.- Honduran courts will also have knowledge of crimes committed abroad when the accused is in Honduras and any of the following situations take place:

4) If the perpetrator of the **crime committed against a Honduran** has not been tried in the country where it was perpetrated, nor has his extradition been requested, or when having been tried has escaped and failed to comply the sentence fully or partially; and, [...]

If available, please attach the text in any (other) official language of the United Nations (Arabic, Chinese, Spanish, French, English or Russian).

Please provide examples of implementation.

There are no examples available of this type.

164. Subparagraph 2 (b) of Article 42

2. Subject to Article 4 of this Convention, a State Party may also establish its jurisdiction over any such offence when:

[...]□

b) The offence is committed by a national of that State Party or a stateless person who has his or her habitual residence in its territory; or

Has your country adopted measures to establish its jurisdiction as described above? (Check one answer)

(Y) Yes (P) Yes, in part (N) No

Yes in part. This provision is partly fulfilled by the provisions under the Criminal Code relating to jurisdiction over Hondurans as long as they are in the country and extradition is requested. It does not indicate anything regarding stateless persons that habitually reside in Honduras.

Indicate and attach the applicable measures:

Please cite the text(s)

CRIMINAL CODE contained in Decree No. 144 -1983. BOOK ONE, GENERAL PART. TITLE ONE. CRIMINAL LAW ENFORCEMENT. Article 5, Number 2

Please attach the text(s)

CRIMINAL CODE (1983)

BOOK ONE GENERAL PART.

TITLE ONE. CRIMINAL LAW ENFORCEMENT.

Article 5: Honduran courts will also have hearings regarding crimes committed abroad when the accused is in Honduras and any of the following situations take place:

[...]

2) Yes **If the accused being Honduran** extradition is requested by the State in whose territory the crime was committed;

If available, please attach the text in any (other) official language of the United Nations (Arabic, Chinese, Spanish, French, English or Russian).

Please provide examples of the application including judicial proceedings or others that are related to it.

There are no examples available of this type.

165. Letter c) of Paragraph 2 of Article 42

2. Subject to the provisions of Article 4 of this Convention, a State Party may also

establish its jurisdiction over any such offence when:

[...]

c) If the crime is one of those established under subparagraph ii) of letter b) of paragraph 1 of article 23 of this Convention and is committed outside its territory with a view to executing it, within its territory, a crime established in accordance with subparagraphs i) or ii) of letter a) or subparagraph i) of letter b) of paragraph 1 of Article 23 of this Convention; or

Has your country adopted measures to establish its jurisdiction as described above (Check the response)

(Y) Yes (P) Yes, in part (N) No

Yes. Honduran jurisdiction includes crimes that are committed abroad and in accordance with international conventions, should submit to the jurisdiction of the country, as long as the accused is in Honduras.

Please cite the applicable measure(s):

Please cite the text(s)

CRIMINAL CODE contained in Decree No. 144 -1983. BOOK ONE, GENERAL PART. TITLE I. CRIMINAL LAW ENFORCEMENT. Article 5, Number 5.

Please attach the text(s)

CRIMINAL CODE (1983)

BOOK ONE. GENERAL PART.

TITLE I. CRIMINAL LAW ENFORCEMENT.

Article 5: Honduran courts will also have hearings regarding crimes committed abroad when the accused is in Honduras and any of the following situations take place:

5) When in **accordance with the international conventions** to which Honduras is a part, the offence is subject to the Honduran criminal law for reasons other than those mentioned in the preceding paragraphs or seriously harms the universally recognized human rights. Preference will be given, however, to the claim of the State in whose territory the offence has been

committed as long as it is enforced before the corresponding criminal action is executed in the competent Honduran court.

If available, please attach the text in any (other) official language of the United Nations (Arabic, Chinese, Spanish, French, English or Russian).

Please provide examples of the application including judicial proceedings or others that are related to it.

166. Letter d) of Paragraph 2 of Article 42

2. Subject to Article 4 of this Convention, a State Party may also establish its jurisdiction over any such offence when:

[...] d) The offence is committed against the State Party.

Has your country adopted measures to establish its jurisdiction as described above? (Check one answer)

(Y) Yes (P) Yes, in part (N) No

Yes, This provision is also true when the Criminal Code states that the jurisdiction of Honduras covers crimes committed abroad against public faith, the economy and national public administration.

Please cite the applicable measure(s):

Please cite the text(s)

CRIMINAL CODE contained in Decree No. 144 -1983. BOOK ONE, GENERAL PART. TITLE I. CRIMINAL LAW ENFORCEMENT. Article 4.

Please attach the text(s)

CRIMINAL CODE (1983)

BOOK ONE. GENERAL PART.

TITLE I. CRIMINAL LAW ENFORCEMENT.

Article 4. Honduran Criminal Law will be applied to those who have committed crimes abroad against public health, public faith, the economy or internal or external security of the State; [...]. It also applies when a Honduran public official or employee committed the crimes abroad against national public administration [...].

If available, please attach the text in any (other) official language of the United Nations (Arabic, Chinese, Spanish, French, English or Russian).

Please provide examples of implementation, including related court or other cases

There are no examples available of this type.

167. Paragraph 3 of Article 42

3. For the purposes of Article 44 of this Convention, each State Party shall take such measures as may be necessary to establish its jurisdiction over the offences established in accordance with this Convention when the alleged offender is present in its territory and it does not extradite such person solely on the ground that he or she is one of its nationals.

Is your country in compliance with this provision? (Check one answer)

(Y) Yes (P) Yes, in part (N) No

Yes. Since Honduras prohibits the extradition of its nationals, the Criminal Code in Article 5 Number 2 indicates that if the accused is in the country and his extradition is requested, the Honduran criminal jurisdiction applies.

Please cite the applicable measure(s):

Please cite the text(s)

CONSTITUTION OF THE REPUBLIC Reformed by Decree 269-2011-Ratified by Decree 02-2012. TITLE III. □DECLARATIONS, RIGHTS AND GUARANTEES. CHAPTER II. INDIVIDUAL RIGHTS. Article 102.

Please attach the text(s)

CONSTITUTION REPUBLIC OF HONDURAS (1982).

CHAPTER II. INDIVIDUAL RIGHTS.

Article 102.- No Honduran may be expatriated or handed over by the authorities to a foreign State.

Exceptions to this provision are cases related to crimes of Drug Trafficking in all its types, Terrorism and other illicit Organized Crime and where by an Agreement or Treaty on Extradition with the applicant country exists.

In no event shall a Honduran be extradited for political and common crimes related.

CRIMINAL CODE (1983)

BOOK ONE. GENERAL PART.

TITLE I. CRIMINAL LAW ENFORCEMENT.

Article 5. See the response to Letter b) of Paragraph 2 of Article 42.

If available, please attach the text in any (other) official language of the United Nations (Arabic, Chinese, Spanish, French, English or Russian).

Please provide examples of implementation, including related court or other cases.

Examples of this type are not available.

168. Paragraph 4 of Article 42

4. Each State Party may also take such measures as may be necessary to establish its jurisdiction over the offences established in accordance with this Convention when the alleged offender is present in its territory and it does not extradite him or her.

Has your country adopted and implemented the measures described above? (Check one answer.)

(Y) Yes (P) Yes, in part (N) No

Yes, Honduras complies with this provision, generally establishing, that it will act under international law in these cases.

Please cite the applicable measure(s):

Please cite the text(s)

CRIMINAL CODE contained in Decree No. 144 -1983. BOOK ONE, GENERAL PART. TITLE ONE. CRIMINAL LAW ENFORCEMENT. Article 5, Number 5.

Please attach the text(s)

CRIMINAL CODE (1983)

BOOK ONE. GENERAL PART.

TITLE ONE. CRIMINAL LAW ENFORCEMENT.

Article 5. See in response to Letter c) of Paragraph 2 of Article 42

If available, please attach the text in any (other) official language of the United Nations (Arabic, Chinese, Spanish, French, English or Russian).

Please provide examples of implementation, including related court or other cases.

There are no examples available.

169. Paragraph 5 of Article 42

5. If a State Party exercising its jurisdiction under paragraph 1 or 2 of this Article has been notified, or has otherwise learned, that any other States Parties are conducting an investigation, prosecution or judicial proceeding in respect of the same conduct, the competent authorities of those States Parties shall, as appropriate, consult one another with a view to coordinating their actions..

Is your country in compliance with this provision? (Check one answer.)

(Y) Yes (P) Yes, in part (N) No

Yes. Honduras is part of networks and working groups at the regional level, which allows good communication and information during the investigation process.

Please cite the applicable measure(s):

Please cite the text(s)

See the responses to Article 48.

Please attach the text(s)

See the responses to Article 48.

If available, please attach the text in any (other) official language of the United Nations (Arabic, Chinese, Spanish, French, English or Russian).

Please provide examples of implementation and describe the factors that enable collaboration and coordination.

See the responses to Article 48.

170. Paragraph 6 of Article 42

6. Without prejudice to norms of general international law, this Convention shall not exclude the exercise of any criminal jurisdiction established by a State Party in accordance with its domestic law.

Has your country adopted any grounds of criminal jurisdiction other than those described above? (Check one answer)

(Y) Yes (P) Yes, in part (N) No

No

171. Technical Assistance

The following questions on technical assistance relate to the Article under review in its entirety.

Do you require technical assistance for the (full) implementation of the Article under review? (Check one answer)

(Y) Yes (N) No

No.

IV. International cooperation

44. Extradition.

172. Paragraph 1 of Article 44

1. This Article shall apply to the offences established in accordance with this Convention where the person who is the subject of the request for extradition is present in the territory of the requested State Party, provided that the offence for which extradition is sought is punishable under the domestic law of both the requesting State Party and the requested State Party.

**Has your country adopted and implemented the measures described above?
(Check one answer.)**

(Y) Yes (P) Yes, in part (N) No

Yes, in part. Honduras has a long tradition of respect for International Law and compliance with its international commitments, which is embodied in the Constitution of the Republic in Article 15, as in 18 in which treaties are given prominence over the Law. In the same legal body in its Article 16 it establishes that international treaties concluded by Honduras with other states, once they enter into force, are part of domestic law.

Regarding the specific issue of extradition, the Constitution of the Republic under Article 101 prohibits the extradition of prisoners for political and related common crimes in general, ie *a contrario sensu* **allow extradition** for any other type of crime and this would apply only to **foreigners** since Article 102 refers specifically to Hondurans.

Article 102 of the Constitution of the Republic **prohibits the extradition of Hondurans except** in cases involving certain crimes (drug trafficking, terrorism, organized crime) and **where there is an extradition treaty or agreement**, Giving the Supreme Court the competent authority in this matter, that is also stated in Article 78, Number 8 of the Law of Organization and Attribution of the Courts.

For its part, Article 10 of the Criminal Code confirms the ban on the extradition of Hondurans having committed crimes abroad are in the country and **allows the extradition of foreigners to be granted under Law or Treaty**, for Common crimes that deserve penalties of no less than one (1) year

of imprisonment; and never for political crimes. However, in view of the constitutional reform of Article 102, above, the first part of this article would be repealed in relation to crimes for which the Constitution provides the extradition of nationals is permitted, regarding other crimes, the banning will continue to be in effect, unless there is an extradition treaty or agreement.

In cases where there is no extradition treaty with the requesting State, the procedure would be to have the Honduran courts hear the causes in accordance with Article 5, Number 2, of the same Criminal Code.

Please cite the applicable measure(s), Including your policy on dual criminality

Please cite the text(s)

CONSTITUTION OF THE REPUBLIC contained in Decree No 131-1982. TITLE ONE. THE STATE. CHAPTER III OF THE TREATIES. Articles 15, 16 and 18. TITLE THREE. DECLARATIONS, RIGHTS AND GUARANTEES. CHAPTER II. INDIVIDUAL RIGHTS Articles 101 and 102. TITLE FIVE. STATE POWERS. CHAPTER XII: JUDICIAL POWER. Article 313 number 4.

CRIMINAL CODE contained in Decree No. 144-1983. BOOK I. GENERAL PART. TITLE I. CRIMINAL LAW ENFORCEMENT. Article 5 Number 2 and Article 10.

CODE OF CRIMINAL PROCEDURE contained in Decree No. 9-99-E -2002 TITLE ONE. PROCEDURAL ACTS. CHAPTER III. COMMUNICATIONS AMONG AUTHORITIES. Article 150

LAW OF ORGANIZATION AND POWERS OF THE COURTS, contained in Decree No 76-1906. Article 78.

Please attach the text(s)

CONSTITUTION OF THE REPUBLIC (1982)

TITLE I. THE STATE.

CHAPTER III OF THE TREATIES.

Article 15.- Honduras endorses the principles and practices of international law, which promote human solidarity, respect for self-determination of

peoples, non-intervention and the strengthening of universal peace and democracy. Honduras proclaims as inevitable the validity and obligatory execution of arbitral and judicial awards of an international character.

Article 16.- international treaties concluded by Honduras with other states, once they enter into force, are part of domestic law.

Article 18.- In case of conflict between the treaty or convention and the Law, the former shall prevail.

TITLE III. DECLARATIONS, RIGHTS AND GUARANTEES.

CHAPTER II. INDIVIDUAL RIGHTS.

Article 101.- [...] The State shall not authorize the extradition of prisoners accused of related political and common crimes.

Article 102.- No Honduran may be expatriated or handed over by the authorities to a Foreign State. Exceptions to this provision are cases related to crimes of Drug Trafficking in all its types, Terrorism and other illicit Organized Crime and where by an Agreement or Treaty on Extradition with the applicant country exists. In no event shall a Honduran be extradited for related political and common crimes.

TITLE V. STATE POWERS.

CHAPTER XII: JUDICIAL POWER.

Article 313.- The Supreme Court of Justice shall have the following powers:
... 4. Hear the causes of extradition and others to be judged according to International Law.

CRIMINAL CODE (1983)

BOOK I. GENERAL PART.

TITLE I. CRIMINAL LAW ENFORCEMENT.

Article 5.- The Honduran courts will hear, additionally, crimes committed abroad when the accused is present in Honduras and if some of the following circumstances occur: [...] 2. If the accused being Honduran, his or her **extradition** is requested by the State in whose territory the crime was committed.

Article 10.- In no case shall extradition be granted to Hondurans who, having committed an offence abroad are in now in the Country. Extradition of foreigners may only be granted under Law or Treaty, for common crimes that deserve no lesser penalty of a (1) year of imprisonment; and never because of deserving no lesser penalty of one (1) year of imprisonment; and never for political offences even if as a result of these a common crime is committed.

CRIMINAL PROCEDURE CODE (2002)

TITLE I. PROCEDURAL ACTS.

CHAPTER III. COMMUNICATIONS AMONG AUTHORITIES.

Article 150.- The extradition of accused or convicted, shall be governed by the provisions of international treaties of which Honduras is a part and by the laws of the country.

LAW OF ORGANIZATION AND ATTRIBUTIONS OF THE COURTS (1906)

Article 78.- The Supreme Court, in addition to the powers conferred upon it by the laws, perform the following: [...] 8. Hear cases of prisoners, extradition and other to be judged according to International Law.

If available, please attach the text in any (other) official language of the United Nations (Arabic, Chinese, Spanish, French, English or Russian).

Please provide examples of implementation, Including cases where dual criminality issues were raised and resolved

There are no examples available of this type.

173. Paragraph 2 of Article 44

Notwithstanding the provisions of paragraph 1 of this Article, a State Party whose law so permits may grant the extradition of a person for any of the offences covered by this Convention that are not punishable under its own domestic law. □

Has your country adopted and implemented the measures described above?

(Y) Yes

(P) Yes, in part

(N) No

No. While criminal law does allow judicial cooperation, even for behaviors that are not punishable in the country, extradition has as an inescapable

requirement the fact that the nature of the crime and that it is punishable by the laws of the requesting State and the requested State, since, according to Article 98 of the Constitution of the Republic *"no person may be detained arrested or imprisoned by causes not arising from crime or misdemeanor"* and the Criminal Code in its Article 11 provides that *"the judicial authorities may not create any other crimes"*. □

Indicate the actions your country has done to date to implement the provision under review:

The Supreme Court of Justice has prepared and submitted to the National Congress a draft Extradition Law.

Briefly describe the measures or actions (and deadlines) that domestic or other authorities should adopt or take, to ensure the implementation of the provision under review:

National Congress should proceed to discuss and approve the draft Extradition Law in the next 12 months.

174. Paragraph 3 of Article 44

3. If the request for extradition includes several separate offences, at least one of which is extraditable under this Article and some of which are not extraditable by reason of their period of imprisonment but are related to offences established in accordance with this Convention, the requested State Party may apply this Article also in respect of those offences.

Has your country adopted and implemented the measures described above?

(Y) Yes (P) Yes, in part (N) No

Yes, partly. It is possible In Honduras, to grant the extradition when it is requested for various crimes, if at least one is of extraditable crime, pursuant to the agreements signed with other States, particularly the Kingdom of Spain.

Please cite and attach the applicable measures:

Indicate the texts

EXTRADITION TREATY BETWEEN THE REPUBLIC OF HONDURAS AND THE KINGDOM OF SPAIN. Article 3 Number 5.

Attach texts

EXTRADITION TREATY BETWEEN THE REPUBLIC OF HONDURAS AND THE KINGDOM OF SPAIN.

Article 3.

[...]

5. If the request for extradition includes several distinct and separate offences punishable under the laws of both Contracting Parties, even if some of them do not fulfill the other conditions set out in paragraphs 1 and 2 of this Article, the requested Party may grant extradition for the latter provided they be extradited for at least one offence giving rise to extradition.

175. Paragraph 4 of Article 44

4. Each of the offences to which this Article applies shall be deemed to be included as an extraditable offence in any extradition treaty existing between States Parties. States Parties undertake to include such offences as extraditable offences in every extradition treaty to be concluded between them. A State Party whose law so permits, in case it uses this Convention as the basis for extradition, shall not consider any of the offences established in accordance with this Convention to be a political offence.

Is your country in compliance with this provision? (Check one answer.)

(Y) Yes

(P) Yes, in part

(N) No

Yes. Crimes referred to in the UNCAC which are classified as such in the legislation of Honduras, taking as a basis the provisions of the Convention on Extradition of Montevideo, Article one, which sets forth the minimum requirements that must be met for a process of this type. In addition, the Inter-American Convention against corruption also establishes in its Article XIII a similar obligation.

Honduras has subscribed 2 bilateral and 2 multilateral extradition treaties, which establish the conditions, prohibitions, and other aspects related to it.

In addition, is clear that crimes under Honduran legislation pursuant to the UNCAC are not for political crimes.

Please cite the applicable measure(s):

Please cite the text(s)

THE CONVENTION ON EXTRADITION signed in 1933 in Montevideo.
Article 1. Letter b).

INTER-AMERICAN CONVENTION AGAINST CORRUPTION. Article
XIII, paragraphs 1 and 2.

THE CONVENTION ON EXTRADITION signed in Montevideo in 1933

Please attach the text(s)

MONTEVIDEO CONVENTION ON EXTRADITION (1933).

Art. 1.- Each ONE of the Signatory States in accordance with the provisions of this Convention, are obliged to deliver, to either of the other states that require them, the individuals who are in its territory and have been charged or sentenced, provided that the following circumstances take place:

[...]

b) That **the act for which extradition is sought constitutes a crime and is punishable under the laws of the requesting State and that of the requested State** a minimum sentence of one year imprisonment.

INTER-AMERICAN CONVENTION AGAINST CORRUPTION.

Article XIII.

1. This Article shall apply to the offences established by the States Parties under this Convention.

2. Each of the offences to which this Article applies shall be considered included among the offences as extraditable in any extradition treaty existing between States Parties. State Parties undertake to include such offences as extraditable offences in any extradition treaty they conclude with each other.

If available, please attach the text in any (other) official language of the United Nations (Arabic, Chinese, Spanish, French, English or Russian).

Please provide examples of implementation, including related court or other cases.

There are no application examples.

Briefly describe pertinent treaties of extradition:

CONVENTION ON EXTRADITION OF MONTEVIDEO, signed in Montevideo - Uruguay, on December 26, 1933.

CENTRAL AMERICAN EXTRADITION CONVENTION (1923), which will be replaced by the **Central American Treaty Concerning the Arrest Warrant and Simplified Extradition** which has not yet entered into force for all countries, but that Honduras has already ratified on September 5, 2007

EXTRADITION TREATY BETWEEN THE REPUBLIC OF HONDURAS AND THE UNITED STATES OF AMERICA (1909) which entered into force on July 10, 1912 and **the additional Extradition Convention** (1927) which came into force on June 5, 1928.

EXTRADITION TREATY BETWEEN THE REPUBLIC OF HONDURAS AND THE KINGDOM OF SPAIN (1999), which entered into force on May 24, 2002.

176. Paragraph 5 of Article 44

5. If a State Party that makes extradition conditional on the existence of a treaty receives a request for extradition from another State Party with which it has no extradition treaty, it may consider this Convention the legal basis for extradition in respect of any offence to which this Article applies.

Does your country make extradition conditional on the existence of a treaty?
(Check one answer)

(Y) Yes

(P) Yes, in part

(N) No

Yes. In Honduras the extradition regarding crimes established in accordance with the UNCAC, is contingent upon the existence of a treaty according to article 102 of the Constitution of the Republic, amended by Decree 269-2011, which establishes that Hondurans may be expatriated **when there is an Extradition Treaty or Convention** with the requesting country.

It is important to mention that the Inter-American Convention against corruption provides a provision similar to the one of the UNCAC in its Article XIII, Numbers 3 and 4, but it does not establish the need to make a statement on the matter, so it would be applicable in Honduras.

Indicate and attach the applicable measures:

Please indicate the texts

CONSTITUTION OF THE REPUBLIC, contained in Decree No 131 - 1982, amended by Decree 269-2011. Article 102.

INTER-AMERICAN CONVENTION AGAINST CORRUPTION. Article XIII. Numbers 3 and 4.

Please attach texts ☐

CONSTITUTION OF THE REPUBLIC (1982)

Article 102. See the answer to Paragraph 1 of Article 44.

INTER-AMERICAN CONVENTION AGAINST CORRUPTION.

Article XIII. [...] 3. If a State Party that makes extradition conditional on the existence of a treaty receives a request for extradition from another State Party, with which it has no extradition treaty, it may consider this Convention the legal basis for extradition in respect of any offence to which this Article applies. 4. States Parties that do not make extradition conditional on the existence of a treaty shall recognize offences to which this Article applies as extraditable offences between themselves.

