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EXECUTIVE COUNCIL

Thirty-Eight Ordinary Session

Videoconference

03 - 04 February 2021

Addis Ababa, Ethiopia

EX.CL/1260(XXXVIII)

Original : English

**ACTIVITY REPORT OF THE AFRICAN UNION
ADVISORY BOARD ON CORRUPTION**

**AFRICAN UNION ADVISORY BOARD ON
CORRUPTION**

**المجلس الاستشاري للإتحاد الإفريقي
لمحاربة الفساد**



**CONSEIL CONSULTATIF DE L'UNION AFRICAINE
SUR LA CORRUPTION**

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12TH ACTIVITY REPORT OF THE AFRICAN UNION ADVISORY BOARD ON CORRUPTION

**SUBMITTED TO THE POLICY ORGANS IN ACCORDANCE WITH
ARTICLE 22(5)(H) OF THE AFRICAN UNION CONVENTION ON PREVENTING AND
COMBATING CORRUPTION**

I. SUMMARY

- 1) This is the 12th Activity Report of the African Union Advisory Board on Corruption (“AUABC” or “the Board”) which is presented to the Policy Organs of the African Union (AU) in accordance with Article 22(5)(h) of the African Union Convention on Preventing and Combating Corruption (“AUCPCC” or “the Convention”). The report covers the period January to December 2020. It highlights among others meetings, the status of state reporting, the status of ratification of the Convention, engagements with stakeholders, thematic implementation of the Convention in Member States, research and advice to Member States, administrative and financial matters, implementation of previous decisions and recommendations.

II. BACKGROUND

- 2) The Convention was adopted at the 2nd Ordinary Session of the Assembly of the AU in Maputo, Mozambique, on 11 July 2003, and entered into force on 5 August 2006, 30 days after the deposit of the 15th instrument of ratification. As at 10 November 2020, the Convention had been signed by 49 states and ratified or acceded to by 44 states.
- 3) According to article 22(5) of the Convention, the functions of the Board are, among others: “to promote and encourage the adoption and application of anti-corruption measures” by States Parties to prevent, detect, punish and eradicate corruption and related offences in Africa” and “to submit a report to the Executive Council on a regular basis on the progress made by each State Party in complying with the provisions of this Convention.
- 4) The Board is composed of eleven (11) members, nominated by States Parties and elected and appointed by the Assembly through the Executive Council from a list of experts for a term of two years renewable once. Board Members serve in their individual capacity and on a part-time basis. The Board elects from among themselves a Bureau which is composed of a Chairperson, Vice-Chairperson and Rapporteur. A list of current Board Members and their respective portfolios and rapporteurships is attached as Annex 1.
- 5) The Board is supported in its work by a Secretariat which is headed by an Executive Secretary. The Secretariat provides technical, professional, administrative and logistical support to the Board. Its organisational structure, which is based on AU policies, is designed to integrate professional, technical and administrative staff. As at 10 November 2020, the Secretariat had a staff complement of five (5) out of the approved structure adopted in Maputo of seven (7). Two Staff members from the approved structure were still serving on short term basis. The Board was also supplemented by two other short term staff bringing the total headcount of staff to nine (9). The Board has its seat at Arusha, Tanzania. A list of the current staffing outlay is attached as Annex 2.

III. AUABC COVID-19 RESPONSE AND ADAPTATION MEASURES

- 6) In response to the challenges posed by the Covid-19 pandemic, the Board adopted response and adaptation measures at strategic and operational levels. With respect to its operations, the Board suspended all unnecessary travel, adopted virtual working methods that allowed it to hold four (4) Ordinary and two (2) Extraordinary Board Sessions. The Board was also able to prepare and convene some of its planned activities notably the African Anti-Corruption Day on
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11 July and the African Anti-Corruption Dialogue virtually. The Board was also able to adapt its working methods to conduct a Virtual Review Mission to Zambia.