177. Paragraph 6 of Article 44

6. A State Party that makes extradition conditional on the existence of a treaty shall:

a) At the time of deposit of its instrument of ratification, acceptance or approval of or accession to this Convention, inform the Secretary-General of the United Nations whether it will take this Convention as the legal basis for cooperation on extradition with other States Parties to this Convention; and

b) If it does not take this Convention as the legal basis for cooperation on extradition, seek, where appropriate, to conclude treaties on extradition with other States Parties to this Convention in order to implement this Article.

Does your country make extradition conditional on the existence of a treaty?
(Check one answer)

(Y) Yes

(N) No

Yes, Honduras declared, since May 8, 2014, that it is considered as legal basis for cooperation on extradition with other States of the United Nations Anti-corruption Convention.

Indicate and attach the applicable measures:

Indicate the texts

Notification of Honduras to the Secretary-General of the United Nations concerning article 44 (6) (A) and 46 (13) and (14).

Attach texts

Notification to the Secretary-General of the United Nations, is attached.

If available, please attach the text in any (other) official language of the United Nations (Arabic, Chinese, Spanish, French, English or Russian).

Please provide examples of the application. ☐

Example 1:

In September 2014, the Public Ministry filed a request for extradition to the Supreme Court of Justice in relation to an Honduran person in another country on charges of Fraud based on the Extradition Treaty between the Republic of Honduras and the United States of America in attention the following actions:

The facts have the origin in the month of December of 2011, when a higher education institute in the country, offered selling bonds with which the Government of Honduras had to pay a certain debt owed to it. A social security institute, through its Director, showed interest in the offer, for that purpose, the Head of the Finance Division of the institute contacted the Executive Secretary of Administration and Finance of the higher education institution, suggested to perform the operation sale of bonds using not only the broker authorized by the National Banking and Insurance Commission (CNBS), but also to include in the operation an additional broker or commissioner, justifying that the higher education institution would benefit with a lower discount in relation to the sale, which is contradictory because

the transaction would generate a higher cost for having to pay two commissions instead of one, which is what the financial law establishes.

According to the investigation findings it was learned that the additional broker was not a company that was authorized by the CNBS as a go between for stocks or potions and none of its partners is accredited as a stock exchange broker in the country, so that the person requested in extradition, as General Manager of that trading company, acted to the detriment of the Social Security Institute, since pretending to be an authorized financial intermediary in collaboration with the Chief of the Finance Division of the Social Security Institute carried out commercial negotiations, using cunning and deception, offering the higher education institution, by letters dated December 23, 2011 and August 20, 2012, its brokering in the sale of security values in the secondary market of the State, suggesting that in case of acceptance an agreement should signed with the company as an authorized intermediary, managing to commit an action without the knowledge or consent in this case of the members of the Investments Committee of the Social Security Institute, using that mechanism to undermine the assets of the State and third parties by fraud on the Social Security Institute.

After several months of waiting for the relevant decision by the requested State, the accused person presented himself/herself voluntarily before the competent court.

Example 2:

In November and December 2014, the Public Ministry filed a request for extradition to the Supreme Court of Justice in connection with a Honduran person in another country and a foreigner in its own country, respectively for the crime of Money Laundering based on Convention on Extradition, signed in Montevideo, Uruguay in 1933, in response to the following actions:

The criminal actions that motivated the exercise occurred on November 27, 2011, on January 4, 2012, March 19, 2012, on March 29, 2012 and April 9, 2012. Dates in which a company in which the accused person is a member, received several checks as bribery (kick-backs) that were drawn from an account opened in a bank in Honduras on behalf of another company. All of these were then deposited by the accused person in another account opened in the same bank in the name of his/her own company. This money was subsequently transferred to public officials as beneficiaries of bribery (kick-

backs) through intermediate persons with checks that had a total value of more than five hundred thousand dollars of the United States of America.

The results of the preliminary investigation indicate that the person sought for extradition, through his/her Trading Company, was able to legalize funds of an illicit origin that were given as bribes (kick-backs) among others, to the Executive Director of a State institution, by another commercial company for them to expedite payments that the State institution had to make to this latter company, owned by a relative of the person concerned, as stipulated in the signed contract, as that company was the winner of the Award of a Public Tender for the procurement of professional services.

According to investigations performed, the foreign person sought for extradition acted as an intermediary for some of those transfers, and these amounts were delivered to one of the officials involved, these add up to more than thirty-five thousand dollars.

After several months of waiting, the Honduran person is using the funds, in the requested State, for extradition not to be granted. As for the application of the foreign person, in spite of the legal backing, the requested State has favored the nationality of the person sought and, under the principle *aut dedere aut judicare*, has opened the cause for trial in the case begun in Honduras.

178. Paragraph 7 of Article 44

7. States Parties that do not make extradition conditional on the existence of a treaty shall recognize offences to which this Article applies as extraditable offences between themselves.

Is your country in compliance with this provision? (Check one answer.)

Not applicable, since Honduras does make extradition conditional on the existence of a treaty.

Please provide examples of the application (please inform on recent extradition cases between your Country and other Party States for crimes identify according to the Convention).

Honduras did not use the UNCAC as a legal basis for the extradition requests.

179. Paragraph 8 of Article 44 ☐

8. Extradition shall be subject to the conditions provided for by the domestic law of the requested State Party or by applicable extradition treaties, including, inter alia, conditions in relation to the minimum penalty requirement for extradition and the grounds upon which the requested State Party may refuse extradition.

Is your country in compliance with this provision? (Check one answer.)

(Y) Yes

(P) Yes, in part

(N) No

Yes, the State of Honduras includes in its domestic legislation a minimum penalty requirement to extradite foreigners in Article 10 of the Criminal Code. In view of the constitutional reform of Article 102 relating to the extradition of nationals, the requirement of minimum penalty would also cover these.

At the same time the treaties and multilateral and bilateral agreements on extradition define the conditions under which these processes are subject. If the Convention on Extradition of Montevideo in 1933, in its Article I enumerates the circumstances by which extradition proceeds. Likewise, in the Extradition Treaty between the Republic of Honduras and the Kingdom of Spain, in its Article 3, Number 1, establishing the crimes giving rise to extradition.

With regard to the reasons to deny it, in the Constitution of the Republic Articles 101 and 102 provide that extradition cannot be granted for political crimes and misdemeanors.

In addition, In the Montevideo Extradition Convention of 1933, in its Article III, states the exceptions to the obligation of extradition, and the extradition treaty between the Republic of Honduras and the Kingdom of Spain, in its Article 4, provides that extradition for crimes considered political or related shall not be granted with crimes of this nature, while in Article 5 of that same Treaty the reasons are indicated for mandatory refusal of extradition.

Regarding the extradition of persons sentenced concerning the penalty to be met, the extradition treaty between the Republic of Honduras and the Kingdom of Spain, in its Article 3, paragraph 2, states that it shall be granted in the event that at least six months of sentence are pending.

Please cite the applicable measure(s):, including internal laws and other pertinent conditions.

Please cite the text(s)

CONSTITUTION OF THE REPUBLIC contained in Decree No 131-1982.
Articles 101 and 102.

CRIMINAL CODE contained in Decree No. 144-1983. BOOK I. GENERAL
PART. TITLE I. CRIMINAL LAW ENFORCEMENT Article 10.

MONTEVIDEO CONVENTION ON EXTRADITION of 1933. Article I
literal b) and III

MONTEVIDEO CONVENTION ON EXTRADITION 1933. Article I.

EXTRADITION TREATY BETWEEN THE REPUBLIC OF HONDURAS
AND THE KINGDOM OF SPAIN. Articles. 3 to 5.

Please attach the text(s)

CONSTITUTION OF THE REPUBLIC (1982)

Article 101-. [...] The State shall **not authorize** the extradition of prisoners
accused of **related political and common crimes**.

Article 102.- **In no event shall a Honduran be extradited for related
political and common crimes.** [...]

CRIMINAL CODE (1983)

Article 10.- The extradition of foreigners may only be granted under Law or
Treaty, for common crimes that deserve no lesser penalty of one (1) year of
imprisonment; and never for political offences whether as a result of these a
common crime is proven.

MONTEVIDEO CONVENTION ON EXTRADITION (1933)

Article I: Each of the Signatory States in accordance with the provisions of
this Convention, are obliged to deliver to either of the other states that require
them, individuals who are in its territory and have been charged or sentenced,
provided that the following circumstances take place: [...] b) That the act for
which extradition is sought constitutes a crime and is punishable under the
laws of the requesting State and that of the required State by the minimum
sentence of one year imprisonment.

Article III: The State shall not be obliged to grant extradition: a) When the
prosecution or punishment are prescribed by the laws of the requesting and

required State prior to the arrest of the accused person. b) When the accused has served his sentence in the country of the crime or when he or she has been amnestied or pardoned. c) When the accused has been or is being prosecuted in the requested State for the act with which he is charged and on which the extradition request is based. d) When the accused on which the extradition request is founded. d) When the accused must appear before any court or tribunal with exception of the requesting State, not taking into consideration the military courts. e) In the case of political crimes or those that are related. The attack on the person of the Head of State or his family shall not be deemed political crime. f) In the case purely military or crimes against religion.

EXTRADITION TREATY BETWEEN THE REPUBLIC OF HONDURAS AND THE KINGDOM OF SPAIN.

Article 3.

1.- For the purposes of this Treaty extradition applies to crimes that the laws of both Contracting Parties, may be punishable in any degree of execution or involvement with imprisonment for a maximum period of at least one year, or a more severe penalty.

2.- If the request for extradition relates to a convicted person to a term of imprisonment by a court in the requesting Party imposed for an offence giving rise to extradition, this shall be granted in the case that at least six months of sentence are remaining.

Article 4.-

1.- Extradition shall not be granted for crimes regarded as political or related crimes of this nature. The mere allegation of a political purpose or motive in the commission of an offence shall not qualify itself as a political crime. For the purposes of this Agreement, in no case shall crimes be considered political: a) The attempt on the life of a Head of State or Government or a member of his family. b) Acts of terrorism, c) War crimes and those committed against the peace and security of mankind.

2.- Regarding subparagraph (b) number 1 of this Article, a crime shall not be considered as a political, as an offence connected with a political crime or a crime inspired by political motives: a) The attacks against the life, physical integrity or liberty of persons entitled to international protection, including diplomatic agents. b) Any serious act of violence that is directed against the

life, physical integrity or freedom of persons. c) Crimes involving kidnapping, hostage-taking or arbitrary abduction. d) Crimes involving the use of bombs, grenades, rockets, fire arms, letters or packages with hidden explosives, in cases where such use represents a danger for the people. e) Any serious act against property, when the event has created a danger to the people. f) The conduct of any person who contributes to the commitment, by a group of persons acting with a common goal of the crimes mentioned above, even if that person has not taken part in the material execution of the crime or crimes concerned; this contribution has been deemed intentional and with full knowledge of the aim and general criminal activity of the group, of the intention of the group that commits the crime or crimes in question. g) The attempt to commit some of the crimes covered by subparagraphs a), b), c), d) and e) previously stated or the participation in any of its forms of a person committing or attempting to commit such crimes.

Article 5.-

1.- Extradition shall not be granted in any of the following circumstances: a) If the person whose extradition is requested is under criminal prosecution or has been tried and finally acquitted or convicted in the requested Party for the committed offence for which extradition is requested. b) If, under the law of either Contracting Party, the person whose extradition is sought is immune from prosecution or punishment for any reason, including the prescription of punishment or prosecution. c) If the offence for which extradition is requested is an offence under military law but not under ordinary criminal law. d) If the person whose extradition is sought has been convicted or might be tried or sentenced in the requesting Party by an extraordinary or special tribunal. For the purposes of this section a constitutionally established and constituted tribunal shall not be considered a constitutionally established and constituted tribunal, shall not be considered an extraordinary or special tribunal.

2.- Extradition shall not be granted if the requested Party had reasonable grounds to believe that the extradition request was made for the purpose of prosecuting or punishing the person claimed because of his race, religion, ethnicity, gender, nationality, or political opinion or that the situation can be aggravated it on those grounds.

If available, please attach the text in any (other) official language of the United Nations (Arabic, Chinese, Spanish, French, English or Russian).

Please provide examples of implementation.

Of those requests sent by Honduras between 2014 and 2015, in one case, although the competent authority decided that the application was sufficiently supported, was denied in view of the nationality of the person sought, so that the requested State on the principle *aut dedere aut judicare* decided to open the case in that country to hear the case initiated in Honduras.

Please provide information on conditions and grounds upon which extradition requests were refused.

See explanation given in the supplied example.

180. Paragraph 9 of Article 44

9. States Parties shall, subject to their domestic law, endeavor to expedite extradition procedures and to simplify evidentiary requirements relating thereto in respect of any offence to which this Article applies.

Is your country in compliance with this provision? (Check one answer.)

(Y) Yes

(Y) Yes, in part

(N) No

Yes. Honduras has a procedure approved by the Supreme Court of Justice through an Court Ruling date June 10, 2013, in which in addition to emphasizing the guarantees and fundamental rights and the general principles that should govern the procedure of extradition, seeks that it be expedited.

Although the general procedure is contained in the previously noted Court Ruling, there are other treaties which also include simplified procedures such as Extradition Treaty between the Republic of Honduras and the Kingdom of Spain in its Article 12, which refers to the procedure.

Please cite the applicable measure(s):

Please cite the text(s)

RULING ISSUED BY THE SUPREME COURT OF JUSTICE OF
HONDURAS, June 10, 2013. Second ordinal.

EXTRADITION TREATY BETWEEN THE REPUBLIC OF HONDURAS
AND THE KINGDOM OF SPAIN. Article12.

Please attach the text(s)

THE RULING OF THE SUPREME COURT OF JUSTICE, of June 10, 2013.

SECOND.- In the process of the Extradition guarantee shall be given for due process, the right to a second hearing, right to the material and technical defense as well as the gratuity of the latter, respect for physical, psychological and moral integrity of the aggrieved party(ies), the right to equality, to remain silent, **to receive a reply in a reasonable time** and other rights and guarantees established in the Constitution, Treaties and current Laws. In the designated hearings, the assigned Natural Judge will also be governed by the principles of immediacy, orality, contradiction and concentration.

EXTRADITION TREATY BETWEEN THE REPUBLIC OF HONDURAS AND THE KINGDOM OF SPAIN

Article 12.- If within the law, the requested Party may grant extradition once it has received a request for provisional arrest, provided that the person sought expressly agrees in writing to the competent authority expressly agreeing in writing to the competent Authority after being advised personally that he or she has the right to a formal extradition proceeding notwithstanding the provisions of Article 17 of this Treaty.

If available, please attach the text in any (other) official language of the United Nations (Arabic, Chinese, Spanish, French, English or Russian).

Please provide examples of implementation.

Although it is not yet in force, the Central American Treaty Concerning the Arrest Warrant and Simplified Extradition aims to adopt immediate measures and procedures to permit detention and facilitate the delivery of persons who are within the territory of any of the State Parties, for processing or execution of sentence, based on the objectives of Democratic Security model designed to strengthen the bonds of cooperation, coordination, harmonization and convergence of security policies in the fight against crime and all threats to democratic security.

181. Paragraph 10 of Article 44

10. Subject to the provisions of its domestic law and its extradition treaties, the requested State Party may, upon being satisfied that the circumstances so warrant and are urgent and at the request of the requesting State Party, take a person whose extradition is sought and who is present in its territory into custody or take other

appropriate measures to ensure his or her presence at extradition proceedings.

Is your country in compliance with this provision? (Check one answer.)

(Y) Yes

(Y) Yes, in part

(N) No

Yes. Extradition Treaties ratified by Honduras foresee that in case of urgency the Requesting State may request the provisional arrest of the person sought pending the presentation of the extradition request, when there is an arrest warrant issued against him or her and a timely extradition is offered. Such is the case of the Convention on extradition of Montevideo in 1933, in Article X and the Extradition Treaty between the Republic of Honduras and the Kingdom of Spain, in its Article 10.

Meanwhile domestic law establishing that this procedure can only may be done where formal request for extradition is made, such as is set in the agreement by the Supreme Court of Justice on June 10, 2013, in its fourth ordinal.

However, there is no written procedure establishing how to make the arrest in these cases, but it is possible to request it on the basis of the treaties and to proceed with the application for interim measures which are designed to ensure the efficacy of the procedure, ensuring the presence the person extradited. In any case, if a State requests preventive custody, as established by the extradition treaties, any liability arising from the fact of a provisional detention will be borne by the requesting State.

Regarding INTERPOL, similar to the above, it can proceed to the detention of the person based on international arrest warrants circulated through INTERPOL known as bulletins or red notifications.

Please cite the applicable measure(s):

Please cite the text(s)

MONTEVIDEO CONVENTION ON EXTRADITION OF 1933. Article X.

EXTRADITION TREATY BETWEEN THE REPUBLIC OF HONDURAS AND THE KINGDOM OF SPAIN. Article 10.

RULING ISSUED BY THE SUPREME COURT OF JUSTICE JUNE 10,

2013. Ordinal 4.

Please attach the text(s)

Montevideo Convention on Extradition of 1933

Article X.- The requesting State may request, by any means of communication, **provisional or preventive detention** of an individual provided there is at least an arrest warrant issued against him and offers timely request of extradition. The requested State shall order the immediate arrest of the accused. If, within a maximum period of two months from the date notified to the requesting State of the arrest of the individual, the extradition request is not formalized, the detainee must be released and may not again be requested his extradition but as established by Article V. The liability that may arise from the provisional or preventive detention pertains only to the requesting State.

Extradition Treaty between the Republic of Honduras and the Kingdom of Spain

Article 10:

1. In case of urgency the requesting Party may request that for the provisional arrest of the person sought pending the presentation of the extradition request. The request for provisional arrest shall be transmitted to the appropriate Authorities of the requested Party either through diplomatic channels or directly by post or telegraph or by any other means providing written proof or accepted by the requested Party.
2. The request for provisional arrest shall contain a description of the person sought, indicating that his extradition will be requested; a statement that there are some of the documents referred to in Article 9 authorizing the apprehension of the person; a statement of the punishment that can be imposed or has been imposed for the offence, including the time remaining to be served, and a short description of the conduct constituting the alleged offence.
3. The requested Party shall decide on the request in accordance with its law and communicate its decision promptly to the requesting Party.
4. The person arrested upon such an application will be released if the requesting party does not submit the request for extradition, accompanied by the documents listed in Article 9, within sixty days from the date of arrest.

5. The release of the person, in accordance with the provisions of the preceding paragraph shall not prevent a subsequent arrest nor that actions be undertaken for extradition if the request for extradition and supporting documentation are subsequently received.

Court Ruling of June 10, 2013

FOURTH.- Once the requesting State **has sent extradition request**, the designated Natural Judge in the first instance, examines the request and, if appropriate, by reasoned order, orders the **arrest or capture** of the person sought, once apprehended, will be made known in a clear and precise manner of the content of the extradition request by the requesting State, and all the rights that the Constitution of the Republic, the treaties or international conventions and laws he enjoys, then the Natural Judge appointed shall issue the provisional arrest for the maximum set in the relevant treaty, not regarding the delays caused by improper actions of defense, to be computed within the said period to the aforementioned detention.

If available, please attach the text in any (other) official language of the United Nations (Arabic, Chinese, Spanish, French, English or Russian).

Please provide examples of implementation.

To date, detention for extradition has been made by conducting formal application however this emergency procedure has not yet been implemented, thus, Honduras has requested the extradition of persons based on a notification via INTERPOL in two cases with Colombia and one with Spain.

If applicable and available, please provide information on recent court or other cases in which a person whose extradition was sought and who was present in your territory has been taken into custody and cases in which other appropriate measures were taken to ensure his or her presence at extradition proceedings (please describe those measures):

There are no cases at the moment, but it is technically feasible to give positive response to the situations described.

182. Paragraph 11 of Article 44

11. A State Party in whose territory an alleged offender is found, if it does not extradite such person in respect of an offence to which this Article applies solely on

the ground that he or she is one of its nationals, shall, at the request of the State Party seeking extradition, be obliged to submit the case without undue delay to its competent authorities for the purpose of prosecution. Those authorities shall take their decision and conduct their proceedings in the same manner as in the case of any other offence of a grave nature under the domestic law of that State Party. The States Parties concerned shall cooperate with each other, in particular on procedural and evidentiary aspects, to ensure the efficiency of such prosecution.

Is your country in compliance with this provision? (Check one answer.)

(Y) Yes

(Y) Yes, in part

(N) No

Yes. The State of Honduras, as mentioned above, introduced a reform in 2012 to Article 102 of the Constitution of the Republic, where the extradition of Hondurans is prohibited, with a few exceptions (traffic in narcotic drugs, terrorism and organized crime). If the crime for which extradition is requested is not contemplated among such exceptions, the Criminal Code in Article 5 Number 2 established that the Honduran courts are those whom will hear of crimes committed abroad when the accused is present in Honduras and being Honduran, his or her extradition is requested.

Please cite and summarize the applicable practice(s) or measure(s):

Please cite the text(s)

CONSTITUTION OF THE REPUBLIC contained in Decree No 131-1982.
Article 102

CRIMINAL CODE contained in Decree No. 144-1983 Article 5 Number 2.

Please attach the text(s)

CONSTITUTION OF THE REPUBLIC (1982)

Article 102. **No Honduran may be expatriated or handed over by the authorities to a foreign State.** Exceptions to this provision are in cases related to crimes of drug trafficking in all its types, terrorism and other illicit organized crime and where there exists an extradition agreement or convention with the requesting country. In no event shall a Honduran be extradited for political and related misdemeanors.

CRIMINAL CODE (1983)

Article 5. Honduran courts shall hear, also of crimes committed abroad when the accused is in Honduras and some of the following circumstances concur:[...] 2. **If the accused is Honduran, and his or her extradition** is requested by the State in whose territory the crime was committed.

If available, please attach the text in any (other) official language of the United Nations (Arabic, Chinese, Spanish, French, English or Russian).

Please provide examples of implementation.

To date there has been requests for cases of corruption and related crimes, in which the extradition of a national is requested.

If available, please provide information on recent court or other cases submitted for prosecution by your authorities (statistics, types of cases, outcomes). Please provide per annum figures, as available.

This type of statistics are not available.

183. Paragraph 12 of Article 44

12. Whenever a State Party is permitted under its domestic law to extradite or otherwise surrender one of its nationals only upon the condition that the person will be returned to that State Party to serve the sentence imposed as a result of the trial or proceedings for which the extradition or surrender of the person was sought and that State Party and the State Party seeking the extradition of the person agree with this option and other terms that they may deem appropriate, such conditional extradition or surrender shall be sufficient to discharge the obligation set forth in paragraph 11 of this Article

Is your country in compliance with this provision? (Check one answer.)

(Y) Yes

(Y) Yes, in part

(N) No

No. Article 102 of the Constitution of the Republic prohibits the extradition of Hondurans and therefore conditioned delivery of national would not proceed not, unless it is established in an Extradition Treaty or Convention.

Indicate the actions your country has done to date to implement the provision under review:

The Supreme Court of Justice has prepared and submitted to the National Congress a draft Extradition Law.

Briefly describe the measures or actions (and deadlines) that domestic or other authorities should adopt or take, to ensure the implementation of the provision under review:

National Congress should proceed to discuss and approve the draft Extradition Law in the next 12 months.

184. Paragraph 13 of Article 44

13. If extradition, sought for purposes of enforcing a sentence, is refused because the person sought is a national of the requested State Party, the requested State Party shall, if its domestic law so permits and in conformity with the requirements of such law, upon application of the requesting State Party, consider the enforcement of the sentence imposed under the domestic law of the requesting State Party or the remainder thereof.

Is your country in compliance with this provision? (Check one answer.)

(Y) Yes

(Y) Yes, in part

(N) No

Yes. Honduras is Party State of several treaties relating to the transfer of sentenced persons, so yes it would be appropriate that the person of Honduran nationality sentenced in another State, prior to the fulfillment of the requirements laid down in those treaties, can access complying with the punishment in Honduras.

Please cite the applicable measure(s):

Please cite the text(s)

CONVENTION ON TRANSFER OF PERSONS THAT HAVE BEEN SENTENCED which entered into force for Honduras on March 9, 2009.

TREATY ON THE TRANSFER OF PERSONS FOUND GUILTY, BETWEEN THE REPUBLIC OF HONDURAS AND THE KINGDOM OF SPAIN, which entered into force on April 30, 2001.

TREATY BETWEEN THE GOVERNMENT OF HONDURAS AND THE MEXICAN UNITED STATES, ON EXECUTION OF CRIMINAL SENTENCES, which entered into force on April 17, 2004

Please attach the text(s)

The texts of the conventions and treaties indicated above are attached.

If available, please attach the text in any (other) official language of the United Nations (Arabic, Chinese, Spanish, French, English or Russian).

Please provide examples of implementation.

There are no examples of this type.

If available, please provide information on recent court or other cases submitted for prosecution by your authorities has been executed such as has been describe in the provisions under review.

There is no information available.

185. Paragraph 14 of Article 44

14. Any person regarding whom proceedings are being carried out in connection with any of the offences to which this Article applies shall be guaranteed fair treatment at all stages of the proceedings, including enjoyment of all the rights and guarantees provided by the domestic law of the State Party in the territory of which that person is present.

Is your country in compliance with this provision? (Check one answer.)

(Y) Yes

(Y) Yes, in part

(N) No

Yes. In Honduras it is anticipated that the person subject to extradition proceedings will enjoy respect of his or her human rights, particularly those relating to judicial protection, as expressly stated in the Minutes of Agreements approved by the Supreme Court of Justice, in whose **reasoning** states that it is intended to emphasize the guarantees and fundamental rights and the general principles that should govern the extradition procedure, in order to assist with due process, as well as the duties, obligations, rights and guarantees that those subjects involved in the process will be, in accordance with applicable regulations and treaties on this matter signed with other States.

Also, in the Constitution of the Republic a series of rights are established, relating to judicial protection, which are in line with the major treaties on human rights which Honduras is a party to and, in some cases reaffirm and extend rights already recognized in the Constitution.

Please cite and attach the applicable measures:

Please cite the text(s)

CONSTITUTION OF THE REPUBLIC contained in Decree No 131-1982.
CHAPTER II. INDIVIDUAL RIGHTS. Articles 82 to 98.

MINUTES OF AGREEMENTS OF THE SUPREME COURT OF JUSTICE
on June 10, 2013. Ordinals First, Second and Third.

Please attach the text(s)

CONSTITUTION OF THE REPUBLIC (1982)

Article 82. The right of defense is inviolable. The inhabitants of the Republic have free access to the courts to exercise their actions as indicated by law.

Article 83. The State must appoint attorneys for the defense of the poor and protect the persons and interests of minors and the disabled. They shall provide legal assistance and represent them judicially in defense of individual freedom and other rights.

Article 84. No one shall be arrested or detained except by written order of a competent authority, issued with the legal formalities and for reasons previously established by law.

However, the offender may be apprehended *infraganti* by any person for the sole purpose of surrendering him or her to the authorities.

The arrested or detained must be informed immediately and clearly of his or her rights and the acts alleged against him or her; furthermore, the authority must allow him or her to communicate his or her arrest to a relative or person of their choice.

Article 85. No person may be arrested or detained except in places determined by law.

Article 86. Every person on trial, who is being detained has the right to remain separate from those who have been convicted by a court decision.

Article 87. Prisons are establishments of security and social defense. The rehabilitation of the detained and his or her preparation for work shall be provided.

Article 88. No violence or coercion of any kind shall be exercised against people to force them to testify.

Nobody can be forced to declares regarding criminal, disciplinary or police matters, to testify against him or herself, his or her spouse or domestic partner, nor relatives within the fourth degree of consanguinity or second degree of relationship.

The only evidence will be the declaration given before a competent judge.

All statements obtained in violation of any of these provisions is void and those responsible shall incur the penalties established by law.

Article 89. Every person is innocent until his or her responsibility be declared by competent authority.

Article 90. No one may be tried except by competent judge or court with the formalities, rights and guarantees that the law establishes.

Military jurisdiction for crimes and misdemeanors of a military nature is recognized. In no case, shall the military courts exercise jurisdiction over persons who are not in active service in the armed forces.

Article 91. When in a crime or misdemeanor of military order, where a civilian or discharged military person is involved, the competent authority of the common law shall hear the case.

Article 92. Formal order of processing may only be decreed where there is supporting evidence of the existence of a reasonable suspicion of a crime and that the accused is a perpetrator or accomplice.

The declaration of prisoner shall be carried out in the same manner.

Article 93. Even with a formal order of processing no person can be taken to a prison or detained in it if they provide sufficient security, in accordance with the law.

Article 94. No penalty shall be imposed without having been heard and convicted in a trial, and only by means of a decision rendered by a court or competent authority has been imposed.

In cases of urgency and other measures of the same nature in civil or labor matters, as well as fines or arrests regarding police matters, the alleged should always be heard.

Article 95. No person shall be punished with crimes not previously established by law, nor be tried again for the same punishable acts in previous prosecutions.

Article 96. The law has no retroactive effect, except in criminal matters when the new Law favors the criminal or prosecuted.

Article 97. No one shall be condemned to do penalties that are degrading, proscriptive and confiscatory.

A sentence of deprivation of liberty in perpetuity is established. The Criminal Law shall determine its application for those crimes committed within serious, offensive and degrading circumstances that may cause distress, denial, anger and disgust in the national community.

Deprivation of liberty sentences for simple crimes and those of accumulated offences are set out under Criminal Law.

Article 98. No person may be detained, arrested or imprisoned for obligations that do not originate from crime or a misdemeanor.

SUPREME COURT OF JUSTICE AGREEMENT MINUTES (2013)

First-Establish with the Judge that knows the procedure to extradite one or more persons, and that each person sought should at all times be treated as innocent, they may not be considered to be guilty, nor present them as such to third parties.

Second.- In the process of the Extradition guarantee shall be given for due process, to the right to a second hearing, the right to a material and technical defense as well as the gratuity of the latter, respect for physical, psychological and moral integrity of the aggrieved party(ies), the right to equality, to remain silent, to receive an answer in a reasonable timeframe and other rights and guarantees established in the Constitution, Treaties and current Laws. In the designated hearings, the assigned Judge will also be governed by the principles of immediacy, orality, contradiction and concentration.

Third.-The claimed subject will be technically assisted by legal counsel of his or her choice, otherwise a public defender will be appointed.

If available, please attach the text in any (other) official language of the United Nations (Arabic, Chinese, Spanish, French, English or Russian).

Please provide examples of implementation, including related court or other cases

There are none in the matter of corruption. However, there are in matters relating to drug trafficking in which due process been respected.

186. Paragraph 15 of Article 44

15. Nothing in this Convention shall be interpreted as imposing an obligation to extradite if the requested State Party has substantial grounds for believing that the request has been made for the purpose of prosecuting or punishing a person on account of that person's sex, race, religion, nationality, ethnic origin or political opinions or that compliance with the request would cause prejudice to that person's position for any one of these reasons.

Is your country in compliance with this provision? (Check one answer.)

(Y) Yes

(Y) Yes, in part

(N) No

Yes. As mentioned above with respect to the grounds for refusal of extradition, the Constitution in articles 101 and 102 establishes that it may not be done for political crimes.

Also, the Convention on Extradition of Montevideo of 1933, exempts the obligation to grant extradition in the case of a political crime, purely military or against religion.

In addition, in the Extradition Treaty between the Republic of Honduras and the Kingdom of Spain, Article 5 prohibits granting the request for extradition because of race, religion, ethnicity, sex, nationality, or political opinions, neither that the situation may be aggravated for those reasons.

Please cite the applicable policy(ies), practice(s) or measure(s):

Please cite the text(s)

CONSTITUTION OF THE REPUBLIC contained in Decree No 131-1982.
CHAPTER II. INDIVIDUAL RIGHTS Articles 101 and 102.

MONTEVIDEO CONVENTION ON EXTRADITION of 1933. Article III, letters e) and f).

EXTRADITION TREATY BETWEEN THE REPUBLIC OF HONDURAS AND THE KINGDOM OF SPAIN. Article 5, Number 2

Please attach the text(s)

CONSTITUTION OF THE REPUBLIC (1982)

CHAPTER II. INDIVIDUAL RIGHTS.

Article 101. See the answer to Paragraph 1 of Article 44.

Article 102. See the answer to Paragraph 1 of Article 44.

CONVENTION ON EXTRADITION OF MONTEVIDEO OF (1933).

Article III. The State shall not be obliged to grant extradition: ..e) In the case of **political crimes** or those that are related. The attack on the person of the Head of State or his family shall not be deemed a political crime. f) In the case of **purely military or crimes against religion**.

EXTRADITION TREATY BETWEEN THE REPUBLIC OF HONDURAS AND THE KINGDOM OF SPAIN.

Article 5

2. Extradition shall not be granted if the requested Party had reasonable grounds, to believe that the extradition request was made for the purpose of prosecuting or punishing the person claimed, because of his or her **race, religion, ethnicity, gender, nationality, or political** opinion or that the situation can be aggravated on those grounds.

If available, please attach the text in any (other) official language of the United Nations (Arabic, Chinese, Spanish, French, English or Russian).

Please provide examples of implementation.

There are no cases of this type.

If applicable and available, please provide information on recent court or other cases where extradition was refused on such grounds.

There are no cases of this type.

187. Paragraph 16 of Article 44

16. States Parties may not refuse a request for extradition on the sole ground that the offence is also considered to involve fiscal matters.

Is your country in compliance with this provision? (Check one answer.)

(Y) Yes

(Y) Yes, in part

(N) No

Yes. In Honduras, it is possible to request the extradition for tax issues, since the Convention on Extradition of Montevideo in its Article 3 does not establish it as causes for refusal of extradition, and more specifically in the Extradition Treaty between the Republic of Honduras and the Kingdom of Spain, Article 3, Number 4, points out that no extradition may be refused when prompted by a crime that involves the infringement of a legal disposition regarding taxes, tariffs, or exchange, or any other provisions of a fiscal nature.

Please cite and attach the applicable measures:

Please cite the text(s)

MONTEVIDEO CONVENTION ON EXTRADITION of 1933. Article 3.

EXTRADITION TREATY BETWEEN THE REPUBLIC OF HONDURAS AND THE KINGDOM OF SPAIN. Article 3. Number 4

Please attach the text(s)

CONVENTION ON EXTRADITION OF MONTEVIDEO (1933)

Article 3.- The requested State shall not be obliged to grant the extradition:

- a) When the criminal action or the penalty, are not allowed according to the laws of the requesting State and of the required, prior to the arrest of the accused individual.
- b) When the accused individual has served his sentence in the country of the crime, or when he or she has been amnestied or pardoned.
- c) When the accused individual has been or is being judged in the requested State by that charge and on which is based the request for extradition.
- d) When the accused individual would have to appear before the Court or the Exceptions Court of the requesting State, not considering these as the courts of military jurisdiction.
- e) In the case of political crimes or those that are related. An attack on the person of the head of State or their relatives, shall be deemed a political crime.
- f) In the case of purely military crimes or against religion.

EXTRADITION TREATY BETWEEN THE REPUBLIC OF HONDURAS AND THE KINGDOM OF SPAIN.

Article 3. [...]

- 4. no extradition may be refused when prompted by a crime that involves the infringement of a legal disposition regarding taxes, tariffs, or exchange, or any other provisions of a fiscal nature.

If available, please attach the text in any (other) official language of the United Nations (Arabic, Chinese, Spanish, French, English or Russian).

Please provide examples of implementation.

There have not been requests involving tax issues.

Please provide information on recent cases in which extradition involving fiscal matters was not refused.

There are no cases of this type.

188. Paragraph 17 of Article 44

17. Before refusing extradition, the requested State Party shall, where appropriate, consult with the requesting State Party to provide it with ample opportunity to present its opinions and to provide information relevant to its allegation.

Is your country in compliance with this provision? (Check one answer.)

(Y) Yes

(Y) Yes, in part

(N) No

Yes. In Honduras, the requesting Party is allowed to intervene in the extradition proceedings according to what is established in the Approved Minutes of the Supreme Court of Justice in its third ordinal and also points out the opportunities they will have to present their views during the procedure described in the fifth and sixth ordinals of the same Approved Minutes.

Please cite the applicable measure(s)

Please cite the text(s)

AGREED MINUTES of June 13, 2013 approved by the Supreme Court of Justice. Third, Fifth and Sixth Ordinals.

Please attach texts

SUPREME COURT OF JUSTICE AGREEMENT MINUTES (2013)

Third.-The requesting State may have their persons bearing their power of attorney admitted during the extradition proceedings.

Fifth.- Within the period of the provisional detention, the designated Judge shall set a hearing for the **parties involved to proceed** to the presentation and removal of evidence, the Judge shall decide only with the evidence presented and with witnesses who are present [...].

Sixth.- [...]. In the writ of admission **the other party shall be granted three days to answer the grievances.**

The day after the last notification of the order that grievances are deemed to be answered, the record shall be submitted before the plenary of the Supreme Court of Justice, which will confirm, revoke or amend the contested decision within three days. No appeal shall proceed against the decision of the highest Court.

If available, please attach the text in any (other) official language of the United Nations (Arabic, Chinese, Spanish, French, English or Russian).

Please provide examples of implementation.

There are no cases of extradition on corruption, although there is in matters of drug trafficking.

Please provide information on recent court or other cases and illustrations of relevant exchanges between your country and other States.

There are no cases of this type.

189. Paragraph 18 of Article 44

18. States Parties shall seek to conclude bilateral and multilateral agreements or arrangements to carry out or to enhance the effectiveness of extradition.

Is your country in compliance with this provision? (Check one answer.)

(Y) Yes

(Y) Yes, in part

(N) No

Yes. Additionally Honduras has signed two bilateral and two multilateral extradition treaties, and is currently negotiating treaties with Peru and Mexico.

Indicate and attach any bilateral or multilateral agreement or arrangement on extradition that has not already been attached in previous answers on this article

Please cite the text(s)

Bilateral treaties

TREATY OF EXTRADITION BETWEEN HONDURAS AND THE UNITED STATES OF AMERICA. Extradition Treaty, on January 15, 1909.

TREATY OF EXTRADITION BETWEEN THE KINGDOM OF SPAIN AND THE REPUBLIC OF HONDURAS which came into force on 24 May 2002.

Please attach the text(s)

The texts of the following Treaties or Conventions are attached:

TREATY OF EXTRADITION BETWEEN HONDURAS AND THE UNITED STATES OF AMERICA.

TREATY ON EXTRADITION BETWEEN THE KINGDOM OF SPAIN AND THE REPUBLIC OF HONDURAS.

If available, please attach the text in any (other) official language of the United Nations (Arabic, Chinese, Spanish, French, English or Russian).

☐ **Please provide examples of the application.** ☐

In a case of 2014, the treaty with the United States was used as a legal basis for the extradition.

190. Technical Assistance

The following questions on technical assistance relate to the Article under review in its entirety.

Do you require technical assistance for the (full) implementation of the Article under review? (Check one answer)

(Y) Yes

(N) No

No ☐

45. Transfer of sentenced persons

191. Article 45 ☐

States Parties may consider the possibility of concluding bilateral or multilateral agreements or arrangements on the transfer to their territory of all persons who have been sentenced to imprisonment or other deprivation of liberty for offences established in accordance with this Convention to order to fulfill their sentences

there. ☐

Is your country in compliance with this provision? (Check one answer.)

☐ (Y) Yes (Y) Yes, in part (N) No

Yes. Honduras has signed several bilateral and multilateral treaties on the transfer of people who were sentenced to imprisonment or other forms of deprivation of freedom to comply their penalty in the country of conviction. ☐

Please cite and attach applicable mutual legal assistance laws and arrangements, including existing bilateral or multilateral agreement(s).

Please cite the text(s)

CONVENTION ON TRANSFER OF PERSONS THAT HAVE BEEN SENTENCED which entered into force for Honduras on March 9, 2009.

TREATY ON THE TRANSFER OF PERSONS FOUND GUILTY, BETWEEN THE REPUBLIC OF HONDURAS AND THE KINGDOM OF SPAIN, which entered into force on April 30, 2001.

TREATY BETWEEN THE GOVERNMENTS OF THE MEXICAN UNITED STATES AND THE GOVERNMENT OF THE REPUBLIC OF HONDURAS ON EXECUTION OF CRIMINAL SENTENCES, which entered into force on April 17, 2004.

Please attach the texts

Attach are the texts of the aforementioned treaties.

If available, please attach the text in any (other) official language of the United Nations (Arabic, Chinese, Spanish, French, English or Russian). ☐

Please provide examples of the application. ☐

According to information provided by the Ministry of Foreign Affairs and International Cooperation files do exist where the development of processes for the transfer of (domestic and foreign) persons convicted of the following offences is satisfied:

1. Embezzlement, misappropriation or other diversion of property by a public official, ☐

2. Abuse of office, ☐
3. Illicit enrichment, ☐
4. Embezzlement of property in the private sector; and ☐
5. Laundering of proceeds of crime. ☐

Countries with whom such legal assistance has been done are: Chile, Panama, Spain and the United States. ☐

192. Technical Assistance

The following questions on technical assistance relate to the Article under review in its entirety.

Do you require technical assistance for the (full) implementation of the Article under review? (Check one answer)

(Y) Yes

(N) No

No ☐

46. Mutual legal assistance.

193. Paragraph 1 of Article 46 ☐

1. States Parties shall afford one another the widest measure of mutual legal assistance in investigations, prosecutions and judicial proceedings in relation to the offences covered by this Convention. ☐

Is your country in compliance with this provision? (Check one answer.)☐

(Y) Yes

(Y) Yes, in part

(N) No

Yes. ☐ Honduras declares in its Constitution the respect for International Law and the fulfillment of its international commitments, including the international treaties dealing in both bilateral and multilateral criminal assistance. In addition the Special Law against Money Laundering allows granting more extensive cooperation regarding investigations, prosecutions and judicial proceedings related to this crime. ☐

Please summarize applicable mutual legal assistance laws and arrangements, including existing bilateral or multilateral agreement(s).

Please cite the text(s)

CONSTITUTION OF THE REPUBLIC contained in Decree No 131-1982. CHAPTER III OF THE TREATIES. Articles 15, 16 and 18. □

SPECIAL LAW AGAINST MONEY LAUNDERING contained in Decree No. 144 -2014. Articles 79, 80, 81 and 82.

Major Treaties or Multilateral or Bilateral Conventions on mutual legal assistance.

THE INTER-AMERICAN CONVENTION ON MUTUAL ASSISTANCE IN CRIMINAL MATTERS, 1992. □

OPTIONAL PROTOCOL TO THE INTER-AMERICAN CONVENTION ON MUTUAL ASSISTANCE IN CRIMINAL MATTERS, 1993. □

INTER-AMERICAN CONVENTION ON RECEPTION OF EVIDENCE ABROAD, in 1975. □

TREATY ON MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS BETWEEN THE REPUBLICS OF COSTA RICA, EL SALVADOR, GUATEMALA, HONDURAS, NICARAGUA AND PANAMA (December 18, 1997)

INTER-AMERICAN CONVENTION ON ROGATORY AND ROGATORY LETTERS (March 22, 1979)

INTER-AMERICAN CONVENTION ON RECEPTION OF EVIDENCE ABROAD (March 22, 1979)

TREATY ON MUTUAL LEGAL ASSISTANCE ON CRIMINAL MATTERS BETWEEN THE GOVERNMENT OF THE REPUBLIC OF HONDURAS AND THE GOVERNMENT OF THE UNITED STATES OF MEXICO (December 30, 2007).

Please attach the text(s)

CONSTITUTION OF THE REPUBLIC (1983)

Article 15.- Honduras endorses the principles and practices of international law which tend to human solidarity, regarding the self-determination of

peoples, non-intervention and the strengthening of universal peace and democracy. Honduras proclaims as inevitable the validity and obligatory execution of arbitral and judicial awards of international character. "

Article 16.- Once international treaties signed by Honduras with other States enter into force, they are part of domestic law.

Article 18.- In the event of conflict between the Treaty or Convention and the Law, the first will prevail.

SPECIAL LAW AGAINST MONEY LAUNDERING

Article 79. COOPERATION BETWEEN AUTHORITIES. Authorities in Honduras, where the requirements are met, should cooperate as closely as possible with the authorities of other countries regarding the exchange of information for the investigation and prosecution of money laundering, the crime of front man and with regard to the identification of assets, which can be given precautionary or insurance, confiscation or seizure for the purposes of extradition, mutual legal assistance or any other allowed by national law cooperation.

Article 80. See what is described in Letter b) of Paragraph 1 of Article 42

Article 81. FACULTY OF REQUESTING AND PROVIDING INTERNATIONAL ASSISTANCE. Competent jurisdictional bodies, the Public Ministry, the Central Bank of Honduras (BCH), the National Banking and Insurance Commission (CNBS) and other relevant authorities should cooperate with their counterparts in other countries to take appropriate measures in order to request and provide assistance in matters relating to the prevention, investigation and prosecution of money laundering, and other related crimes, according to this Law, Memoranda of Understanding, Conventions, Treaties and Agreements signed and ratified by Honduras crimes, according to the limits its powers and on the principle of reciprocity.