- 7) At a strategic level, the Board has begun research on the impact of Covid-19 on transparency and accountability in Africa. The aim of this research project is to identify how Member States have responded to the pandemic using an accountability and transparency lens, the level of integration of anti-corruption norms in responding to the Covid-19 pandemic and to identify gaps and best practises in response protocols to be shared with all Member States. The Board also hosted two webinars discussing the topic during the 2020 African Anti-Corruption Day and African Anti-Corruption Dialogue. The following recommendations were presented;
- a) Promote a whole-of-government approach in dealing with the Coronavirus pandemic and ensure the governance and anti-corruption elements are integrated in response strategies.
 - b) Enable constructive engagement of citizens and other stakeholders to strengthen public trust and promote access to information in responding to the pandemic. In particular, ensure regular reporting on how Coronavirus response resourcing are being utilized, publication of procurement contracts, commissioning special audits and publishing of findings and irregularities.
 - c) Support further research and consolidation of data on corruption trends during the Coronavirus pandemic drawing on the experiences and lessons learnt from SARS and Ebola.
 - d) Encourage Member States to strengthen monitoring of public service delivery in the health sector and integrate anti-corruption reforms.
 - e) Develop, implement and more effectively utilize continental response protocols and mechanisms for pandemics and related disasters such as the Africa Risk Capacity as a long term solution to mitigate risk and maximizing the scale in responding to pandemics.

IV. MEETINGS

A. Board Sessions

- 8) During the reporting period, the Board held three Ordinary Sessions and Two Extra-Ordinary Sessions as follows:
- a) 32nd Ordinary Session held from 15 – 26 June 2020. This session allowed the Board to review state reports from Rwanda, Tanzania, Madagascar and South Africa. The session considered the Board's response in relation to transparency and accountability changes posed by the Covid-19 Pandemic, it developed and adopted the Terms of Reference for reviewing its Strategic plan and continued its work on the development of a corruption measurement tool. The final communique of the session is available on the website www.auanticorruption.org.
 - b) 4th Extra Ordinary Session held from 13 – 14th July 2020. This session allowed the Board to discuss further and refine the Concept Note on the African Anti-Corruption Dialogue and its associated thematic questionnaire.
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- c) 33rd Ordinary Session held from 7 - 21 September 2020. This session allowed the Board review its Rules of Procedure, review the state report from Congo. It also allowed the Board to consider implementation measures for the Common African Position on Asset Recovery.
- d) 5th Extra-Ordinary Session held from 26 – 27 October 2020. This session allowed the Board to prepare for the convening of the African Anti-Corruption Dialogue 2020.
- e) The 34th Ordinary Session held from 9 – 20 November 2020. During this session, the Board continued its research work on the impact of Covid-19 on transparency and accountability and it adopted its revised Rules of Procedure.
- f) The 35th Ordinary Session held from 14 – 18 December 2020. During this session, the Board considered updates on state reports and continued its research work on the impact of Covid-19 on transparency and accountability.

B. AU Policy Organs Meetings and Other Institutional Meetings

- 9) During the reporting period, the Board attended the following meetings of the AU:
 - a) 39th Ordinary Session of the Permanent Representatives Committee from 21-22 January 2020
 - b) 36th Ordinary Session of the Executive Council from 6 - 7 February 2020
 - c) 33rd Ordinary Summit from 9-10 February 2020.
 - d) Briefing to the PRC Sub-Committee on Human Rights, Democracy and Governance on 6 September 2020.
 - e) 40th Ordinary Session of the Permanent Representatives Committee from 30 September – 5 October 2020.
 - f) 37th Ordinary Session of the Executive Council from 13-14 October 2020.
 - g) Coordination meeting of the project "Accelerating the Ratification and Domestication of AU Treaties" on 17 November 2020.
 - h) African Governance Architecture (AGA) Gender Pre forum to the 9th High Level Dialogue from 19 - 20 November 2020
 - i) Sixth Ordinary Session of the Specialized Technical Committee on Justice and Legal Affairs from 23 November – 1 December 2020.
 - a) 16th AU-EU Human Rights Dialogue on 26 November 2020.
 - b) Continental Youth Consultation to the 9th AGA High Level Dialogue from 26 - 27 November 2020.
 - c) 9th AGA High Level Dialogue from 10 - 11 December 2020.
 - d) AGA Platform Meetings - 12 December 2020.

C. Other Relevant Meetings

- 10) During the reporting period, the Board attended the following other notable meetings;
 - a) Financial Accountability Transparency and Integrity Panel (FACTI) Regional Consultation for Africa on 18 November 2020.
 - b) 19th International Anti-Corruption Conference from 30 November – 5 December 2020 where the Board participated in two workshops. The first workshop was titled Combating Illicit Enrichment in Africa: Enhancing the Value of Wealth Declaration Systems Through

Technology. The second workshop focused on Moving from Commitments to Actions in addressing the 2030 Agenda.