Applications must be

Article 82.- PROCEEDINGS WHICH MAY REQUESTED. The proceedings that may be requested or provided to the competent authorities of other countries through mutual legal assistance related to offences under this Act and other applicable, must include in particular:

1. Collect evidence and take statements from persons;

2. Assisting in making available to the judicial authorities of the requesting State the detainees, volunteer witnesses and other people providing statements to assist in the conduct of investigations;
3. Notify legal documents;
4. Submit documents;
5. Conduct searches;
6. Conduct searches or seizures;
7. Examine objects and sites;
8. Provide information, evidence and expert reports;
9. Deliver original or certified copies of documents related to the case and even government, bank, financial, corporate, business or commercial documentation;
10. Identify, detect and locate assets in order to seize them and / or incurring forfeiture;
11. Run precautionary, provisional or assurance measures; and,
12. Any other form of mutual legal assistance allowed by the law, which does not conflict with the domestic laws of Honduras or under the procedure established by law.

The texts of the following Treaties or Conventions are attached:

THE INTER-AMERICAN CONVENTION ON MUTUAL ASSISTANCE IN CRIMINAL MATTERS, 1992. □

OPTIONAL PROTOCOL TO THE INTER-AMERICAN CONVENTION ON MUTUAL ASSISTANCE IN CRIMINAL MATTERS, 1993. □

INTER-AMERICAN CONVENTION ON RECEPTION OF EVIDENCE ABROAD, in 1975. □

TREATY ON MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS BETWEEN THE REPUBLICS OF COSTA RICA, EL SALVADOR, GUATEMALA, HONDURAS, NICARAGUA AND PANAMA.

INTER-AMERICAN CONVENTION ON ROGATORY LETTERS AND WARRANTS.

INTER-AMERICAN CONVENTION ON RECEPTION OF EVIDENCE ABROAD.

TREATY ON LEGAL MUTUAL ASSISTANCE IN CRIMINAL MATTERS BETWEEN THE GOVERNMENTS OF THE REPUBLIC OF HONDURAS AND THE GOVERNMENT OF THE MEXICAN UNITED STATES.

If available, please attach the text in any (other) official language of the United Nations (Arabic, Chinese, Spanish, French, English or Russian).

194. Paragraph 2 of Article 46

2. Mutual legal assistance shall be afforded to the fullest extent possible under relevant laws, treaties, agreements and arrangements of the requested State Party with respect to investigations, prosecutions and judicial proceedings in relation to the offences for which a legal person may be held liable in accordance with Article 26 of this Convention in the requesting State Party

Is your country in compliance with this provision? (Check one answer)

(Y) Yes

(Y) Yes, in part

(N) No

Yes. Honduras has signed several agreements to strengthen judicial cooperation in criminal matters in general, including cases concerning legal entities.

In this framework of cooperation, in Honduras, it is possible to carry out assistance without the essential requirement of double incrimination, unless actions have to be performed with judicial authorization such as embargo or sequestration of property, inspections, records, and others, that are established in the Treaty to which reference is made.

However, already in relation to actions involving judicial participation, it would be necessary to give the principle of Reciprocal Incrimination, since our Criminal Code prohibits judges from creating criminal matters.

Please cite the applicable measure(s):

Please cite the text(s)

CRIMINAL CODE contained in Decree No. 144 -1983. Article 11.

SPECIAL LAW AGAINST MONEY LAUNDERING contained in Decree No. 144 -2014. Articles 79, 80, 81 and 82.

INTER-AMERICAN CONVENTION ON MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS. Article 5

TREATY ON MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS BETWEEN THE REPUBLICS OF COSTA RICA, EL SALVADOR, GUATEMALA, HONDURAS, NICARAGUA AND PANAMA. Article 2

TREATY ON MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS BETWEEN THE REPUBLIC OF HONDURAS AND THE MEXICAN UNITED STATES. Article 1. [...] 3.

Please attach the text(s)

CRIMINAL CODE (1983)

Article 11. The judicial authorities cannot create any type of criminal matters.

SPECIAL LAW AGAINST MONEY LAUNDERING

Article 79. See what is described in Paragraph 1 of Article 46.

Article 80. See what is described in Paragraph 1 of Article 46.

Article 81. See what is described in Paragraph 1 of Article 46.

Article 82. See what is described in Paragraph 1 of Article 46.

INTER-AMERICAN CONVENTION ON MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS.

Article 5. Assistance will be provided even if the originating act is not punishable according to the law of the requested State. When the request for assistance concerns the following measures: a) seizure and confiscation of assets; and b) inspections and seizures, including house raids and searches, the requested State may not provide assistance if the act giving rise to the request is not punishable under its law.

TREATY ON MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS BETWEEN THE REPUBLICS OF COSTA RICA, EL SALVADOR, GUATEMALA, HONDURAS, NICARAGUA AND

PANAMA.

Article 2. The Contracting States, in accordance with the provisions of this Treaty, shall render legal assistance in criminal matters relating to any crime classified as such in the Requesting State as well as in the Requested State.

TREATY ON MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS BETWEEN THE REPUBLIC OF HONDURAS AND THE MEXICAN UNITED STATES.

Article 1. [...] 3. The legal assistance will be provided regardless of the reason for the investigation, prosecution or proceedings which are brought in the Requesting Party whether or not this is a crime under national law of the Requested Party.

Please provide examples of the application and recent prosecutions or other related nature with

Example 1: Assistance No.140-2014

In June 2014, the Public Ministry, through the Secretariat of State in the Ministry of Human Rights, Justice, Interior and Decentralization, appealed for international legal assistance to Chile, based on the Inter-American Convention on Mutual Assistance in Criminal Matters and the United Nations Convention against Transnational Organized Crime, in connection with a case brought by the Public Ministry against several people considering them responsible for the crimes of abuse of authority, misappropriation of public funds, fraud, bribery, negotiations incompatible with public functions, Crimes against Public Administration and Private Pension Funds and Money Laundering, to the detriment of the Public Administration and The State's economy.

Investigations revealed that a significant amount of public funds of a state institution were embezzled by its Executive Director and others and were taken through various *modus operandi* to different natural and legal persons in and out of Honduras, identifying more than 20 companies and more than 300 persons appearing transferring those resources and obtaining real and personal property of high value.

The application requested the following measures to be taken:

1. Identify the persons charged through birth certificates, type of

employment, economic activity and the personal identification document;

2. Identify and locate movable and immovable property and any other assets and corporate actions; through the pertaining different legal documents
3. Identify and receive testimony or statements by the persons who seem to be linked to the investigation, tenure or possession of the property, among others;
4. Seize, confiscate, secure or detain according to the law of the State of goods that appear linked to the motive;
5. Carry out inspections to commercial registers, individuals, migrants, taxes, vehicles and property in general, that could be useful to prove ownership of the goods under investigation, according to the law of the Requested State,
6. Inspect personal property (vehicles) and property that may result from the process of identifying and locating them in order to ensure their material existence, and take minutes of the inspections that prove necessary;
7. Obtain the documentation of the preceding measures to be used as evidence in criminal proceedings that have been brought forward and those that will be presented later.
8. Authorization was requested so that Honduran Prosecutors could travel to that country to be present at any proceedings that were allowed under the domestic law of the Requested State.

The authorities of the State completed the application in full and the Honduran prosecutors were present at the relevant proceedings.

Example 2:

In November 2014, the Public Ministry, through the Secretariat of State in the Offices of Human Rights, Ministries of Justice, Interior and Decentralization, appealed for international legal assistance to a country in North America, based on the Inter-American Convention on Mutual Assistance in Criminal Matters, in connection with a case brought by the Public Ministry against several people considering them responsible for the crimes of improper Passive Bribery, abuse of Authority, Misappropriation of Public Funds, Fraud, Violation of Duties of Officers and Money Laundering, to the detriment of the Public Administration and the State's Economy.

The people that were charged, while working as a civil servant, organized a structure to commit a crime through a series of " portfolio business" and "facade companies" to carry out a plan of several years to embezzle and defraud the institution for an amount of several million dollars, using part of the funds to purchase property.

The application requested the following measures to be taken:

1. Taking declarations from witnesses
2. Locate, identify and seize assets acquired on behalf of natural persons and legal entities
3. Certify any Migratory Movements
4. Report and document any transfers sent from Honduras
5. Authorize the researcher/s conducting the prosecution to come to Honduras if necessary to declare before a competent judge
6. Provide authorization for Honduran Prosecutors to be present in the proceedings permitted by the law of the requested State

The authorities of the requested State completed the application partially and the Honduran prosecutors were present at the relevant proceedings.

195. Subparagraphs 3 (a) to 3 (i) of Article 46

3. Mutual legal assistance to be afforded in accordance with this Article may be requested for any of the following purposes:

- a) Taking evidence or statements from persons;*
- b) Effecting service of judicial documents;*
- c) Executing searches and seizures, and freezing;*
- d) Examining objects and sites;*
- e) Providing information, evidentiary items and expert evaluations;*
- f) Providing originals or certified copies of relevant documents and records, including government, bank, financial, corporate or business records;*
- g) Identifying or tracing proceeds of crime, property, instrumentalities or other things for evidentiary purposes;*
- h) Facilitating the voluntary appearance of persons in the Requesting State Party;*

- i) *Any other type of assistance that is not contrary to the domestic law of the requested State Party;*

Can your country afford the forms of mutual legal assistance listed in the provision above? (Check one answer)

(Y) Yes

(N) No

Sí. Each and every one of the clauses set by this paragraph may be requested for implementation in Honduras, provided this procurement takes place under the law of this country and should not undermine national sovereignty, because in essence they are contemplated in most treaties relating to mutual legal assistance to which Honduras is a Party.

Please cite the applicable measure(s):

Please cite the text(s)

SPECIAL LAW AGAINST MONEY LAUNDERING contained in Decree No. 144 -2014. Article 82.

Indicate the texts

SPECIAL LAW AGAINST MONEY LAUNDERING

Article 82. See what is described in Paragraph 1 of Article 46.

If available, please attach the text in any (other) official language of the United Nations (Arabic, Chinese, Spanish, French, English or Russian).

Please provide examples of implementation of these measures, including court or other cases in which you have made or received a request for forms of mutual legal assistance listed in the provision under review.

The Public Ministry has made several requests to different countries among which are Canada, USA, France, Colombia, Panama, Guatemala, El Salvador, Mexico, Nicaragua, Costa Rica, Uruguay, Ecuador, Chile.

Among the measures requested were identification and documentation of IP address, information phone records, certified investigated records that relate to people under investigation in Honduras, realization of expert evidence, taking declarations, copies etc.

A list of exhortations, pleads and requests for extradition, transfer of prisoners,

and others provided by the Ministry of Foreign Affairs and International Cooperation is attached.

196. Subparagraphs (j) and (k) of paragraph 3 of Article 46 ☐

3. Mutual legal assistance to be afforded in accordance with this Article may be requested for any of the following purposes:

[...]

j) Identifying, freezing and tracing proceeds of crime in accordance with the provisions of chapter V of this Convention;

k) The recovery of assets, in accordance with the provisions of chapter V of this Convention.

Can your country afford the forms of mutual legal assistance listed in the provision above? (Check one answer)

(Y) Yes

(N) No

Yes. See the provisions of the preceding paragraphs.

Please cite the applicable measure(s):

SPECIAL LAW AGAINST MONEY LAUNDERING contained in Decree No. 144 -2014. Article 82.

Please cite the text(s)

SPECIAL LAW AGAINST MONEY LAUNDERING

Article 82. See what is described in Paragraph 1 of Article 46.

Please attach the text(s)

If available, please attach the text in any (other) official language of the United Nations (Arabic, Chinese, Spanish, French, English or Russian).

Please provide examples of implementation of these measures, including court or other cases in which you have made or received a request for forms of mutual legal assistance listed in the provision under review.

Prosecutors and investigators from the United States coordinate actions in Honduras regarding the case of the Social Security

According to the report "Relevant Facts" of the Public Ministry Office (2015), authorities of this institution met with prosecutors and investigators from the Department of State and Department of Justice of the United States as part of investigations and the process followed in the case of the Honduran Institute of Social Security (IHSS). They are currently several on-going legal assistance procedures with countries in the region including the United States with whom information is shared, for which it was necessary to form a working group between the two countries led in Honduras by the National Fiscal Support Unit (UNAF).

This strengthens the prosecution undertaken by prosecutors in that country around the restriction and final seizure of property and assets that have been identified in the investigations as a product of the IHSS looted resources. So far the UNAF has identified more than 30 properties in the states of Louisiana and Florida. To this are added more than 32 properties have been seized in the country in conjunction with the Special Prosecutor Against Organized Crime.

After this visit a Federal Court based on the information that led investigators and prosecutors managed to sustain for Honduras the provision of financial resources as a result of such seizures and then integrate this money directly to Social Security coffers.

197. Paragraph 4 of Article 46

4. Without prejudice to domestic law, the competent authorities of a State Party may, without prior request, transmit information relating to criminal matters to a competent authority in another State Party where they believe that such information could assist the authority in undertaking or successfully concluding inquiries and criminal proceedings or could result in a request formulated by the latter State Party to this Convention.

**Is it possible for your country to transmit information as described above?
(Check one answer.)**

(Y) Yes

(N) No

Yes. In this regard, particularly in the field of Organized Crime, Honduras has advised other countries several times of measures of investigation that are taking place for certain crimes of which they have some sort of relationship, and at the same time on numerous occasions has requested information to different countries on certain cases related to this matter, and official and non-

official information has been sent in regards to certain cases in common, some of which have been responded positively, in order to work together.

Also applications have been received from other countries, where knowledge is given of some crime related to someone or to a criminal organization, in order to initiate investigations. Additionally in many cases the same information that is sent in requests for legal assistance, it has been decided to send a formal request to the requesting country to be able to initiate investigations in this country.

Please provide and attach the applicable policies or measures:

Please cite the text(s)

None are available

Please attach the text(s)

None are available

If available, please attach the text in any (other) official language of the United Nations (Arabic, Chinese, Spanish, French, English or Russian).

Please provide examples of implementation and related mutual legal assistance and other cases.

Example 1:

On the 30th of October, 2010, seven people of Argentine, Colombian, Panamanian and Guatemalan nationality, were arrested, as they were preparing to board an airline bound for the Republic of Panama with stops in the Republic of Costa Rica, however at the time of the revision of luggage by x-ray machines, the presence of packages that contained inside the amount of **SEVEN MILLION TWO HUNDRED THOUSAND TWO HUNDRED TWENTY-FOUR DOLLARS (\$7,224,000.000)** were detected, in this case a conviction for the crime of **MONEY LAUNDERING** was made, and as a result of investigations that were requested to each of the countries of their origin, it was found that these people were part of a structure of a criminal group. Therefore the conviction against them was reported to these countries, to proceed to the seizure of goods and assets and bank accounts. This was also notified to Canada and to the United States of America so that they could

proceed to the confiscation of their property, since a link was found with those countries in terms of their economic activity.

Example 2:

In another instance the seizure of two (2) suitcases took place containing a large amount of dollars and the arrest of three (3) persons at the Toncontin Airport in the city of Tegucigalpa, who were traveling with another person, who boarded a flight to Panama, carrying another two suitcases containing large amounts of dollars. Therefore the information was immediately brought to the attention of the authorities in charge of the investigation in Panama, who upon arrival of the aforementioned flight proceeded to the detention and seizure of the money.

198. Paragraph 5 of Article 46

5. The transmission of information pursuant to paragraph 4 of this Article shall be without prejudice to inquiries and criminal proceedings in the State of the competent authorities providing the information. The competent authorities receiving the information shall comply with a request that said information remain confidential, even temporarily, or with restriction on its use. However, this shall not prevent the receiving State Party from disclosing in its proceedings information that is exculpatory to an accused person. In such a case, the receiving State Party shall notify the transmitting State Party prior to disclosure and, if so requested, consult with the transmitting State Party. If, in an exceptional case, advance notice is not possible, the receiving State Party shall inform the transmitting State Party of the disclosure without delay.

Is your country in compliance with this provision? (Check one answer.)

(Y) Yes

(Y) Yes, in part

(N) No

Yes. Honduras complies with this provision. In certain cases in which an investigation in this country is being conducted, it has been reported that the proceedings would be sent partially, explaining the reason as is specified by international treaties. This kind of response has been received in certain cases and from certain countries.

Please cite and attach the applicable policies or measures:

Please cite the text(s)

CODE OF CRIMINAL PROCEDURE contained in Decree No. 9-99-E -2002.
ARTICLE 278.

Please attach the texts

CRIMINAL PROCEDURE CODE (2002)

Article 278. Secrecy of investigations. The investigations carried out by the appropriate authorities, will remain as secrets, from all persons not forming part of them, as long as their results are not presented to the jurisdictional courts. The authorities responsible for investigation, will try not to harm the rights of those investigated during Investigations.

Indicated authorities may protect and isolate any element of proof that is found in the place that is being investigated, in order to avoid contamination or destruction.

If available, please attach the text in any (other) official language of the United Nations (Arabic, Chinese, Spanish, French, English or Russian).

Please provide examples of implementation and related mutual legal assistance and other cases.

There are no cases on corruption.

199. Paragraph 8 of Article 46 ☐

8. States Parties shall not decline to render mutual legal assistance pursuant to this Article on the grounds of bank secrecy.

Is your country in compliance with this provision? (Check one answer.)

(Y) Yes

(Y) Yes, in part

(N) No

Yes. Honduran legislation allows both the administrative and the judicial procedure for obtaining financial or banking information in certain cases, provided the requirements within International Law, allow the Honduran authorities to send financial information.

Please cite the applicable measure(s)::

Please cite the text(s)

SPECIAL LAW AGAINST MONEY LAUNDERING. Article 47.

CODE OF CRIMINAL PROCEDURE contained in Decree No. 9-99-E -2002.
Article 274

Please attach the text(s)

SPECIAL LAW AGAINST MONEY LAUNDERING.

Article 47. Banking, tax or professional secrecy may not be invoked.

CRIMINAL PROCEDURE CODE (2002)

Article 274 [...] Officials and public employees, including municipal, shall provide Public Ministry representatives all information they require, except in the case of State secrets. To determine the latter, the competent authority shall ask the Judge before whom the application is requested to make use of the procedure contained in the Second Paragraph of Article 229.

Officials of the institutions that are part of the national financial system, must provide the corresponding authority, with information requested, prior judicial mandate. The corresponding Judge, through resolution established, will finally resolve the petition within twenty-four hours following the date of presentation, without prejudice of compliance with pertinent legal provisions. Failure to comply with what is prescribed in this Article, shall be punished by a fine equivalent to triple the value of his or her salary; without prejudice of the fulfillment of the obligatory duty and initiation of the administrative or disciplinary proceedings where appropriate.

If available, please attach the text in any (other) official language of the United Nations (Arabic, Chinese, Spanish, French, English or Russian).

Please provide examples of implementation, including recent cases in which bank secrecy rules or issues did not impede effective mutual legal assistance.

For example, in most cases linked to organized crime offences and legal assistance are received and requests are made ensuring that reporting financial transactions are sent, the report of transactions done, information must provided of whether the people under investigation have accounts created in the institutions of the national banking system of the country, supervised and others not required, indicating the account numbers, dates they were opened,

balances, names of beneficiaries and who their partners are, indicate whether they have purchased dollars, euros, local currency or other in the system or by auction, if they have accounts in dollars and if they have credit cards and debit cards, as well as detailed information concerning orders, monetary transactions both domestic and international, in national or foreign currency from the date in which such information is required.

200. Subparagraph 9 (a) of Article 46

9. a) A requested State Party, in responding to a request for assistance pursuant to this Article in the absence of dual criminality, shall take into account the purposes of this Convention, as set forth in Article 1;

Is your country in compliance with this provision? (Check one answer.)

(Y) Yes

(Y) Yes, in part

(N) No

Yes. There are several ways by which this information may be requested , taking into account that acts of corruption such as the need to involve partners and senior managers in the prevention of criminal behavior within companies, crimes that are considered precedent to the offence of Laundering or Money Laundering as it is known in other countries.

In this framework of cooperation, in Honduras, it is possible to carry out assistance without the essential requirement of double incrimination, unless actions have to be performed with judicial authorization such as embargo or sequestration of property, inspections, records, and others, that are established in the Treaty to which reference is made.

However, in relation to actions involving judicial participation, it would be necessary to introduce the principle of reciprocal criminality, because as is established in the

This means that Honduras can assist in the absence of dual criminality, provided it does not involve judicial measures, a legally protected asset or sovereignty is not injured, but for the sake of the principles governing international cooperation, there are measures of international aid which can be applied to Domestic Law. The request would belong to the best practices of International Cooperation and reciprocity pertaining to assistance mechanisms through which support is provided to another State in investigations,

prosecutions, and proceedings, etc. and enables the discovery of acts, authors and accomplices of crimes and consequently facilitate its passage to prevent impunity.

Please cite the applicable policy(ies), practice(s), or other measure(s)

Please cite the text(s)

CRIMINAL CODE contained in Decree No. 144-1983. Article 11

INTER-AMERICAN CONVENTION ON MUTUAL LEGAL ASSISTANCE
IN CRIMINAL MATTERS. Article 5.

TREATY ON MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS
BETWEEN THE REPUBLICS OF COSTA RICA, EL SALVADOR,
GUATEMALA, HONDURAS, NICARAGUA AND PANAMA. Article 2.

Please attach the text(s)

CRIMINAL CODE (1983)

Article 11. The judicial authorities cannot create any type of criminal matters.

**INTER-AMERICAN CONVENTION ON MUTUAL LEGAL
ASSISTANCE IN CRIMINAL MATTERS.**

Article 5. Assistance will be provided even if the originating act is not punishable according to the law of the requested State. When the request for assistance concerns the following measures: a) seizure and confiscation of assets; and b) inspections and seizures, including house raids and searches, the requested State may not provide assistance if the act giving rise to the request is not punishable under its law.

**TREATY ON MUTUAL LEGAL ASSISTANCE IN CRIMINAL
MATTERS BETWEEN THE REPUBLICS OF COSTA RICA, EL
SALVADOR, GUATEMALA, HONDURAS, NICARAGUA AND
PANAMA.**

Article 2. The Contracting States, in accordance with the provisions of this Treaty, shall render legal assistance in criminal matters relating to any crime classified as such in the Requesting State as well as in the Requested State.

If available, please attach the text in any (other) official language of the United Nations (Arabic, Chinese, Spanish, French, English or Russian).

Please provide examples of implementation and related mutual legal assistance and other recent cases

Up to this point no case has been presented lacking double incrimination, considering that the laws of each country are different, perhaps the only discrepancy is the fact that any crime committed in the Requesting State may be established as a distinct sanction in this country or vice versa.

201. Subparagraph 9 (b) of Article 46

b) States Parties may decline to render assistance pursuant to this Article on the grounds of absence of dual criminality. However, a requested State Party shall, where consistent with the basic concepts of its legal system, render assistance that does not involve coercive action. Such assistance may be refused when requests involve matters of a minor nature or matters for which the cooperation or assistance sought is available under other provisions of this Convention;

Is your country in compliance with this provision? (Check one answer.)

(Y) Yes

(Y) Yes, in part

(N) No

Yes. As noted earlier, Honduras may provide assistance in the absence of dual incrimination, provided it does not involve judicial measures, no legal assets protected or sovereignty are injured, but for the sake of the principles governing international cooperation, measures of international assistance exist which can be applied to Domestic Law.

In no request has collaboration been denied and no there has been no denial for lack of dual criminality.

What has occurred in specific cases, concerns the resolution to complete a request for Judicial Assistance, since at that time Honduras has been carrying out investigation inquiries and in order to not slow the investigation down has not completed on each of the requests solicited by the Requesting State.

Please cite the applicable policy(ies), practice(s), or other measure(s)

Please cite the text(s)

Not applicable

Please attach the text(s)

Not applicable

If available, please attach the text in any (other) official language of the United Nations (Arabic, Chinese, Spanish, French, English or Russian).

Please explain what measures you consider to be coercive; please attach any available definitions or relevant legal texts:

Only those which require judicial authorization, such as embargoes, sequestration of property, inspections, records, and others.

Please explain what matters you consider to be of a de minor nature; please attach any available definitions or relevant legal texts:

It is a matter that has not arisen to date.

Please provide examples of implementation and related mutual legal assistance and other cases.

No cases presented.

Please provide information on the types of non-coercive actions taken when rendering assistance in the absence of dual criminality.

To date, all cases have been those of double jeopardy, but if requested, assistance would be given of non-coercive measures.

Please provide information on recent cases in which your country refused mutual legal assistance on the ground of absence of dual criminality:

See reply to paragraph a)

Please provide information on recent cases in which your request for mutual legal assistance was refused on the grounds of absence of dual criminality:

To date, Honduras has not been denied cooperation in this regard.

202. Subparagraph 9 (c) of Article 46

c) Each State Party may consider adopting such measures as may be necessary to enable it to provide a wider scope of assistance pursuant to this Article in the absence of dual criminality.

**Has your country adopted and implemented the measures described above?
(Check one answer.)**

(Y) Yes

(Y) Yes, in part

(N) No

Yes. Honduras has signed an international treaty with the Central American countries in which it is committed to providing legal assistance regarding acts punishable in the requesting States.

Additionally, it has administrative channels that can be used to provide broader assistance, for example through cooperation between **Financial Information Units (UIF)**. Through which they could receive requests and procedures to help ensure obtaining information, always within conditions of reciprocity or mutual agreement.

Please cite the applicable policy(ies), practice(s), or other measure(s)

Please cite the text(s)

TREATY ON MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS
BETWEEN THE REPUBLICS OF COSTA RICA, EL SALVADOR,
GUATEMALA, HONDURAS, NICARAGUA AND PANAMA. Article 2

Please attach the text(s)

**TREATY ON MUTUAL LEGAL ASSISTANCE IN CRIMINAL
MATTERS BETWEEN THE REPUBLICS OF COSTA RICA, EL
SALVADOR, GUATEMALA, HONDURAS, NICARAGUA AND
PANAMA.**

Article 2. The Contracting States, in accordance with the provisions of this Treaty shall render legal assistance in criminal matters relating to any offence classified as such both in the Requesting State and the Requested State.

If available, please attach the text in any (other) official language of the United Nations (Arabic, Chinese, Spanish, French, English or Russian).

Please provide examples of implementation, including related court or other cases.

There are no examples of this type.

203. Paragraph 10 of Article 46

10. A person who is being detained or is serving a sentence in the territory of one State Party whose presence in another State Party is requested for purposes of identification, testimony or otherwise providing assistance in obtaining evidence for investigations, prosecutions or judicial proceedings in relation to offences covered by this Convention may be transferred if the following conditions are met:

- a) The person freely gives his or her informed consent; ☐*
- b) The competent authorities of both States Parties agree, subject to such conditions as those States Parties may deem appropriate.*

Is your country in compliance with this provision? (Check one answer.)

(Y) Yes

(Y) Yes, in part

(N) No

Yes. Honduras can make the temporary transfer of detainees, as stipulated in other international treaties to which it is Party.

Please cite the applicable measure(s):

Please cite the text(s)

THE INTER-AMERICAN CONVENTION ON MUTUAL ASSISTANCE IN CRIMINAL MATTERS. Article 7.

Please attach the texts

THE INTER-AMERICAN CONVENTION ON MUTUAL ASSISTANCE IN CRIMINAL MATTERS.

Article 7. [...] Assistance under this convention shall include among others the following: i) the transfer of detained persons for purposes of this Convention.

Article 20. The person subject to criminal proceedings in the requested State whose appearance is required in the requesting State under the assistance provided under this Convention, shall be temporarily transferred, to the requesting State, to that end, provided that such a person and the requested State agree to that transfer.

The person subject to criminal proceedings in the requesting State whose appearance is required in the requested State under the assistance included in

the present Convention, shall be temporarily transferred to the requested State, subject to agreement by that person and both States."

What has been set forth above may be denied, in the following cases, among others: a. if the person detained or serving a sentence refuses to consent to the transfer; b. if his or her presence is necessary in an investigation or criminal proceeding in the jurisdiction to which he/she is subject to; and c. if there are other considerations, whether legal or otherwise, as determined by the competent authority of the requested or requesting State.

TREATY ON MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS BETWEEN THE REPUBLICS OF COSTA RICA, EL SALVADOR, GUATEMALA, HONDURAS, NICARAGUA AND PANAMA.

Article 9. 1. Any person who is being detained by any cause, in the Requested State whose testimony is required in the Requesting State, regarding compliance with a request for assistance, he or she shall be transferred to that State, with due assurances, if the person agrees to it and provided that the Requested State has no reasonable basis to deny the request."

TREATY ON MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS BETWEEN THE REPUBLIC OF HONDURAS AND THE MEXICAN UNITED STATES.

Article XV 1. A person in custody in the Requested Party shall, upon the request of the Requesting Party, to assist in investigations or proceedings, provided that the person agrees to that transfer and there are no exceptional grounds for refusing the request.

If available, please attach the text in any (other) official language of the United Nations (Arabic, Chinese, Spanish, French, English or Russian).

Please provide examples of implementation, including related court or other cases.

There are no examples available of this type.

204. Paragraph 11 of Article 46

11. For the purposes of paragraph 10 of this Article:

- a) *The State Party to which the person is transferred shall have the authority and obligation to keep the person transferred in custody, unless otherwise requested or authorized by the State Party from which the person was transferred;*
- b) *The State Party to which the person is transferred shall without delay implement its obligation to return the person to the custody of the State Party from which the person was transferred as agreed beforehand, or as otherwise agreed, by the competent authorities of both States Parties;*
- c) *The State Party to which the person is transferred shall not require the State Party from which the person*
- d) *The State Party to which the person is transferred shall not require the State Party from which the person was transferred to initiate extradition proceedings for the return of the person;*
- e) *The person transferred shall receive credit for service of the sentence being served in the State from which he or she was transferred for time spent in the custody of the State Party to which he or she was transferred.*

Is your country in compliance with this provision? (Check one answer.)

(Y) Yes

(Y) Yes, in part

(N) No

Yes. In the same sense of what is stated in Number 10, the provisions on the conditions for the transfer of detainees are also covered by international treaties and conventions signed by Honduras.

Please cite the applicable measure(s):

Please cite the text(s)

INTER-AMERICAN CONVENTION ON MUTUAL ASSISTANCE IN CRIMINAL MATTERS - NASSAU Chapter III. Notification of decisions, orders and judgments and appearing of witnesses and experts. Article 20. Transfer of detainees

TREATY ON MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS BETWEEN THE REPUBLICS OF COSTA RICA, EL SALVADOR, GUATEMALA, HONDURAS, NICARAGUA AND PANAMA. Article 9 Number 2.

TREATY ON MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS BETWEEN THE REPUBLIC OF HONDURAS AND THE MEXICAN UNITED STATES. Article XV. Number 2.

Please attach the text(s)

THE INTER-AMERICAN CONVENTION ON MUTUAL ASSISTANCE IN CRIMINAL MATTERS - NASSAU

CHAPTER III. Notification of decisions, orders and judgments and appearing of witnesses and experts.

Article 20. Transfer of detainees. The person subject to criminal proceedings in the requested State whose appearance in the requesting State is required under assistance under this Convention shall be temporarily transferred to that end to the requesting State, provided that such person and the Requested State consent to such transfer .

The person subject to criminal proceedings in the requesting state whose appearance in the requested State is required under assistance under this Convention shall be temporarily transferred to the requested State, provided that the individual consents and both States agree.

As set forth the above may be denied, inter alia, in the following cases: ☐ a) If the person in custody or serving a sentence refuses to consent to the transfer; b) While his presence is necessary in an investigation or criminal proceeding in the jurisdiction to which he is subject; c) If there are other considerations, whether legal or otherwise, as determined by the competent authority of the requested or requesting State. ☐

For the purpose of this Article: ☐ a) The receiving State shall have the authority and obligation to keep physical custody to the person transferred, unless the sender State states otherwise; b) The receiving State shall return the person transferred to the State that sent him/her as soon as circumstances permit it or is subject to what has been agreed between the authorities as circumstances permit it or subject to what has been agreed between the central authorities of both States; c) Regarding the return of the transferred person, it is not necessary that the sending State promotes an extradition procedure; d) The time elapsed in the receiving State shall be computed, for the purposes of enforcement imposed in the sending State e) the permanence of that person in the receiving State in no case shall exceed the period remaining for complying with the sentence or sixty days, according to the deadline met first unless the person and both States agree to extend it.

TREATY ON MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS BETWEEN THE REPUBLICS OF COSTA RICA, EL

SALVADOR, GUATEMALA, HONDURAS, NICARAGUA AND PANAMA.

Article 9. [...] 2. For the purposes of this Article: a. The requesting State shall be responsible for the safety and health of the transferred person, and shall have the authority and obligation to keep the person in custody, unless the requested State authorizes otherwise; b. The Requesting State shall return the person transferred to the custody of the requested State, as soon circumstances permit or in the manner that is agreed upon; c. The transferred person will have the time during which it was in the custody of the requesting State added, to the enforcement of his or her sentence previously imposed by the requested State; d. The time elapsed in the receiving State shall be calculated, for the purposes of enforcement of the sentence imposed in the requested State, and e. The time period of that person in the receiving State, in no case will exceed the period remaining in complying with the sentence or that of sixty days, whichever occurs first, unless the person and both States agree to extend it.

TREATY ON MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS BETWEEN THE REPUBLIC OF HONDURAS AND THE MEXICAN UNITED STATES.

Article XV [...] 2. Where in accordance with national law of the Requested Party it is required that the person transferred is held in custody, the Requesting Party shall hold that person in custody, and return him or her in compliance with the request or at any prior time set by the Requested Party.

If available, please attach the text in any (other) official language of the United Nations (Arabic, Chinese, Spanish, French, English or Russian).

Please provide examples of implementation, including related court or other cases.

No availability of such examples.

205. Paragraph 12 of Article 46

12. Unless the State Party from which a person is to be transferred in accordance with paragraphs 10 and 11 of this Article so agrees, that person, whatever his or her nationality, shall not be prosecuted, detained, punished or subjected to any other restriction of his or her personal liberty in the territory of the State to which that person is transferred in respect of acts, omissions or convictions prior to his or her departure from the territory of the State from which he or she was transferred.

Is your country in compliance with this provision? (Check one answer.)

(Y) Yes

(Y) Yes, in part

(N) No

Yes. In Honduras there is the prohibition of judgment of the transferred person, since this provision is contemplated in other treaties.

Indicate and attach the applicable policies or measures:

Indicate the texts

THE INTER-AMERICAN CONVENTION ON MUTUAL ASSISTANCE IN CRIMINAL MATTERS. Article 22.

TREATY ON MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS BETWEEN THE REPUBLICS OF COSTA RICA, EL SALVADOR, GUATEMALA, HONDURAS, NICARAGUA AND PANAMA. Article 10.

TREATY ON MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS BETWEEN THE REPUBLIC OF HONDURAS AND THE MEXICAN UNITED STATES. Article XVI.

Please attach the texts

THE INTER-AMERICAN CONVENTION ON MUTUAL ASSISTANCE IN CRIMINAL MATTERS.

Article 22. The subpoena or transfer of the person who agrees to testify, under the provisions of this Convention shall be conditioned to the following: if the person or the remitting State so requests prior to such appearance or transfer, that the receiving State grant safe conduct, under which, while in that State, he/she shall not: a. Be detained or prosecuted for crimes committed prior to his/her departure from the territory of the sending State; b. Be required to testify or give testimony in proceedings not specified in the request, and c. Be detained or prosecuted on the basis of the declaration made, except in cases of contempt or perjury. The safe passage provided for in the preceding paragraph, shall cease when the person voluntarily prolongs his stay in the territory of the receiving State for more than ten days from the time when his/her presence is no longer necessary in that State, as communicated to the sending State."

TREATY ON MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS BETWEEN THE REPUBLICS OF COSTA RICA, EL

SALVADOR, GUATEMALA, HONDURAS, NICARAGUA AND PANAMA.

Article 10. 1. No person called to give evidence in the Requesting State pursuant to a request for assistance may be summoned, prosecuted, sued, detained or subjected to any restriction on personal liberty by reason of any acts committed prior to his/her departure from the Requested State. 2. The Guarantee mentioned in this Article, except in the event of a fortuitous occurrence or force majeure, will expire if ten (10) days after notifying that a person is free to leave, he/she has not left the Requesting State, or that, having done so, has returned.

TREATY ON MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS BETWEEN THE REPUBLIC OF HONDURAS AND THE MEXICAN UNITED STATES.

Article XVI. 1. A witness or expert present in the Requesting Party in response to a request seeking that person's subpoena will not be prosecuted, detained or subjected to any other restriction on personal liberty in that Party, for any act or omission prior to the departure of the person of the Requested Party, nor that person be obliged to give a statement in any other different proceeding to that of the related request. 2. Paragraph one shall cease to apply if a person, being free to leave the Requesting Party, has not left within thirty (30) days after officially being notified that that person's presence is no longer required or having left, has voluntarily returned. 3. A person who fails to fulfill a request that requires the attendance of that person, even if the application relates to the notification of a person, that person shall not be subjected to punishment or constraint.

If available, please attach the text in any (other) official language of the United Nations (Arabic, Chinese, Spanish, French, English or Russian).

Please provide examples of the application including judicial proceedings or others that are related to it.

No examples related to these provisions.

206. Paragraph 13 of Article 46

13. Each State Party shall designate a central authority that shall have the responsibility and power to receive requests for mutual legal assistance and either to execute them or to transmit them to the competent authorities for execution.

Where a State Party has a special region or territory with a separate system of mutual legal assistance, it may designate a distinct central authority that shall have the same function for that region or territory. Central authorities shall ensure the speedy and proper execution or transmission of the requests received. Where the central authority transmits the request to a competent authority for execution, it shall encourage the speedy and proper execution of the request by the competent authority. The Secretary-General of the United Nations shall be notified of the central authority designated for this purpose at the time each State Party deposits its instrument of ratification, acceptance or approval of or accession to this Convention. Requests for mutual legal assistance and any communication related thereto shall be transmitted to the central authorities designated by the States Parties. This requirement shall be without prejudice to the right of a State Party to require that such requests and communications be addressed to it through diplomatic channels and, in urgent circumstances, where the States Parties agree, through the International Criminal Police Organization, if possible.

**You have your country established a central authority(ies) as described above?
(Check one answer)**

(Y) Yes

(N) No

Yes. The Secretariat of State in the Ministry of Human Rights, Justice, Interior and Decentralization (SDHJGD) is the Central Authority to transmit requests to the Competent Authority. The Competent Authority is completing in the Public Ministry.

Please cite the applicable arrangement (s) or measure (s)

Please cite the text(s)

Instrument of notification carried out by Honduras made to the General Secretariat of the United Nations on May 8, 2014.

Please attach the text(s)

See text accompanying document.

If available, please attach the text in any (other) official language of the United Nations (Arabic, Chinese, Spanish, French, English or Russian).

Please provide examples of implementation, if applicable and available. Please provide recent court or other cases.

There are no examples of this kind.

207. Paragraph 14 of Article 46

14. Requests shall be made in writing or, where possible, by any means capable of producing a written record, in a language acceptable to the requested State Party, under conditions allowing that State Party to establish authenticity. The Secretary-General of the United Nations shall be notified of the language or languages acceptable to each State Party at the time it deposits its instrument of ratification, acceptance or approval of or accession to this Convention. In urgent circumstances and where agreed by the States Parties, requests may be made orally but shall be confirmed in writing forthwith.

Is your country in compliance with this provision with regard to the communication of requests for mutual legal assistance? (Check one answer)

(Y) Yes

(N) No

Yes, Honduras defined that the language for receiving applications is Spanish.

Please cite the applicable measure(s) and language(s)

Please cite the text(s)

Instrument of notification carried out by Honduras made to the General Secretariat of the United Nations on May 8, 2014.

Please attach the text(s)

See text accompanying document.

If available, please attach the text in any (other) official language of the United Nations (Arabic, Chinese, Spanish, French, English or Russian).

Please provide examples of implementation.

Formal applications are received in writing but in many cases communication is done via e-mail, in order for the request to progress quickly on being fulfilled, additionally as was stated above, requests have been made orally, via phone and then formalized in writing, all this has been possible due to the close relationship with the authorities of other countries.

Honduras has given international legal assistance regarding countries with which there is no treaty, and diplomatic means are used for processing the documentation, additionally in certain cases, unofficial information has been given, only when this information is useful based on the principles of

reciprocity, trust and double incrimination, which in many cases has been of great assistance both to Honduras as well as another country.

Has your country notified the Secretary-General of the United Nations as prescribed above? (Check one answer)

Yes

208. Paragraphs 15 and 16 of Article 46

15. A request for mutual legal assistance shall contain:

- A. The identity of the authority making the request;*
- B. The subject matter and nature of the investigation, prosecution or judicial proceeding to which the request relates and the name and functions of the authority conducting the investigation, prosecution or judicial proceeding;*
- C. A summary of the relevant facts, except in relation to requests for the purpose of service of judicial documents;*
- D. A description of the assistance sought and details of any particular procedure that the requesting State Party wishes to be followed;*
- E. Where possible, the identity, location and nationality of any person concerned; and (f) The purpose for which the evidence, information or action is sought.*

16. The requested State Party may request additional information when it appears necessary for the execution of the request in accordance with its domestic law or when it can facilitate such execution.

Is your country in compliance with this provision? (Check one answer.)

(Y) Yes

(Y) Yes, in part

(N) No

Yes. These application requirements are very similar to those contained in other Treaties to which Honduras is a Party State, such as the Inter-American Convention on Mutual Assistance in Criminal Matters, the Treaty of Mutual Legal Assistance in Criminal Matters between the Republics of Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua and Panama and the Treaty on Mutual Legal Assistance in Criminal Matters between the Republic of Honduras and the Mexican United States.

Moreover, in some cases, greater coverage of Judicial Assistance has been made, not only to the country requesting assistance, but also to other countries which appear related to the investigation.

Please provide and attach the applicable measures and type of additional information your country may need

Indicate the texts

THE INTER-AMERICAN CONVENTION ON MUTUAL ASSISTANCE IN CRIMINAL MATTERS. Article 26.

TREATY ON MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS BETWEEN THE REPUBLICS OF COSTA RICA, EL SALVADOR, GUATEMALA, HONDURAS, NICARAGUA AND PANAMA. Article 4.

TREATY ON MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS BETWEEN THE REPUBLIC OF HONDURAS AND THE MEXICAN UNITED STATES. Article XVII.

Please attach the texts

THE INTER-AMERICAN CONVENTION ON MUTUAL ASSISTANCE IN CRIMINAL MATTERS.

Article 26. Requests for assistance must contain the following indications: a. Crime related to proceedings and a summary description of the acts constituting the same, criminal investigation or trial in question and description of the facts related to the request; b. The act proceeding the request for assistance with a precise description thereof; c. Where applicable, a description of any proceeding or other special requirement of the requesting State; d. Precise description of the assistance requested and all information necessary for the performance of the application. When a request for assistance can not be fulfilled by the requested State, an answer will be given to the requesting State with an explanation of the cause. The requested State Party may request additional information when it appears necessary for the execution of the request, in accordance with its domestic law or when it can facilitate compliance.

TREATY ON MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS BETWEEN THE REPUBLICS OF COSTA RICA, EL SALVADOR, GUATEMALA, HONDURAS, NICARAGUA AND PANAMA.

Article 4. 1. The request for assistance shall be made in writing and shall contain the following information: a. Purpose of the application; b.

Description of the assistance sought; c. Description of the facts constituting the offence under the assistance in accordance with the laws of the Requesting State. The text of the relevant statutory provisions must be attached or transcribed ; d. Details and grounds for any particular procedure that the Requesting State wishes to be carried out; e. Specifications of the term within which the requesting State wishes the request to be met. 2. Where appropriate, the request for assistance will also include: a. Available information on the identity and whereabouts of the person or persons to be located; b. The identity and whereabouts of the person or persons to be notified and links that these people have with the case; c. The identity and whereabouts of those who are required to obtain evidence; d. The description and precise location of the object to be searched and the objects to be seized; e. Any other information necessary to execute the request for assistance. 3. If the Requested State considers that the information contained in the request for assistance is not sufficient to enable compliance with it, additional information may be asked of the Requesting State.

TREATY ON MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS BETWEEN THE REPUBLIC OF HONDURAS AND THE MEXICAN UNITED STATES.

Article XVII. 1. In all cases requests for assistance shall include: a) the name of the competent authority carrying out the investigations or proceedings to which the request is related and to the authority that requests it; b) the purpose for the request and the nature of the assistance requested; c) where possible, the identity, nationality and location of the person or persons subject to investigation or proceeding and, d) except in cases of requests for service on documents, a description of the alleged acts or omissions constituting the crime and a statement of the law and relevant jurisdiction. 2. Requests for assistance must also include: a) in the case of applications, for notification of documents, the name and address of the person who will be notified; (b) in the case of applications for enforcement measures, a statement indicating the reasons why the request was made of and data location of the place where the evidences are located in the Required Part unless this is deduced from the application itself; (c) in the case of search and seizure, a statement of the competent authority that the confiscation can be achieved through measures of constraint if the goods were located in the Requested Party; (d) in the case of requests to take down the statement of a person, the subject on which that person will be examined, including, where possible, a list of questions and details of any rights that person could have to refuse to give a statement; e) in

the event that persons detained are presented, the person or types of persons who will have custody, during the transfer to the site to which the person will be transferred and the date of that person's return; (f) in the case of loaning evidence, the person or types of people that will have custody of the evidence, the site to which they must be moved and the date in which the evidence must be returned; (g) details of any particular procedure that the Requesting Party wants followed and the reasons for it; h) any requirement of confidentiality. 3. Additional information will be provided if the Requested Party deems it necessary for the execution of the request.