V. STATUS OF RATIFICATION OF THE CONVENTION

- 11) To date, out of 55 AU Member States, there are 49 signatures and 44 ratifications while 11 States are yet to ratify / accede to the Convention.
- 12) During the reporting period Tunisia acceded to the Convention.
- 13) Below is the list of signatures and ratifications:

No Signature (3) / Signatures only (8)

No.	COUNTRY	DATE OF SIGNATURE	DATE RATIFICATION/ ACCESSION	OF/	DATE DEPOSITED
1	Cameroon	30/06/2008	-		-
2	Central African Rep.	-	-		-
3	Cape Verde	-	-		-
4	Djibouti	15/11/2005	-		-
5	Democratic Rep. Of Congo	05/12/2003	-		-
6	Eritrea	25/04/2012	-		-
7	Mauritania	30/12/2005	-		-
8	Morocco	-	-		-
9	Somalia	23/02/2006	-		-
10	South Sudan	24/01/2013	-		-
11	Eswatini	07/12/2004	-		-

Ratifications (44)

No.	COUNTRY	DATE OF SIGNATURE	DATE RATIFICATION/ ACCESSION	OF	DATE DEPOSITED
1	Angola	22/01/2007	20/12/2017		25/01/2018
2	Algeria	29/12/2003	23/05/2006		06/07/2006
3	Benin	11/02/2004	20/09/2007		07/11/2007
4	Botswana	-	14/05/2014		19/08/2014
5	Burkina Faso	26/02/2004	29/11/2005		15/02/2006
6	Burundi	03/12/2003	18/01/2005		10/03/2005
7	Chad	06/12/2004	03/03/2015		27/04/2015
8	Côte d'Ivoire	27/02/2004	14/02/2012		05/11/2012
9	Comoros	26/02/2004	02/04/2004		16/04/2004

10	Congo	27/02/2004	31/01/2006	24/04/2006
11	Egypt	30/01/2017	01/01/2017	25/08/2017
12	Ethiopia	01/06/2004	18/09/2007	16/10/2007
13	Equatorial Guinea	30/01/2005	26/06/2019	29/10/2019
14	Gabon	29/06/2004	02/03/2009	08/04/2009
15	Gambia	24/12/2003	30/04/2009	09/07/2009
16	Ghana	31/10/2003	13/06/2007	20/07/2007
17	Guinea-Bissau	21/01/2006	23/12/2011	04/01/2012
18	Guinea	16/12/2003	05/03/2012	12/04/2012
19	Kenya	17/12/2003	03/02/2007	07/03/2007
20	Libya	05/11/2003	23/05/2004	30/06/2004
21	Lesotho	27/02/2004	26/10/2004	05/11/2004
22	Liberia	16/12/2003	20/06/2007	20/07/2007
23	Madagascar	28/02/2004	06/10/2004	09/02/2005
24	Mali	09/12/2003	17/12/2004	14/01/2005
25	Malawi	-	26/11/2007	27/12/2007
26	Mauritius	06/07/2004	04/05/2018	24/05/2018
27	Mozambique	15/12/2003	02/08/2006	24/10/2006
28	Namibia	09/12/2003	05/08/2004	26/08/2004
29	Nigeria	16/12/2003	26/09/2006	29/12/2006
30	Niger	06/07/2004	15/02/2006	10/05/2006
31	Rwanda	19/12/2003	25/06/2004	01/07/2004
32	Sahrawi Arab Democratic Rep.	25/07/2010	27/11/2013	27/01/2014
33	São Tomé and Príncipe	01/02/2010	28/05/2019	27/06/2019
34	Senegal	26/12/2003	12/04/2007	15/05/2007
35	Seychelles	-	01/06/2008	17/06/2008
36	Sierra Leone	09/12/2003	03/12/2008	11/12/2008
37	South Africa	16/03/2004	11/11/2005	07/12/2005
38	Sudan	30/06/2008	26/09/2018	26/12/2018
39	Tanzania	05/11/2003	22/02/2005	12/04/2005
40	Togo	30/12/2003	14/09/2009	22/10/2009
41	Tunisia	27/01/2013	19/11/2019	10/02/2020
42	Uganda	18/12/2003	30/08/2004	29/10/2004
43	Zambia	03/08/2003	30/03/2007	26/04/2007
44	Zimbabwe	18/11/2003	17/12/2006	28/02/2007

- 14) The Board wishes to congratulate Tunisia for acceding to the Convention. It further continues to encourage the remaining 11 Member States (Cameroon, Central African Republic, Cape Verde, Djibouti, Democratic Republic of Congo, Eritrea, Eswatini, Mauritania, Morocco, Somalia and South Sudan,) that are yet to do so to take the necessary measures to accede to the Convention. The Board avails itself to work with Member States to accede to the Convention through appeals and high level advocacy and sensitization missions.

- 15) In particular, the Board is encouraged by the accession to the Convention by H.E. Paul Biya of Cameroon on 1 April 2020. The Board wishes to encourage Cameroon to take necessary measures to complete the accession process by depositing its instrument of accession with the African Union Commission.

VI. STATE REPORTING PURSUANT TO ARTICLE 22(7) OF THE CONVENTION

- 16) During the reporting period, the Board received a baseline report from Botswana and Burkina Faso. The Board also considered reports from Congo, Madagascar and Tanzania and these were transmitted to the respective states for their input. The Board also finalized the report from Rwanda. Rwanda report is attached as Annex 3.
- 17) The key findings of the review of Rwanda reveals Use of technology in public services, Incorporation of cultural values and traditional practices, high conviction rates for corruption cases prosecuted, strong leadership and political courage, and effective stakeholder collaboration as good practices in fighting corruption in Rwanda. The Review noted the following challenges including inadequate capacity to investigate cybercrimes, Insufficiency of statistical data to validate progress in the fight against corruption by relevant national bodies, the Prohibition of anonymous disclosures by whistleblowers and informants and the Lack of implementation of the protective principle jurisdiction. The Board put forward the following recommendations;
- a) Put in place a training programme for staff of relevant bodies to capacitate them to deal with cybercrimes and economic crimes that committed using advanced technology.
 - b) Ensure adequate recording keeping and the development and periodic review of statistical data as a monitoring and evaluation tool as well as to identify trends and threats.
 - c) Review and align Law No 44bis/2017 of 06/09/2017 relating to the protection of whistle blowers to provide for anonymous disclosures.
 - d) Review and align national laws to ensure domestication of the protective principle jurisdiction required pursuant to Article 13(1)(d) of the Convention.
- 18) During the reporting period the Board conducted Review Missions to South Africa (physically in February 2020) and Zambia (virtually in December 2020). The Review Missions were conducted to assess and evaluate the States Parties compliance with the Convention. The Review Missions enabled the Board to engage first hand with National Anti-Corruption Agencies, high governmental offices, the private sector, civil society, the youth, the media and academia on implementation trends, challenges and country specific best practises in fulfilling the provisions of the Convention.
- 19) To date, 16 out of the 44 States Parties have submitted baseline reports with 28 States Parties being non-compliant with their reporting obligations. In order to facilitate the state reporting process, the Board adopted a revised questionnaire and shared this with member states. It also adopted state reporting guidelines as a step-by-step guide to facilitate the reporting process.
- 20) The status of submission of baseline reports pursuant to Article 22(7) from the year 2014 is detailed below:
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No.	COUNTRY	DATE RATIFICATION/ ACCESSION	OF	BASELINE REPORT	REVIEW MISSION
1	Angola	20/12/2017		-	-
2	Algeria	23/05/2006		-	-
3	Benin	20/09/2007		-	-
4	Botswana	14/05/2014		YES	-
5	Burkina Faso	29/11/2005		YES	-
6	Burundi	18/01/2005		-	-
7	Chad	03/03/2015		-	-
8	Côte d'Ivoire	14/02/2012		-	-
9	Comoros	02/04/2004		YES	-
10	Congo	31/01/2006		NO	YES
11	Egypt	01/01/2017		-	-
12	Equatorial Guinea	26/06/2019		-	-
13	Ethiopia	18/09/2007		YES	-
14	Gabon	02/03/2009		-	-
15	Gambia	30/04/2009		-	-
16	Ghana	13/06/2007		-	-
17	Guinea-Bissau	23/12/2011		-	-
18	Guinea	05/03/2012		-	-
19	Kenya	03/02/2007		YES	-
20	Libya	23/05/2004		-	-
21	Lesotho	26/10/2004		-	-
22	Liberia	20/06/2007		-	-
23	Madagascar	06/10/2004		YES	YES
24	Mali	17/12/2004		-	-
25	Malawi	26/11/2007		-	-
26	Mauritius	04/05/2018		-	-
27	Mozambique	02/08/2006		-	-
28	Namibia	05/08/2004		YES	YES
29	Nigeria	26/09/2006		YES	-
30	Niger	15/02/2006		-	-
31	Rwanda	25/06/2004		YES	YES
32	Sahrawi Arab Democratic Rep.	27/11/2013		-	-
33	São Tomé and Príncipe	28/05/2019		-	-
34	Senegal	12/04/2007		-	-
35	Seychelles	01/06/2008		-	-
36	Sierra Leone	03/12/2008		YES	-
37	South Africa	11/11/2005		YES	YES
38	Sudan	26/09/2018		-	-
39	Tanzania	22/02/2005		YES	YES
40	Tunisia	19/11/2019		-	-
41	Togo	14/09/2009		YES	-
42	Uganda	30/08/2004		YES	YES