If available, please attach the text in any (other) official language of the United Nations (Arabic, Chinese, Spanish, French, English or Russian).

Please provide examples of implementation and related cases

No application examples are available.

209. Paragraph 17 of Article 46

17. A request shall be executed in accordance with the domestic law of the requested State Party and, to the extent not contrary to the domestic law of the requested State Party and where possible, in accordance with the procedures specified in the request.

Is your country in compliance with this provision? (Check one answer.)

(Y) Yes

(Y) Yes, in part

(N) No

Yes. The agency responsible for completing applications is the Public Ministry and they have already defined the procedure to be followed in each case, according to whether the assistance process is active or passive.

Indicate and attach the laws, policies or other measures that are applicable

LEGAL INTERNATIONAL ASSISTANCE ACTIVE WHEN THE CENTRAL AUTHORITY IS DIFFERENT TO THAT OF THE PUBLIC MINISTRY.

In this case the International Judicial Assistance Unit, and the International Affairs Unit receives the requests for assistance from the various Prosecutor's offices nationwide, and requests are made for assistance and these are sent in electronic version and printed draft format to the Central competent Authority,

depending on the Convention or International Treaty be invoked, to be printed in the format of the institution, and have the head of that institution sign it. Once it has been signed and sealed, the Public Ministry will take the documents and is who will perform the legal steps required for sending. It is important to mention that in this sense the different central authorities, have provided the broadest collaboration to the Public Ministry as the entity responsible for the exercise of public prosecution on behalf of the society, as well as being the entity responsible for conducting each research, therefore actions have been united in this regard, and authorities have greatly contributed to the best coordination of actions.

PASSIVE INTERNATIONAL LEGAL ASSISTANCE WHEN THE CENTRAL AUTHORITY IS DIFFERENT FROM THAT OF THE PUBLIC MINISTRY.

In this case the Central Authority designated, that is to say the Secretary of State in the Offices of Human Rights, Justice, Governance and Decentralization, may receive applications and these then are sent to the Public Ministry, be that to the Attorney General or otherwise to the Secretary General, and later are sent to the International Affairs Unit for review and further referral to the International Legal Assistance Unit for compliance, who receives them and when they are completed is responsible for sending them back through the same channels in which they were received, they are then legalized and are subsequently returned to the International Legal Assistance Unit, who will forward it directly to the requesting country.

Report on applications executed in ways specified different to those provided for in its domestic law application.

Honduras has requested and provided legal assistance of all kinds and all kinds of investigative, legal or procedural and expert procedures have been carried out, it has even provided mutual legal assistance to States with whom there is a treaty, in which case the diplomatic channel is used for transmitting the documentation.

Moreover, in certain cases unofficially provided information has been shipped provided that it is useful based on the principles of reciprocity, trust and dual criminality, which in many cases has been very useful for the other country and to Honduras.

210. Paragraph 18 of Article 46

18. Whenever possible and consistent with fundamental principles of domestic law, when an individual is in the territory of a State Party and has to be heard as a witness or expert by the judicial authorities of another State Party, the first State Party may, at the request of the other, permit the hearing to take place by video conference if it is not possible or desirable for the individual in question to appear in person in the territory of the requesting State Party. State Parties may agree that the hearing shall be conducted by a judicial authority of the requesting State Party and attended by a judicial authority of the requested State Party.

Does your country permit hearings of individuals mentioned above to take place by videoconference as described above? (Check one answer)

Yes. Honduras allows the use of videoconferencing for the taking of statements which are evidence in legal proceedings conducted in Honduras since the Code of Criminal Procedure states that the purpose of the evidence is to establish the truth of the facts and circumstances, by strict compliance with the provisions of this legal body.

For video conferencing it is necessary to present a formal request for assistance.

Please cite and attach the applicable measure(s):

Please cite the text(s)

CODE OF CRIMINAL PROCEDURE contained in Decree No. 9-99-E -2002.

Please attach the text(s)

Article 198.- The purpose of the evidence is to establish the truth of the facts and circumstances, through strict compliance with the provisions of this Code.

Article 199.- The facts and circumstances relating to the crime related to the proceeding, may be demonstrated using any available evidence, although not expressly regulated in this Code, provided that these are objectively reliable.

Article 235.- If the witness is abroad, the judge at the request of the party, shall order the request to be sent to the respective examination to the judicial

authorities of the State where the witness is located, to be heard. As a request of an interested party, taking into account the circumstances of the case and especially the usefulness and proportionality of the measure and the procedural delays that it can represent, he/she may travel to where the witness is located to receive the statement, in these cases, if it be established by treaty or international legal cooperation agreement, subject to the provisions of Article 148. As for the parties, they will be summoned promptly so that they can intervene during the deposition of the witness.

If available, please attach the text in any (other) official language of the United Nations (Arabic, Chinese, Spanish, French, English or Russian).

Please provide examples of implementation, including related court or other cases

The use of videoconferencing has been implemented in several cases of Murder, Child Pornography and the Special Violation which have been conducted with Canada, Mexico and Spain, which so far have been carried out in the best manner and have been carried out by the responsible entity.

In some cases, as a first option the request is made to transfer the expert or witness to testify, and if that can not be done, it is requested that this statement be taken through videoconference. Honduras has already moved experts from other countries to testify, the problem arises when a witness or victim for fear disagrees in traveling, therefore the only option is for the Competent Authority to take the witness statement and sent it duly authenticated or when he/she is ready to make a statement without moving to this country it is done by videoconference.

Videoconferencing equipment has also been used for victims who are not in the Requested State and when there is the need for them to be present in the conduct of any hearing.

211. Paragraph 19 of Article 46

19. The requesting State Party shall not transmit or use information or evidence furnished by the requested State Party for investigations, prosecutions or judicial proceedings other than those stated in the request without the prior consent of the requested State Party. Nothing in this paragraph shall prevent the requesting State Party from disclosing in its proceedings information or evidence that is exculpatory

to an accused person. In the latter case, the requesting State Party shall notify the requested State Party prior to the disclosure and, if so requested, consult with the requested State Party. If, in an exceptional case, advance notice is not possible, the requesting State Party shall inform the requested State Party of the disclosure without delay.

Is your country in compliance with this provision? (Check one answer.)

(Y) Yes

(Y) Yes, in part

(N) No

Yes. Honduras does not transmit nor use information or evidence furnished for investigations, prosecutions or judicial proceedings, without prior consent of the requested State Party other than those stated in the request, since as well as the UNCAC it provides a similar provision in other treaties to which Honduras is a State Party.

Indicate and attach the applicable measures:

Indicate the texts

THE INTER-AMERICAN CONVENTION ON MUTUAL ASSISTANCE IN CRIMINAL MATTERS. Article 25.

TREATY ON MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS BETWEEN THE REPUBLICS OF COSTA RICA, EL SALVADOR, GUATEMALA, HONDURAS, NICARAGUA AND PANAMA. Article 19.

TREATY ON MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS BETWEEN THE REPUBLIC OF HONDURAS AND THE MEXICAN UNITED STATES. Article XIX.

Please attach the texts

THE INTER-AMERICAN CONVENTION ON MUTUAL ASSISTANCE IN CRIMINAL MATTERS.

Article 25. The Requesting State **shall not disclose or use any information or evidence obtained** under this Convention, for purposes other than those specified in the request for assistance, without prior consent of the Central Authority of the Requested State. In exceptional cases, if the requesting State needs to disclose and use, in whole or in part, the information or evidence for purposes other than those specified, it will request the authorization of the

Requested State, which, in its view, can accept or deny, in whole or in part what has been requested. The information or evidence that must be disclosed and used to the extent necessary, for the proper fulfillment of the procedure or formalities specified in the request, shall not be subject to the requirement of authorization referred to in this Article. "

TREATY ON MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS BETWEEN THE REPUBLICS OF COSTA RICA, EL SALVADOR, GUATEMALA, HONDURAS, NICARAGUA AND PANAMA.

Article 19. The Requesting State **shall not use any information or evidence obtained** under this Treaty for purposes other than those stated in the request, or that are their logical consequence, without the prior written consent of the Requested State.

TREATY ON MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS BETWEEN THE REPUBLIC OF HONDURAS AND THE MEXICAN UNITED STATES.

Article XIX. 1. The Requesting Party **shall not use information or evidence obtained pursuant** to this Treaty, for reasons other than the purposes put forward in the request, without prior consent of the coordinating authority of the Requested Party."

If available, please attach the text in any (other) official language of the United Nations (Arabic, Chinese, Spanish, French, English or Russian).

Please provide examples of implementation, including related court or other cases.

No examples available on the application of this provision.

[212. Paragraph 20 of Article 46](#)

20. The requesting State Party may require that the requested State Party keep confidential the fact and substance of the request, except to the extent necessary to execute the request. If the requested State Party cannot comply with the requirement of confidentiality, it shall promptly inform the requesting State Party.

Is your country in compliance with this provision? (Check one answer.)

(Y) Yes

(Y) Yes, in part

(N) No

Yes. Honduras has requested and held in reserve the existence and content of requests for assistance, as has been necessary to comply, since as well as the UNCAC it provides a similar provision in other treaties to which Honduras is a State Party.

Honduras considers it vital that the information sent is handled with absolute discretion, even though at some point in taking evidence or in the execution of elements contained in the applications it is necessary that other people and other authorities are aware of the facts that motivated this application.

Indicate and attach the applicable measures:

Indicate the texts

INTER-AMERICAN CONVENTION ON MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS. Article 25.

TREATY ON MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS BETWEEN THE REPUBLICS OF COSTA RICA, EL SALVADOR, GUATEMALA, HONDURAS, NICARAGUA AND PANAMA. Article 20.

TREATY ON MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS BETWEEN THE REPUBLIC OF HONDURAS AND THE MEXICAN UNITED STATES. Article XIX. Number 2.

Please attach the texts

INTER-AMERICAN CONVENTION ON MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS.

Article 25. When necessary, the requested State may request that information or evidence provided remain confidential in accordance with conditions specified by the Central Authority. If the requesting Party can not comply with such a request, the central authorities shall consult to determine the conditions of confidentiality that would result in being mutually convenient.

TREATY ON MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS BETWEEN THE REPUBLICS OF COSTA RICA, EL

SALVADOR, GUATEMALA, HONDURAS, NICARAGUA AND PANAMA.

Article 20: Any information or evidence provided by reason of this Treaty, shall be kept strictly confidential, unless these are required in investigations that are part of criminal proceedings described in the request for assistance, or that the Requesting State and the Requested State agree otherwise.

TREATY ON MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS BETWEEN THE REPUBLIC OF HONDURAS AND THE MEXICAN UNITED STATES.

Article XIX. [...] 2. When necessary, the Requested Party may request that information or evidence provided be kept confidential, in accordance with the conditions specified. If the Requesting Party can not comply with these conditions, the coordinating authorities shall consult to determine the conditions of confidentiality that are mutually agreed.

If available, please attach the text in any (other) official language of the United Nations (Arabic, Chinese, Spanish, French, English or Russian).

Please provide examples of implementation and cases in which it was not possible to comply with the requirement of confidentiality

No availability of such cases.

213. Paragraph 21 of Article 46

21. Reciprocal legal assistance may be denied:

- a) If the request is not carried out according to established to the present article;*
- b) If the requested State Party considers that execution of the request is likely to prejudice its sovereignty, security, order public or other essential interests;*
- c) If the authorities of the requested State Party would be prohibited by its domestic law from carrying out the action requested with regard to any similar offence, had it been subject to investigation, prosecution or judicial proceedings under their own jurisdiction;*
- d) If it would be contrary to the legal system of the requested State Party relating to mutual legal assistance for the request to be granted.*

Does your country's legal system recognize any ground for refusal? (Check one answer)

(Y) Yes

(N) No

Yes. In the event that Honduras has not signed treaties and agreements with other countries, requests for legal assistance may be refused, if they do not come from a competent judicial authority in accordance with the provisions of the Special Law Against Money Laundering in its Article 83.

In the case of the existence of treaties the grounds for refusal apply that are contained therein as they may be grounds to deny a request.

Please cite the applicable measure(s):

Please cite the text(s)

SPECIAL LAW AGAINST MONEY LAUNDERING contained in Decree No. 144 -2014. Articles 83.

INTER-AMERICAN CONVENTION ON MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS. Article 9.

TREATY ON MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS BETWEEN THE REPUBLICS OF COSTA RICA, EL SALVADOR, GUATEMALA, HONDURAS, NICARAGUA AND PANAMA. Article 6.

TREATY ON MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS BETWEEN THE REPUBLIC OF HONDURAS AND THE MEXICAN UNITED STATES. Article III.

Please attach the text(s)

SPECIAL LAW AGAINST MONEY LAUNDERING

Article 83. GROUNDS FOR REFUSAL OF INTERNATIONAL JUDICIAL ASSISTANCE. Requests for judicial assistance may be refused if they originated from a competent judicial authority under the law of the requesting country, which have not signed treaties and agreements with Honduras or under the procedure established by law.

THE INTER-AMERICAN CONVENTION ON MUTUAL ASSISTANCE IN CRIMINAL MATTERS

Article 9. The requested State **may refuse assistance** when it determines that:

a. the request for assistance is being used to judge a person for an offence for which that person has already been convicted or acquitted in a trial in the requesting or requested State; b. research has been initiated for the purpose of prosecuting, punishing or discriminating in any way against an individual or group of individuals for reasons of sex, race, social condition, nationality, religion or ideology; c. the request relates to a political offence, or common crime prosecuted for political reason; d. It is a request originated by behest of a special court or an ad hoc court; e. it affects public order, sovereignty, security or fundamental public interests [...].

TREATY ON MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS BETWEEN THE REPUBLICS OF COSTA RICA, EL SALVADOR, GUATEMALA, HONDURAS, NICARAGUA AND PANAMA.

Article 6. The Central Authority of the Requested State **may deny a request for assistance** to the extent that: a. The Requested State considers that execution of the request for assistance may impair its sovereignty, security or public order; b. The Requested State considers that the request for assistance refers to a political offence; c. There are sufficient grounds to believe that the request for assistance has been made in order to prosecute a person for reasons of race, sex, religion, nationality or political opinion; d. If the request for assistance made by the Requesting State relates to an offence that is not defined as such in the Requested State; and e. If the request for assistance relates to an offence that is being investigated in the Requested State and whose assistance may prejudice the investigation being conducted by the Requested State.

TREATY ON MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS BETWEEN THE REPUBLIC OF HONDURAS AND THE MEXICAN UNITED STATES.

Article III. 1. Assistance **may be refused** if: a) the request relates to political or crime related offences with violations of this kind, in the opinion of the Requested Party; (b) the application relates to an offence as such in military legislation but not in the common law of the Requesting Party; (c) there are clear grounds for believing that the request for assistance has been formulated with a view to prosecute a person by reason of race, sex, religion, nationality, ethnic origin or opinions, or that that person's situation may be harmed by any of those reasons; d) the Requested Party is asked to adopt mandatory measures

that would be incompatible with its national law if the crime is subject to investigation or prosecution in its own jurisdiction; (e) the Required Party estimates that compliance with the request goes against public order, security or other essential aspects; (f) the request relates to an offence which the person has been exonerated of definite criminal responsibility or, having been convicted, the sanction and the obligations arising from the fact; has been extinguished (g) the execution of the request would require that the Requested Party exceed their authority legal or otherwise be prohibited by the legal provisions in force in the Requested Party, in which case authorities coordinators referred to in article XVIII of this Treaty shall consult to identify legal means for guaranteeing assistance, or h) there is a chance that life imprisonment or death penalty may be imposed or executed during the procedures, therefore assistance is being requested.

If available, please attach the text in any (other) official language of the United Nations (Arabic, Chinese, Spanish, French, English or Russian).

If applicable and available, please provide information on court or other cases in which you refused mutual legal assistance.

Until this moment there has been no case that has lacked dual criminality, considering that the laws of each country are different, perhaps the only discrepancy is that a crime type committed in the requesting State is established as a different sanction in this country or vice versa.

If applicable and available, please provide information on other cases in which you were refused mutual legal assistance.

According to the Public Ministry, no request has been denied cooperation and there has been no refusal for lack of dual criminality.

Something that has occurred in specific cases, is the decision to fill a request for legal assistance partially, given that at that time Honduras is conducting investigative steps in order not to hamper the investigation each unsolicited requests have not been completed.

214. Paragraph 22 of Article 46

22. States Parties may not refuse a request for mutual legal assistance on the sole

ground that the offence is also considered to involve fiscal matters.

Is your country in compliance with this provision? (Check one answer.)

(Y) Yes

(Y) Yes, in part

(N) No

Yes. Honduras does not deny assistance solely due to tax issues, as established by its commitments in international treaties, which form part of domestic law.

Indicate and attach the applicable measures:

Indicate the texts

OPTIONAL PROTOCOL TO THE INTER-AMERICAN CONVENTION ON MUTUAL ASSISTANCE IN CRIMINAL MATTERS, 1993. Articles 1 and 2.

Please attach the texts

OPTIONAL PROTOCOL TO THE INTER-AMERICAN CONVENTION ON MUTUAL ASSISTANCE IN CRIMINAL MATTERS, 1993.

Article 1. In any case where the request comes from another State Party to this Protocol, States Parties thereto shall not exercise the right provided in paragraph f) of Article 9 of the Convention **deny requests** denial of assistance founded exclusively on the **tax nature of the crime**.

Article 2. When a State Party to this Protocol acts as Requested State under the Convention, it **shall not refuse** the assistance required by the adoption of measures to those referred to in Article 5 of the Convention, in the event that the act specified in the application relates to a **tax crime** of the same nature under the law of the State.

If available, please attach the text in any (other) official language of the United Nations (Arabic, Chinese, Spanish, French, English or Russian).

Please provide examples of implementation.

No examples available in this field.

[215. Paragraph 23 of Article 46](#)

23. Reasons shall be given for any refusal of mutual legal assistance.

Is your country in compliance with this provision? (Check one answer.)

(Y) Yes

(Y) Yes, in part

(N) No

Yes. Honduras fulfills this provision which is guaranteed in other international treaties that are part of our internal, so that there is an obligation to explain the reasons why a request for assistance can not be wholly or partially met.

Indicate and attach the applicable measures:

Indicate the texts

THE INTER-AMERICAN CONVENTION ON MUTUAL ASSISTANCE IN CRIMINAL MATTERS. Article 26.

TREATY ON MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS BETWEEN THE REPUBLICS OF COSTA RICA, EL SALVADOR, GUATEMALA, HONDURAS, NICARAGUA AND PANAMA. Article 6.

TREATY ON MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS BETWEEN THE REPUBLIC OF HONDURAS AND THE MEXICAN UNITED STATES. ARTICLE III

Please attach the texts

THE INTER-AMERICAN CONVENTION ON MUTUAL ASSISTANCE IN CRIMINAL MATTERS.

Article 26. When a request for assistance cannot be responded by the requested State, this will be returned to the requesting State **explaining the cause.**

TREATY ON MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS BETWEEN THE REPUBLICS OF COSTA RICA, EL SALVADOR, GUATEMALA, HONDURAS, NICARAGUA AND PANAMA.

Article 6. Any denial or postponement of assistance should be **properly justified.**

TREATY ON MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS BETWEEN THE REPUBLIC OF HONDURAS AND THE MEXICAN UNITED STATES.

Article III. "The Requested Party shall promptly inform the Requesting Party of a decision not to grant in whole or in part a request for assistance, or whether its execution is deferred, **it shall state the reasons** for that decision."

If available, please attach the text in any (other) official language of the United Nations (Arabic, Chinese, Spanish, French, English or Russian).

Please provide examples of implementation, including related court or other cases.

No availability of such examples.

216. Paragraph 24 of Article 46

24. The requested State Party shall execute the request for mutual legal assistance as soon as possible and shall take as full account as possible of any deadlines suggested by the requesting State Party and for which reasons are given, preferably in the request. The requesting State Party may make reasonable requests for information on the status and progress of measures taken by the requested State Party to satisfy its request. The requested State Party shall respond to reasonable requests by the requesting State Party on the status, and progress in its handling, of the request. The requesting State Party shall promptly inform the requested State Party when the assistance sought is no longer required.

Has your country adopted and implemented the measures described above? (Check one answer.)

(Y) Yes

(Y) Yes, in part

(N) No

Yes. The Honduran State provides the assistance diligently and, as far as possible, within the time requested.

Indicate and attach the applicable measures:

Indicate the texts

There are no texts available.

Please attach the texts

There are no texts available.

If available, please attach the text in any (other) official language of the United Nations (Arabic, Chinese, Spanish, French, English or Russian).

Please provide examples of implementation and related cases.

There are no examples available of this type.

How long is the delay in responding to requests for mutual legal assistance?

The compliance process varies depending on the procedures requested. However, in the Public Ministry cases have been handled in which in the space of three days the procedures have been completed and in most of them, because of the urgency, the requested documents have been sent electronically prior to legalised shipping .

217. Paragraph 25 of Article 46

25. Mutual legal assistance may be postponed by the requested State Party on the grounds that it interferes with an ongoing investigation, prosecution or judicial proceeding.

Is your country in compliance with this provision? (Check one answer.)

(Y) Yes

(Y) Yes, in part

(N) No

Yes. In Honduras compliance of assistance may be postponed, as this provision is similar to that contained in other international treaties to which Honduras is a Party. These treaties are part of our domestic law, as stated in the Constitution of the Republic.

Please cite the applicable measure(s):

Please cite the text(s)

THE INTER-AMERICAN CONVENTION ON MUTUAL ASSISTANCE IN CRIMINAL MATTERS - NASSAU □ Chapter II. Application, processing and implementation of assistance. Article 11.

TREATY ON MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS

BETWEEN THE REPUBLICS OF COSTA RICA, EL SALVADOR, GUATEMALA, HONDURAS, NICARAGUA AND PANAMA. Article 6.

TREATY ON MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS BETWEEN THE REPUBLIC OF HONDURAS AND THE MEXICAN UNITED STATES. ARTICLE III

Please attach the text(s)

THE INTER-AMERICAN CONVENTION ON MUTUAL ASSISTANCE IN CRIMINAL MATTERS - NASSAU □

Chapter II. Application, processing and implementation of assistance.

Article 11. The requested State may, with explanation of cause, **postpone the execution** of any request that has been made in case it is necessary to continue an investigation or proceeding in the requested State.

TREATY ON MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS BETWEEN THE REPUBLICS OF COSTA RICA, EL SALVADOR, GUATEMALA, HONDURAS, NICARAGUA AND PANAMA.

Article 6. "The Requested State may **postpone compliance** with the request, if its immediate execution negatively interferes with an investigation being carried out by it."

TREATY ON MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS BETWEEN THE REPUBLIC OF HONDURAS AND THE MEXICAN UNITED STATES.

Article III. [...] 2. Assistance **may be postponed** by the requested Party on the ground that granting immediate assistance may interfere with an investigation or proceeding being conducted.

If available, please attach the text in any (other) official language of the United Nations (Arabic, Chinese, Spanish, French, English or Russian).

Please provide information on cases in which you postponed the provision of mutual legal assistance on the ground that it interfered with an ongoing investigation, prosecution or judicial assistance.

The Public Ministry has handled cases of this type, when faced with a request

from Honduras some States have invoked the need for prior action for processing these cases. In these cases, later assistance is requested again requiring information or inquiries identifying them properly so that the requested State can be aware that there was already a request.

218. Paragraph 26 of Article 46

26. Before refusing a request pursuant to paragraph 21 of this Article or postponing its execution pursuant to paragraph 25 of this Article, the requested State Party shall consult with the requesting State Party to consider whether assistance may be granted subject to such terms and conditions as it deems necessary. If the requesting State Party accepts assistance subject to those conditions, it shall comply with the conditions.

Is your country in compliance with this provision? (Check one answer.)

(Y) Yes

(Y) Yes, in part

(N) No

Yes. In Honduras you can make agreements regarding conditions for complying with assistance, since that provision is similar to that contained in other Treaties to which Honduras is a party.

Indicate and attach the applicable measures:

Indicate the texts ☐

TREATY ON MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS BETWEEN THE REPUBLICS OF COSTA RICA, EL SALVADOR, GUATEMALA, HONDURAS, NICARAGUA AND PANAMA. Article 6

TREATY ON MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS BETWEEN THE REPUBLIC OF HONDURAS AND THE MEXICAN UNITED STATES. Article III. paragraph 3.

Please attach the texts

TREATY ON MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS BETWEEN THE REPUBLICS OF COSTA RICA, EL SALVADOR, GUATEMALA, HONDURAS, NICARAGUA AND PANAMA.

Article 6. "The Requested State may consider before denying or postponing the execution of a request for assistance, to subject it to certain conditions which will be set according to each individual case, and the request will be granted if the Requesting State accepts such conditions."

TREATY ON MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS BETWEEN THE REPUBLIC OF HONDURAS AND THE MEXICAN UNITED STATES.

Article III. 3 Before refusing to grant the requested assistance or before such assistance is differed, the Requested Party shall consider whether assistance may be granted subject to such conditions, and must comply with them.

If available, please attach the text in any (other) official language of the United Nations (Arabic, Chinese, Spanish, French, English or Russian).

Please provide examples of implementation, related cases, and ways in which they were handled.

No availability of recent cases.

219. Paragraph 27 of Article 46

27. Without prejudice to the application of paragraph 12 of this Article, a witness, expert or other person who, at the request of the requesting State Party, consents to give evidence in a proceeding or to assist in an investigation, prosecution or judicial proceeding in the territory of the requesting State Party shall not be prosecuted, detained, punished or subjected to any other restriction of his or her personal liberty in that territory in respect of acts, omissions or convictions prior to his or her departure from the territory of the requested State Party. Such safe conduct shall cease when the witness, expert or other person having had, for a period of fifteen consecutive days or for any period agreed upon by the States Parties from the date on which he or she has been officially informed that his or her presence is no longer required by the judicial authorities, an opportunity of leaving, has nevertheless remained voluntarily in the territory of the requesting State Party or, having left it, has returned of his or her own free will.

Is your country in compliance with this provision? (Check one answer.)

(Y) Yes

(Y) Yes, in part

(N) No

Yes. Honduras applies this article under international treaties in criminal

matters, being able to use the safeguard as this provision is similar to that contained in other treaties to which Honduras is a party.

Please cite the applicable measure(s):

Please cite the text(s)

INTER-AMERICAN CONVENTION ON MUTUAL ASSISTANCE IN CRIMINAL MATTERS - NASSAU. □Article 22

TREATY ON MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS BETWEEN THE REPUBLICS OF COSTA RICA, EL SALVADOR, GUATEMALA, HONDURAS, NICARAGUA AND PANAMA. Article 10.

TREATY ON MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS BETWEEN THE REPUBLIC OF HONDURAS AND THE MEXICAN UNITED STATES. Article XVI.

Please attach the text(s)

INTER-AMERICAN CONVENTION ON MUTUAL ASSISTANCE IN CRIMINAL MATTERS - NASSAU

□Article 22.- The subpoena or transfer of the person who agrees to testify under the provisions of this Convention shall be conditioned regarding, if the person or the remitting State so requests prior to such appearance or transfer, that the receiving State grant safe conduct under which, while in that State, he/she shall not: a. be detained or prosecuted for crimes committed prior to his/her departure from the territory of the sending State; b. be required to testify or give testimony in proceedings not specified in the request, and c. be detained or prosecuted on the basis of the declaration made, except in cases of contempt or perjury. The safe passage provided for in the preceding paragraph shall cease when the person voluntarily prolongs his stay in the territory of the receiving State for more than ten days from the time when his/her presence is no longer necessary in that State, as communicated to the sending State.

TREATY ON MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS BETWEEN THE REPUBLICS OF COSTA RICA, EL SALVADOR, GUATEMALA, HONDURAS, NICARAGUA AND PANAMA

Article 10. Temporary Guarantee. 1. No person called to give evidence in the Requesting State pursuant to a request for assistance may be summoned, prosecuted, sued, detained or subjected to any restriction of personal liberty by reason of any acts committed prior to his/her departure from the Requested State. 2. The Guarantee mentioned in this Article, except in the event of a fortuitous occurrence or force majeure, will expire if ten (10) days after notifying that a person is free to leave, he/she has not left the Requesting State, or that, having done so, has returned.

TREATY ON MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS BETWEEN THE REPUBLIC OF HONDURAS AND THE MEXICAN UNITED STATES.

Article XVI. A witness or expert present in the Requesting Party in response to a request seeking that person's subpoena will not be prosecuted, detained or subjected to any other restriction on personal liberty in that Party, for any act or omission prior to the departure of the person of the Requested Party, nor will that person be obliged to give a statement in any other different proceeding to that of the related request. 2. Paragraph one shall cease to apply if a person, being free to leave the Requesting Party, has not left within thirty (30) days after officially being notified that that person's presence is no longer required or having left, has voluntarily returned. 3. A person who fails to fulfill a request that requires the attendance of that person, even if the application relates to the notification of a person, that person shall not be subjected to punishment or constraint.

If available, please attach the text in any (other) official language of the United Nations (Arabic, Chinese, Spanish, French, English or Russian).

Please provide examples of the application including legal proceedings or others that are related to it.

Several cases have been handled by the Public Ministry which have required cooperation from the Republic of El Salvador and the Republic of Colombia, proceedings with which we have achieved convictions for the crime of MONEY LAUNDERING AND ILLICIT DRUG TRAFFICKING.

[220. Paragraph 28 of Article 46](#)

28. The ordinary costs of executing a request shall be borne by the requested State

Party, unless otherwise agreed by the States Parties concerned. If expenses of a substantial or extraordinary nature are or will be required to fulfill the request, the States Parties shall consult to determine the terms and conditions under which the request will be executed, as well as the manner in which the costs shall be borne.

Is your country in compliance with this provision? (Check one answer.)

(Y) Yes

(Y) Yes, in part

(N) No

Yes. The costs of the assistance requested by Honduras have always been covered by the Requested State, just as the attendances have been requested, the State of Honduras has fully covered all recurrent costs, in accordance with the provisions of the Treaties of which Honduras is a Party State.

Please cite the applicable policy(ies) or other measure(s)

Please cite the text(s)

THE INTER-AMERICAN CONVENTION ON MUTUAL ASSISTANCE IN CRIMINAL MATTERS - NASSAU ☐ Article 29.

TREATY ON MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS BETWEEN THE REPUBLICS OF COSTA RICA, EL SALVADOR, GUATEMALA, HONDURAS, NICARAGUA AND PANAMA. Article 18.

TREATY ON MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS BETWEEN THE REPUBLIC OF HONDURAS AND THE MEXICAN UNITED STATES. Article XXII.

Please attach the text(s)

INTER-AMERICAN CONVENTION ON MUTUAL ASSISTANCE IN CRIMINAL MATTERS. ☐

Article 29.- The requested State shall bear all ordinary costs of executing a request within its territory, except for the following, which shall be borne by the requesting State: a. fees of experts, and b. travel expenses related to the transportation of persons from the territory of one State to the other. If it appears that the processing of the request might entail unusual costs, States Parties shall consult to determine the terms and conditions under which assistance could be rendered.

TREATY ON MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS BETWEEN THE REPUBLICS OF COSTA RICA, EL SALVADOR, GUATEMALA, HONDURAS, NICARAGUA AND PANAMA.

Article 18. The Requesting State shall assume and guarantee the payment of all **ordinary**, previously agreed **expenses** required to present evidence from the Requested State in the Requesting State, including: a. Travel and incidental expenses of witnesses traveling to the Requesting State, including those of accompanying officials; b. Fees of experts; c. The appointed attorney's fees with the approval of the Requesting State to assist the lawyer appointed with the approval of the Requesting State, to advise witnesses. 2. All the ordinary expenses previously agreed upon, shall be borne by the Requesting State: a. Fees of experts; b. The costs of translation and transcription .; c. Travel expenses and incidentals of people traveling to the Requested State pursuant to a request for assistance; d. Reasonable costs to locate, copy and transport to the Central Authority of the Requesting State, documents or records specified in a request for assistance; and e. If it becomes clear during the processing of a request for assistance that it will require incurring in costs of an extraordinary nature to comply with that request, the Parties shall consult to determine the terms and conditions under which they will continue with the execution of the request. These expenses shall be borne by the Requesting State. A reasonable amount, arising by agreement, will be made payable to the Central Authority of the Requested State, prior step to the fulfillment of the proceedings of proof of expenditures.

TREATY ON MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS BETWEEN THE REPUBLIC OF HONDURAS AND THE MEXICAN UNITED STATES.

Article XXII. 1. The Requested Party shall bear the cost of the request for assistance, while the Requesting Party shall bear: a) the expenses associated with conveying any person to or from the Requested Party or the Requesting Party request, and any costs or expenses payable to that person while in the Requesting Party as a result of a request under Article XVII or IX of this Agreement; b) the costs and expert fees are part of the Requested Party or the Requesting Party. 2. If the request for assistance requires expenses of an extraordinary nature, the Parties shall consult to determine the terms and conditions under which assistance may be provided

If available, please attach the text in any (other) official language of the United Nations (Arabic, Chinese, Spanish, French, English or Russian).

Please provide examples of arrangements related to such costs

No examples are available that can inform how these costs have been covered.

221. Subparagraph 29 (a) of Article 46

29. The requested State Party::

a) Shall provide to the requesting State Party copies of government records, documents or information in its possession that under its domestic law are available to the general public;

Is your country in compliance with this provision? (Check one answer.)

(Y) Yes

(Y) Yes, in part

(N) No

Yes. The State of Honduras can provide those copies, as established by the Special Law against Money Laundering in Article 82 and similar provisions in other Treaties to which Honduras is a Party States.

Please cite the applicable measure(s):

Please cite the text(s)

SPECIAL LAW AGAINST MONEY LAUNDERING contained in Decree No. 144 -2014. Article 82.

THE INTER-AMERICAN CONVENTION ON MUTUAL ASSISTANCE IN CRIMINAL MATTERS - NASSAU Chapter IV SUBMISSION OF INFORMATION AND RECORDS. Article 24

TREATY ON MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS BETWEEN THE REPUBLICS OF COSTA RICA, EL SALVADOR, GUATEMALA, HONDURAS, NICARAGUA AND PANAMA. Article 13

Please attach the text(s)

Article 82. See what is described in Paragraph 1 of Article 46.

THE INTER-AMERICAN CONVENTION ON MUTUAL

ASSISTANCE IN CRIMINAL MATTERS

□CHAPTER IV. Submission of information and records

Article 24.- In cases where assistance is carried out in accordance with this Convention, upon request, in accordance with its internal procedure, the requested State shall provide the requesting State with copies of the documents, records or information of public character requested held by government agencies and agencies of the State. The requested State may provide copies of any documents, records, or information held by an organization or government agency of that State but which are not public, to the same extent and subject to the same conditions that facilitate their own judicial authorities, or others in charge of law enforcement. The requested State may, at its discretion, deny all or part of a request under this paragraph.

TREATY ON MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS BETWEEN THE REPUBLICS OF COSTA RICA, EL SALVADOR, GUATEMALA, HONDURAS, NICARAGUA AND PANAMA.

Article 13. The Requested State shall provide copies of publicly available documents in the archives of a government institution or its judiciary, when legislation allows. 2. The Requested State may provide copies of documents or information in possession of a government office or institution, but not publicly available, to the same extent and under the same conditions as would be provided by its own authorities responsible for enforcing the law. The Requested State may, at its discretion, deny the request in whole or in part.

If available, please attach the text in any (other) official language of the United Nations (Arabic, Chinese, Spanish, French, English or Russian).

Please provide examples of implementation.

There are no examples available of this type.

If available, please provide information on how such records, documents or information can be obtained and how they were provided to the requesting State Party.

The Public Ministry conducted nationwide evacuation requests for International Legal Assistance in this sense when information on public documents or files is required, any State Party may require them, as this

institution is empowered by law to take any steps research given that one of its functions and powers is the exercise of public prosecutions.

To this end, the Requesting State must address the Central Authority, designated by Honduras to the United Nations Convention against Corruption, the Secretary of State in the Ministry of Human Rights, Justice, Interior and Decentralization, to receive the application and it is sent to the Public Prosecutor, either the Attorney General or in his absence the Secretary General and is subsequently sent to the Unit for Conventions and International Affairs for further Unit of International Legal Assistance for compliance review and referral, these receive it and when completed is responsible for sending it back through the same channels. Regarding the files, documents and public information that a State Party might request to the Convention certificates are provided and authenticated by the competent authority.

222. Subparagraph 29 (b) of Article 46

29. The requested State Party:

[...]

b) May, at its discretion, provide to the requesting State Party in whole, in part or subject to such conditions as it deems appropriate, copies of any government records, documents or information in its possession that under its domestic law are not available to the general public.

Is your country in compliance with this provision? (Check one answer.)

(Y) Yes

(Y) Yes, in part

(N) No

Yes. According to the Convention of Nassau, is it possible to deliver documents that are not public, in the same conditions that would facilitate the Honduran judicial authorities.

Also, see the response to 46.29 (a)

Please cite the applicable measure(s)::

Please cite the text(s)

THE INTER-AMERICAN CONVENTION ON MUTUAL ASSISTANCE IN CRIMINAL MATTERS - NASSAU CHAPTER IV. Submission of information and records. Article 24.

Please attach the text(s)

See text of this article in reply to subparagraph a) of paragraph 29 of Article 46.

If available, please attach the text in any (other) official language of the United Nations (Arabic, Chinese, Spanish, French, English or Russian).

Please give examples of cases where such information was provided.

It has not been done yet on the basis of the Convention, but under other assistance. In fact it is often the most common request.

223. Paragraph 30 of Article 46

30. States Parties shall consider, as may be necessary, the possibility of concluding bilateral or multilateral agreements or arrangements that would serve the purposes of, give practical effect to, or enhance the provisions of this Article.

**Has your country adopted and implemented the measures described above?
(Check one answer.)**

(Y) Yes

(Y) Yes, in part

(N) No

Yes. Honduras has held a number of bilateral and multilateral treaties to strengthen judicial cooperation in criminal matters.

Indicate and summarize the bilateral or multilateral agreements or other applicable measures:

Please cite the text(s)

Bilateral treaties

TREATY ON MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS
HONDURAS - BRAZIL.

TREATY ON MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS
HONDURAS-MEXICO.

Multilateral instruments

THE INTER-AMERICAN CONVENTION ON MUTUAL ASSISTANCE IN CRIMINAL MATTERS, 1992.

OPTIONAL PROTOCOL TO THE AMERICAN CONVENTION ON MUTUAL ASSISTANCE IN CRIMINAL MATTERS, 1993.

INTER-AMERICAN CONVENTION ON LETTERS ROGATORY, 1975.

MODEL TREATY ON MUTUAL ASSISTANCE IN CRIMINAL MATTERS (adopted by General Assembly resolution 45/117 and according to the recommendation of the Eighth Congress on the Prevention of Crime and the Treatment of Offenders of December 14, 1990).

TREATY ON MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS BETWEEN THE REPUBLICS OF COSTA RICA, EL SALVADOR, GUATEMALA, HONDURAS, NICARAGUA AND PANAMA, 1993.

INTER-AMERICAN CONVENTION AGAINST CORRUPTION, of June 29, 1996

INTER-AMERICAN CONVENTION ON THE TAKING OF EVIDENCE ABROAD, 1975

Please attach the text(s) ☐

The texts of the instruments listed above are attached.

If available, please attach the text in any (other) official language of the United Nations (Arabic, Chinese, Spanish, French, English or Russian).

Please provide examples of the application. ☐

Tracking table to legal assistance taken by the Ministry of Foreign Affairs and International Cooperation is attached.

224. Technical Assistance ☐

The following questions on technical assistance relate to the Article under review in its entirety.

Do you require technical assistance for the (full) implementation of the Article under review? (Check one answer)

(Y) Yes

(N) No

No ☐

47. Transfer of criminal proceedings.

225. Article 47 ☐

States Parties shall consider the possibility of transferring to one another proceedings for the prosecution of an offence under this Convention when it is considered that such transfer shall be in the interest of the proper administration of justice, particularly in cases involving multiple jurisdictions, with a view to concentrating the prosecution. ☐

Has your country adopted and implemented the measures described above? (Check one answer.) ☐

(Y) Yes

(Y) Yes, in part

(N) No

Yes. It is feasible to apply this provision in Honduras if the case arises.

Indicate and attach the applicable measures:

Indicate the texts

There are no texts available.

Please attach the texts

There are no texts available.

If available, please attach the text in any (other) official language of the United Nations (Arabic, Chinese, Spanish, French, English or Russian).

Give examples of the application.

To date, there are no examples of the application.

226. Technical assistance

The following questions are made on technical assistance in connection with the entire article under review.

Do you require technical assistance for (total) implementation of the article under review? (Check one answer.)

(Y) Yes

(N) No

No

48. Cooperation in law enforcement.

227. Subparagraph a) of paragraph 1 of Article 48

1. States Parties shall cooperate closely in line with their respective legal and administrative systems, in order to increase the effectiveness of the measures of enforcement to combat the offences covered by this Convention. In particular, States Parties shall take effective measures:

a) To improve channels of communication between their authorities, agencies and services and, if necessary, to establish in order to facilitate the secure and rapid exchange of information on all aspects of the offences covered by this Convention and, if the States Parties deem it appropriate, links with other criminal activities;

**Has your country adopted and implemented the measures described above?
(Check one answer.)**

(Y) Yes

(Y) Yes, in part

(N) No

Yes. Honduras is part of various networks offering flexible and secure exchange of information and documentation, such as IberRED arises as one of its five areas of work platforms UNCAC. This network is running the Iber@, which offers a contact point of the member countries, links and other networks or actors of international legal cooperation as: Eurojust, General Secretariat of INTERPOL and others.

Please cite the applicable measure(s)::

Please cite the text(s)

Brochure on Iber @

Please attach the text(s)

The full text of the brochure is attached.

If available, please attach the text in any (other) official language of the United Nations (Arabic, Chinese, Spanish, French, English or Russian).

Please provide examples of the application.

The communication system called Iber @ the IBER-Red (Ibero-American Network for International Legal Cooperation)

In secure electronic communications system and videoconference of the Hemispheric Information Exchange Network for Mutual Assistance in Criminal Matters and Extradition, developed by the Organization of American States - OAS.

Does your country have a database to share information?

No.

If you have that information, give examples of recent cases where the authorities of law enforcement in his country have exchanged with other States Parties information on offences covered by this Convention (describe aspects of these crimes that were included in exchanges of information):

There are no cases yet of application on corruption matters, but there are for other criminal figures, particularly on drug trafficking.

If applicable, indicate whether it has exchanged information on recent cases involving other criminal activities.

According to the Public Ministry report "Significant Events" (2015) the Public Ministry periodically receives a visit from an official delegate for the Canadian Embassy or there is telephone and electronic contact with members of the RCMP in this country in relation to deaths of Canadian citizens in Honduras.

228 Subparagraph b) of paragraph 1 of Article 48

1. States Parties shall cooperate closely in line with their respective legal and administrative systems, in order to increase the effectiveness of the measures of enforcement to combat the offences covered by this Convention. In particular, States Parties shall take effective measures:

[...]

b) To cooperate with other States Parties in conducting inquiries with respect to offences covered by this Convention concerning:

- i. *The identity, whereabouts and activities of persons suspected of involvement in such offences or the location of other persons concerned;*
- ii. *The movement of proceeds of crime or property derived from the commission of such offences;* ☐
- iii. *The movement of property, equipment or other instrumentalities used or intended for use in the commission of such offences;*

Has your country adopted and implemented the measures described above? (Check one answer.)

(Y) Yes

(Y) Yes, in part

(N) No

Yes. This provision applies both to national legislation regarding the crime of money laundering, and also at bilateral and multilateral level, as well as through the regional platforms mentioned in the above arrangement.

Indicate and attach the applicable measures:

Indicate the texts

SPECIAL LAW AGAINST MONEY LAUNDERING Article 81 and 82.

Please attach the texts

SPECIAL LAW AGAINST MONEY LAUNDERING

Article 81. FACULTY OF REQUESTING AND PROVIDING INTERNATIONAL ASSISTANCE. The competent courts, the Public Ministry, the Central Bank of Honduras (BCH), the National Banking and Insurance Commission (CNBS) and other competent authorities, **should cooperate with their counterparts in other countries** taking appropriate measures in order to request and provide assistance in matters relating to **prevention, investigation and prosecution** money laundering and other related crimes, according to this Law, Memoranda of Understanding, Conventions, Treaties and Agreements signed and ratified by Honduras, according to the limits of their powers and based on the principle of reciprocity.

Applications must [...]