43	Zambia	30/03/2007	YES	YES
44	Zimbabwe	17/12/2006	YES	-

- 21) The Board calls on the remaining 28 States Parties (Angola, Algeria, Benin, Burundi, Chad, Côte d'Ivoire, Congo, Egypt, Equatorial Guinea, Gabon, Gambia, Ghana, Guinea-Bissau, Guinea, Libya, Lesotho, Liberia, Mali, Malawi, Mauritius, Mozambique, Niger, Sahrawi Arab Democratic Republic, São Tomé and Príncipe, Senegal, Seychelles, Sudan and Tunisia) that have not yet done so to submit their baseline reports to the Board. The Board further calls upon States Parties to respond in a timely manner to its requests to host Review Missions.

VII. THE STATE OF ANTI-CORRUPTION IN AFRICA: THEMATIC ASSESSMENT OF TRENDS IN FIGHTING CORRUPTION THROUGH EFFECTIVE AND EFFICIENT JUDICIAL SYSTEMS.

- 22) The Board administered a questionnaire to assess the state of anti-corruption efforts in Africa with a particular focus on enhancing the fight against corruption through efficient and effective judicial systems. The Board draws the content of this section from the responses to the questionnaire, desk research, interactions with Member States National Anti-Corruption Agencies as part of Review Missions and the outcomes of celebration of the African Anti-Corruption Day and the African Anti-Corruption Dialogue 2020 which were dedicated to the topic.
- 23) The Board received 18 responses to the questionnaire from Member States namely Benin, Botswana, Cameroon, Chad, Cote d'Ivoire, Ghana, Guinea, Liberia, Mali, Mauritius, Mozambique, Namibia, Rwanda, Sao Tome and Principe, Senegal, Tanzania, Togo and Tunisia.
- 24) An analysis of the questionnaires and corroborative sources identified the following positive developments;
- a) Establishment of criminal justice forums to enhance inter-agency coordination.
 - b) Establishment of specialized economic crime courts and specialized prosecutors.
 - c) Digitization of judicial processes as a means to enhance transparency, collaboration and efficiency in case management.
 - d) Establishment of integrity committees and units in investigative, prosecutorial and adjudicative bodies as a preventative measure and to ensure compliance with standards of accountability.
- 25) A further analysis of the responses to the questionnaire and corroborative sources from a desk analysis noted the following areas of concern;
- a) Ineffective institutional cooperation.
 - b) The slow pace of adjudication of corruption cases.
 - c) Absence of specialized personnel to investigate complex economic crimes.
 - d) Political interference of investigative, prosecutorial and adjudicative bodies.

- e) Poor quality investigations and the absence of sufficient evidence leading to low conviction rates.
- 26) The following recommendations are put forward to enhance effectiveness and efficiency of judicial systems;
- a) Implementing institutional reforms to empower national anti-corruption authorities to be able to investigate and prosecute economic crimes where possible.
 - b) Enhancing institutional cooperation through justice sector forums and related cooperation frameworks.
 - c) Ensuring judges, investigators and prosecutors have security of tenure.
 - d) Strengthening whistleblower protection through enactment of whistleblower laws and provision of whistleblower protection measures.
 - e) Improving case management including through establishment of specialized economic crime courts where possible.
 - f) Reviewing national laws to abolish technical loopholes and ensure clarity.
 - g) Capacity development for justice sector actors on complex case investigation, prosecution and investigation.
 - h) Improving the management of proceeds of crime to prevent delays.
 - i) Utilizing plea bargaining as an alternative to lengthy and complex criminal trials.
 - j) Vetting of personnel prior to appointment.
 - k) Adopting more robust sanction mechanisms for justice sector actors found culpable of corruption.