Article 82.- PROCEEDINGS WHICH MAY BE REQUESTED. The proceedings that may be requested from or **provided** to the competent authorities of other countries through **reciprocal legal assistance** relative to the offences under this Act and other applicable, must include in particular:

- 1) **Collect evidence** or take statements from persons;
- 2) Provide **to make available assistance** for the legal authorities of the Requesting State the detainees, witnesses and volunteers and **others** to give statements to assist in the conduct of investigations;
- 3) [...]
- 10) **Identify, detect and locate assets in order to seize them and/or incur in forfeiture;**
- 11) Run precautionary, provisional or assurance measures; and,
- 12) **Any other form of mutual legal assistance allowed by the law** that does not conflict with the internal laws of Honduras or the procedure established in the laws .

If available, please attach the text in any (other) official language of the United Nations (Arabic, Chinese, Spanish, French, English or Russian).

Please provide examples of the application including legal proceedings or others that are related to it.

There are no cases of extradition on corruption, although there is in matters of drug trafficking.

229 Subparagraph b) of paragraph 1 of Article 48□

1. States Parties shall cooperate closely in line with their respective legal and administrative systems, in order to increase the effectiveness of the measures of enforcement to combat the offences covered by this Convention. In particular, States Parties shall take effective measures:

[...] C) To provide, when appropriate, necessary items or quantities of substances required for analytical or investigative purposes;

Has your country adopted and implemented the measures described above? (Check one answer.)

(Y) Yes

(Y) Yes, in part

(N) No

Yes, it is provided in various international instruments signed by Honduras. An example is the American Convention on Mutual Assistance in Criminal Matters-Nassau, in which the country is legally entitled to facilitate objects to be analyzed in a requesting country.

Please cite the applicable measure(s)::

Please cite the text(s)

THE INTER-AMERICAN CONVENTION ON MUTUAL ASSISTANCE IN
CRIMINAL MATTERS - NASSAU CHAPTER I. GENERAL
PROVISIONS. Article 7. Scope and Article 12.

Please attach the text(s)

**THE INTER-AMERICAN CONVENTION ON MUTUAL
ASSISTANCE IN CRIMINAL MATTERS - NASSAU**

□ CHAPTER I. GENERAL PROVISIONS

ARTICLE 7.. SCOPE OF APPLICATION. Assistance under this convention shall include, among others, the following acts: □ a) Notification of decisions and judgments; b) Receiving testimony or statements of persons; c) Notification of witnesses and experts in order to testify; d) Practice of foreclosure and sequestration of property, freezing of assets, and assistance in procedures related to seizures; e) Executing searches and confiscation; f) Examining objects and sites; g) Display judicial documents; h) Submission of documents, reports, information and evidence; i) The transfer of detained persons for purposes of this Convention, and j) Any other procedure provided there is agreement between the requesting and the requested State. □

ARTICLE 12. Documents and objects delivered in compliance with a request for assistance will be returned to the requested State within the shortest possible time, unless decided otherwise.

If available, please attach the text in any (other) official language of the United Nations (Arabic, Chinese, Spanish, French, English or Russian).

Please provide application examples.

There are no examples of the application.

230. Subparagraph d) of paragraph 1 of Article 48

1. States Parties shall cooperate closely in line with their respective legal and administrative systems, in order to increase the effectiveness of the measures of enforcement to combat the offences covered by this Convention. In particular, States Parties shall take effective measures:

[...]

d) To exchange, where appropriate, information with other States Parties on specific means and methods used to commit offences covered by this Convention,

including the use of false identities, forged, altered or false documents and other means of concealing activities linked to such crimes;

**Has your country adopted and implemented the measures described above?
(Check one answer.)**

(Y) Yes

(Y) Yes, in part

(N) No

Yes. Among other treaties to which Honduras is a Party, the Inter-American Convention on Mutual Assistance in Criminal Matters provides for the possibility of collaborating with authorities in other countries in general research matters.

Please cite the applicable measure(s):

Please cite the text(s)

THE INTER-AMERICAN CONVENTION ON MUTUAL ASSISTANCE IN
CRIMINAL MATTERS - NASSAU CHAPTER I. GENERAL
PROVISIONS. ARTICLE 2. Application and scope of the Convention

Please attach the text(s)

**THE INTER-AMERICAN CONVENTION ON MUTUAL
ASSISTANCE IN CRIMINAL MATTERS - NASSAU** ☐

CHAPTER I. GENERAL PROVISIONS

ARTICLE 2.- Application and scope of the Convention States Parties shall provide mutual assistance in investigations, prosecutions, and proceedings that pertain to crimes pertaining to the requesting State at the time of application for assistance. [...]

If available, please attach the text in any (other) official language of the United Nations (Arabic, Chinese, Spanish, French, English or Russian).

Please provide examples of the application and provide analyzes, reports or typologies related to means and methods used to commit offences covered by the Convention.

There are no examples of application.

[231. Subparagraph e\) of paragraph 1 of Article 48](#)

1. States Parties shall cooperate closely in line with their respective legal and administrative systems, in order to increase the effectiveness of the measures of enforcement to combat the offences covered by this Convention. In particular, States Parties shall take effective measures:

[...]

e) Facilitate effective coordination among its agencies, authorities and services and promote the exchange of personnel and other experts, including the appointment of liaison officers, subject to bilateral agreements or arrangements between the States Parties concerned;

**Has your country adopted and implemented the measures described above?
(Check one answer.)**

(Y) Yes

(Y) Yes, in part

(N) No

Yes. Honduras has taken steps to coordinate the actions of its authorities to define communication guidelines and mechanisms among them to process rogatory letters and warrants; control and sending judicial assistance; reception, monitoring and implementation of extradition requests; and receiving, monitoring and implementation of transfer of prisoners.

Liaison officers have also been appointed in the country and liaison officers in the Embassies of Honduras around the world.

Please cite the applicable measure(s):

Please cite the text(s)

Process and Procedures Manual of September 24, 2014. Section of Legal and International Judicial Cooperation. Ministry of Foreign Affairs and International Cooperation.

Please attach the text(s)

The text of the Section for International Legal and Judicial Cooperation of that Manual is attached.

If available, please attach the text in any (other) official language of the United Nations (Arabic, Chinese, Spanish, French, English or Russian).

Please provide examples of the application.

There are no examples for such cases.

If applicable, name or describe the positions of existing liaison officers in the law application authorities of your country

An official who has the role of liaison officer abroad is designated as part of the staff of the Honduran Embassies.

232. Subparagraph f) of paragraph 1 of Article 48

1. States Parties shall cooperate closely in line with their respective legal and administrative systems, in order to increase the effectiveness of the measures of enforcement to combat the offences covered by this Convention. In particular, States Parties shall take effective measures:

[...] ☐ f) To exchange information and coordinate administrative and other measures taken for the early identification of the offences covered by this Convention.

**Has your country adopted and implemented the measures described above?
(Check one answer.)**

(Y) Yes

(Y) Yes, in part

(N) No

Yes, in part. Honduran legislation has defined the possibility for requesting and providing administrative assistance in the case of investigations on the crime of money laundering, front man and other applicable.

Please cite and attach the applicable measure(s):

Please cite the text(s)

SPECIAL LAW AGAINST MONEY LAUNDERING contained in Decree No. 144 -2014. Article 84.

Please attach the texts

SPECIAL LAW AGAINST MONEY LAUNDERING

Article 84. ADMINISTRATIVE ASSISTANCE. The Public Ministry or any other competent authority may request and provide administrative assistance to the competent authorities of other countries in order to facilitate the investigation and prosecution of the crime of money laundering, the use of front men and other that apply, as well as the identification of assets, proceeds or instrumentalities derived from offences under this Act and other applicable.

This manner of obtaining evidence is valid in criminal proceedings.

If available, please attach the text in any (other) official language of the United Nations (Arabic, Chinese, Spanish, French, English or Russian).

Please provide examples of the application.

There are no examples because the law is a recent term.

233. Paragraph 2 of Article 48

2. States Parties, in order take into effect this Convention shall consider entering into agreements or bilateral or multilateral arrangements regarding direct cooperation between their agencies and law enforcement, and amending them, where such agreements or arrangements already exist, . In the absence of such agreements or arrangements between the States Parties, States Parties may consider this Convention as the basis for mutual cooperation in law enforcement over the offences covered by this Convention. When appropriate, States Parties shall make full use of agreements or arrangements, including international or regional organizations, to enhance cooperation between their respective agencies to enforce the law.

Has your country entered into bilateral or multilateral agreements or arrangements on direct cooperation with agencies of enforcement of other States Parties? (Check one answer.)

(Y) Yes

(N) No

Yes. Honduras through a multilateral agreement is part of the Ibero-American Network of International Legal Cooperation, Iber RED, which is a structure formed by Central Authorities and contact points from the Ministries of Justice, Prosecutors and Public Ministry, and Judicial Powers of 22 countries that make up the Ibero-American Community of Nations and by the Supreme Court of Puerto Rico. It is aimed at optimizing the instruments of civil and criminal judicial assistance, and the strengthening cooperation ties between the countries.

Indicate and summarize the bilateral or multilateral agreements or other applicable measures:

Please cite the text(s) ☐

CONSTITUTIVE ACT OF THE IBERO-AMERICAN NETWORK OF LEGAL COOPERATION (Iber RED).

REGULATION OF THE IBERO-AMERICAN NETWORK FOR INTERNATIONAL LEGAL COOPERATION.

Please attach the text(s)

The full texts of the Memorandum and the Rules of Operation of Iber RED are attached.

If available, please attach the text in any (other) official language of the United Nations (Arabic, Chinese, Spanish, French, English or Russian).

Where appropriate and available, provide information on cases of cooperation in law enforcement, offered or received by your country, were bilateral or multilateral agreements or arrangements were carried out, including international or regional organizations.

There are no examples available.

Does your country consider the Convention as the basis for mutual cooperation in law enforcement over the offences covered by it? (Check one answer.)

Yes. The Convention was adopted and was incorporated in the Honduran legal system which makes it applicable.

Where appropriate and available, provide information on cases of mutual cooperation in law enforcement, offered or received by your country, where the Convention was considered as the legal basis.

Although it is possible, there are no cases yet of mutual cooperation which have considered the Convention as a legal basis for mutual cooperation.

234. Paragraph 3 of Article 48

3. States Parties shall endeavor to cooperate within their means to respond to offences covered by this Convention committed through the use of modern technology.

Is your country in compliance with this provision? (Check one answer.)

(Y) Yes

(Y) Yes, in part

(N) No

Yes, in part. Honduras is part of the across-border regional cooperation efforts to address some of the offences covered by UNCAC committed through the use of modern technology. An example is the Asset Recovery Network of

Financial Action Task Force in Latin America (RRAG / GAFILAT), which aims to combat money laundering and terrorist financing, through the commitment to continuous improvement of national policies against both issues and the strengthening of different mechanisms for cooperation among member countries

Please cite the applicable measure(s):

Please cite the text(s)

MEMORANDUM OF UNDERSTANDING BETWEEN THE GOVERNMENT OF THE UNITED FINANCIAL GROUP OF LATIN AMERICAN ACTION (before of South America) against Money Laundering of December 8, 2000.

GUIDELINES FOR THE OPERATION OF THE REGIONAL NETWORK GAFILAT ASSETS RECOVERY October 2010.

Please attach the text(s)

The full text of the documents referred to above is attached.

If available, please attach the text in any (other) official language of the United Nations (Arabic, Chinese, Spanish, French, English or Russian).

Please provide examples of the application.

Using electronic platform RRAG to exchange information in a secure environment maintained in the Financial Intelligence Unit of Costa Rica.

They are currently designated twenty-four (24) designated Points of Contact for all member countries (Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Ecuador, Mexico, Panama, Paraguay, Peru and Uruguay), mostly consisting of a police contact point and another of the Public Ministry of each country.

235. Technical assistance

The following questions are made on technical assistance in connection with the entire article under review.

Do you require technical assistance for (total) implementation of the article under review? (Check one answer.)

(Y) Yes

(N) No

No

49. Joint investigations.

236. Article 49

States Parties shall consider the possibility of carrying out bilateral or multilateral arrangements under which, in relation to matters that are the subject of investigations, prosecutions or judicial proceedings in one or more States, the competent authorities may establish joint investigative bodies. In the absence of such agreements or arrangements, joint investigations may be undertaken on a case by case agreement. The States Parties involved shall ensure that the sovereignty of the State Party in whose territory such investigation is undertaken is fully respected.

Has your country adopted and implemented the measures described above?

(Y) Yes

(Y) Yes, in part

(N) No

Yes. The Inter-American Convention on Mutual Assistance in Criminal Matters provides for the possibility to participate together with authorities of other States in the investigation of crimes. ☐

Indicate and summarize the bilateral or multilateral agreements or other applicable measures:

Please cite the text(s)

THE INTER-AMERICAN CONVENTION ON MUTUAL ASSISTANCE IN CRIMINAL MATTERS - NASSAU Article 7. Scope of application

Please attach the text(s)

THE INTER-AMERICAN CONVENTION ON MUTUAL ASSISTANCE IN CRIMINAL MATTERS - NASSAU

ARTICLE 7.- SCOPE OF APPLICATION. a) Notification of decisions and judgments; b) Receiving testimony or statements of persons; c) Notification of witnesses and experts in order to testify; d) Practice of foreclosure and sequestration of property, freezing of assets, and assistance in procedures related to seizures; e) Executing searches and confiscation; f) Examining objects and sites; g) Display judicial documents; h) Submission of documents, reports, information and evidence; i) The transfer of detained persons for

purposes of this Convention, and j) Any other procedure provided there is agreement between the requesting and the requested State.

If available, please attach the text in any (other) official language of the United Nations (Arabic, Chinese, Spanish, French, English or Russian).

Please provide examples of the application.

Currently Honduras is part of the Network of Prosecutors against Organized Crime in Central America (REFCO). As part of this Network joint investigations are carried out although to date they have been mostly about trafficking.

This network is currently discussing a draft Memorandum of Understanding to regulate more formally how to proceed within the framework of joint operations.

Moreover, Honduras has signed Memoranda of Understanding with Colombia and the United States that include provisions on joint research.

If available, provide information on any joint investigation and mixed joint investigation body.

There are no examples available of this type.

237. Technical assistance

The following questions are made on technical assistance in connection with the entire article under review.

Do you require technical assistance for (total) implementation of the article under review? (Check one answer.)

(Y) Yes

(N) No

No

50. Special investigative techniques.

238. Paragraph 1 of Article 50

1. In order to combat corruption effectively, each State Party, to the extent permitted by the fundamental principles of its domestic law and under the conditions prescribed by its domestic law, shall take such measures as may be necessary,

within its means, to provide for the appropriate use by its competent authorities in their territory, controlled delivery and, where it deems appropriate, other special investigative techniques such as electronic surveillance or other and undercover operations, as well as to allow for the admissibility of evidence derived from such techniques in their courts.

**Has your country adopted and implemented the measures described above?
(Check one answer.)**

(Y) Yes

(Y) Yes, in part

(N) No

Yes. The recently passed Special Law on Money Laundering provides the appropriate use of special investigative techniques and prosecution of all criminal acts under the Criminal Code and special laws. In addition, the Special Law on Intervention of Private Communications notes outstanding technical research as the interception of communications.

Please cite and attach the applicable measure(s):

Please cite the text(s)

SPECIAL LAW AGAINST MONEY LAUNDERING contained in Decree No. 144-2014. Articles 49, 51, 54 and 61.

SPECIAL LAW ON INTERCEPTION OF PRIVATE COMMUNICATIONS, contained in Legislative Decree No. 2443-2011 dated December 8, 2011. Articles 7, 8 and 13.

Please attach the texts

SPECIAL LAW AGAINST MONEY LAUNDERING

Article 49. Special investigative techniques. Appropriate use of **special investigative techniques** and prosecution of **all criminal acts under the Criminal Code** and special laws applies, as well as identifying their authors, participants and committed assets.

The Special Investigative techniques are: Handling of informants, controlled delivery, undercover operations and the interception of communications.

Article 51. MONITORED OR CONTROLLED DELIVERY. This consists of allowing illicit remittances or drug related, prohibited substances or substances for which remittances have replaced the aforementioned or cash, instruments or valuables, weapons, ammunition, explosives or other

instruments related to the type of crime it is investigated, being delivered, that enter, transit or exit the Honduran territory, with the knowledge and under the control and permanent supervision of the competent authorities, with the purpose of:

- 1) Identify people and organizations involved in the crime;
- 2) Identify the assets, products, instruments or profits to achieve seizure and subsequent confiscation;
- 3) Obtain evidence, elements of proof or information needed in the investigation; and,
- 4) Provide assistance to foreign authorities for the same purposes.

Article 54. THE UNDERCOVER AGENT. In order to obtain evidence, elements of proof or information that permits verification commission of the offence, as well as to prevent its consummation or obtaining the identification or arrest of perpetrators, participants or abettors to obtain and secure the necessary evidence, during the course of the investigation, at the request of the Public Ministry, the national Competent Leal Authority, by resolution and under the strictest secrecy and confidentiality, may authorize officers, employees or agents Law enforcement or others when the case requires it, to assume an identity or fictitious or covert function temporarily.

The purpose of the undercover agent is be introduced in criminal organizations whose aims include the crime of money laundering, terrorist financing or others being investigated, related to these matters.

At the request of the Public Ministry, the Competent Court by reasoned decision and under the strictest secrecy and confidentiality, may authorize officers, employees or agents responsible for implementing the law, or others when the case requires, to assume an identity or fictitious or covert function temporarily.

During the course of an undercover operation, using all appropriate technical means to document through photography, audio, video or any other means, the development and outcome of the operation is also authorized.

Article 61. INTERCEPTION OF COMMUNICATIONS. For the implementation of the Special Technique on Private Wiretaps, it must be carried out in accordance with the Special Law on Private Wiretaps contained in Legislative Decree No. 2443-2011 dated December 8, 2011.

SPECIAL LAW ON INTERCEPTION OF PRIVATE

COMMUNICATIONS.

Article 7. AUTHORIZATION. In the investigations that the Public Ministry, the National Police or any other competent authority made may be authorized by the court for the interception of communications.

Article 8. CASES WHERE IT IS AUTHORIZED. Authorizing the interception of communications will proceed in **investigation, prosecution and processing** of crimes in which the use of this **special technique**, is required valuing for this the gravity, usefulness and proportionality of the measure in relation to the offence in question.

Article 13. APPLICATION FOR THE INTERCEPTION. The interception of communications will proceed only at the request of the Public Ministry, Private Prosecutor through them and the Attorney General's Office, in cases within its jurisdiction.

If available, please attach the text in any (other) official language of the United Nations (Arabic, Chinese, Spanish, French, English or Russian).

Please provide examples of the application including judicial proceedings or others that are related to it.

There are no examples yet since the Special Law Against Money Laundering is a recent term.

If that information is available, please provide statistical data on the number of investigations, prosecutions, convictions and acquittals. Provide figures per year, according to their availability.

No statistics yet since the Special Law Against Money Laundering is a recent term.

If you have that information, describe recent cases that have been used and admitted in court, controlled delivery or other special investigative techniques.

The Special Law Against Money Laundering is a recent term, and therefore it is not yet applied in particular cases.

239. Paragraph 2 of Article 50

2. For the purpose of investigating the offences covered by this Convention, States Parties are encouraged to undertake, when appropriate, agreements or appropriate bilateral or multilateral arrangements for using such special investigative

techniques in the context of cooperation at the international level . These agreements or arrangements shall be concluded and implemented in full compliance with the principle of sovereign equality of States and shall be implemented strictly to comply with the conditions contained therein.

Is your country in compliance with this provision? (Check one answer.)

(Y) Yes (Y) Yes, in part (N) No

No. No specific agreements have been concluded.

240. Paragraph 3 of Article 50

3. In the absence of agreements or arrangements referred to in paragraph 2 of this article, decisions to use such special investigative techniques at the international level shall be made on the basis of each individual case and may, when necessary, take into account the financial arrangements and understandings with respect to the exercise of jurisdiction by the States Parties concerned.

Has your country adopted and implemented the measures described above?

(Y) Yes (Y) Yes, in part (N) No

Yes, in Honduras a competent judge may estimate in each case, the use of special investigative techniques and procedures may be performed using these techniques or procedures at the request of another country.

Indicate and attach the applicable measures or policies

Please cite the text(s)

SPECIAL LAW AGAINST MONEY LAUNDERING contained in Decree No. 144-2014. Article 60.

Please attach the texts

Article 60. LEGAL AUTHORIZATION The Special investigation Techniques of controlled delivery and undercover agent, must be authorized by the competent court at the request of the Public Ministry.

Exceptionally, in urgent cases, the Public Ministry, may authorize controlled delivery **within the country** and the undercover agent, and must report within a period of twenty-four (24) hours, to the court, who will validate or invalidate the proceedings.

For the use of informants, no court authorization is required.

If available, please attach the text in any (other) official language of the United Nations (Arabic, Chinese, Spanish, French, English or Russian).

Please provide examples of the application including examples where the decision to use special investigative techniques at the international level was adopted on the basis of each case.

There are no application examples.

241. Paragraph 4 of Article 50

4. All decisions to use controlled delivery at the international level may, with the consent of the States Parties concerned, include methods such as intercepting and allowing the goods or funds to continue intact or be removed or replaced in whole or in part.

Has your country adopted and implemented the measures described above?

(Y) Yes

(Y) Yes, in part

(N) No

No There has been no case yet in matters of corruption, although in a case of money laundering, the offence was drug trafficking.

242. Technical assistance

The following questions are made on technical assistance in connection with the entire article under review.

Do you require technical assistance for (total) implementation of the article under review? (Check one answer.)

(Y) Yes

(N) No

No

B. Some information

289. Additional information

Please provide any additional information which, in your opinion, is important to consider at this time by the Conference of the Parties to the UN Convention against Corruption, in relation to different aspects of the implementation of the Convention and regarding difficulties that were not mentioned above.

The Constitution of the Republic of Honduras can be found at the following website:

<http://www.poderjudicial.gob.hn/CEDIJ/Leyes/Documents/Constitución%20de%20la%20República%20de%20Honduras%20%28Actualizada%202014%29.pdf>

The Criminal Code is available at the following website:

<http://www.poderjudicial.gob.hn/CEDIJ/Leyes/Documents/Código Penal%20%28Actualizado%20año%202014%29.pdf>

The Criminal Code is available at the following website:

<http://www.poderjudicial.gob.hn/CEDIJ/Leyes/Documents/Código%20Procesal%20Penal%20%28Actualizado%202014%29.pdf>

The Special Law on Money Laundering can be consulted at the following site:

<https://www.ccit.hn/wp-content/uploads/2015/05/Diario-La-Gaceta.pdf>