VIII. OUTREACH AND STAKEHOLDER ENGAGEMENT

- 27) As part of its mandate pursuant to Article 22(5)(g) of the Convention to build partnerships with a broad range of stakeholders involved in the fight against corruption, during the reporting period the Board engaged in a number of outreach activities such as, participation in various meetings and events listed in Section III above, celebration of African Anti-Corruption Day and convening the 2020 African Anti-Corruption Dialogue including the non-state actors forum.
- 28) The 4th African Anti-Corruption Day was celebrated on 11 July 2020 based on the theme “Fighting Corruption through Effective and Efficient Judicial Systems.” The Board convened 4 webinars to commemorate the event. The day was celebrated in over 20 Member States including Algeria, Cameroon, Chad, Comoros, Democratic Republic of Congo, Egypt, Ghana, Kenya, Liberia, Mauritius, Madagascar, Mali, Namibia, Nigeria, Rwanda, Senegal, Tanzania, Togo and Zimbabwe and took the form of television and radio presentations and debates, lectures and workshops. The Board commemorated the day virtually with a webinar dedicated to the topic.
- 29) The first webinar focused on “Fighting Corruption through an Effective and Efficient Judicial Systems.” Discussions highlighted the increasing role that courts and broader judicial systems have played in exposing corruption. In particular, there has been a positive trend of judicial systems declaring national elections irregular on the basis of widespread corruption. However, a number of challenges were also raised including delays in the finalization of
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cases, difficulties with dealing with corruption within judicial systems and low levels of understanding of judicial processes by the public. The following recommendations emerged:

- a) Judicial systems, particularly courts need to be fully empowered to be independent in order to enable them to perform their functions without fear of reprisals and as means to build and retain public trust.
- b) There is a need to review and strengthen anti-corruption laws to ensure that they are clear and do not inadvertently create loopholes that may be utilized by corrupt persons.
- c) Developing clear and independent processes for the selection, appointment and discipline of judicial officers is a key tool in ensuring judicial systems are staffed by and retain persons with appropriate professional standards and values.
- d) Integrating technology in the administration of justice chain should be employed to enable access to information and demystify judicial processes.
- e) Where possible, develop specialized anti-corruption courts and investigation and prosecutorial units to deal with rapidly evolving economic and financial crime.
- f) Implement measures to ensure expeditious delivery of justice in economic crime cases including through specialized courts, imposing time limits on the hearing and determination of cases to strengthen public trust in justice systems, to prevent degradation of evidence and limit potential influence by corrupt persons in the judicial process.

30) The second webinar was titled “Anti-corruption Reforms: A viable strategy to silencing the guns in Africa.” The webinar discussed how implementing anti-corruption norms can assist in preventing the emergence of violent conflict. In drawing examples from the lessons of Somalia, it was shown how corruption breeds inequality, which in turn can give rise to violent conflict. Wars and strife then create war economies that operate outside conventional rules and these then exacerbate the conflict in a perpetual cycle. Anti-corruption reforms are therefore both an essential tool to prevent as well and end conflicts as they ensure resources are adequately and fairly exploited, managed and distributed in society. The following recommendations emerged;

- a) Strengthening democratic systems, investing in good governance and anti-corruption are essential preventative tools to ensure the avoidance of breakdown of rule of law and weakening of institutions in which absence conflicts can emerge.
- b) The use of informal, customary and traditional governance systems together with conventional justice systems should be encouraged as a means to ensure peaceful resolution of conflicts especially in emerging and post-conflict societies as they encourage compliance with norm-based standards of governance.
- c) Peacebuilding and state building measures should be put in place to create strong, inclusive and cohesive societies that privilege meritocracy over patronage and limit inequality.
- d) African countries need to ensure the full implementation of the High Level Panel Report on Illicit Financial Flows from African particularly in implementing reforms related to external drivers of conflict linked to corruption such as the existence of tax havens, secrecy jurisdictions and transnational organised crime.

31) The third webinar was titled “Transparency and Accountability in the Management of Resources in Dealing with COVID-19 Pandemic.” The webinar noted that due to the Coronavirus pandemic, many countries have relaxed safeguards on compliance, oversight and accountability due to its urgency and this has created loopholes for corruption to thrive.

It was also noted that many governments have dealt with the pandemic primarily as a health and socio-economic crisis, with little focus on the wider governance implications. As a result, the health sector, which was already a high risk area for corruption has been impacted by corrupt scheme such as price gouging due to the high demand for medical equipment, procurement related corruption and petty corruption in accessing public services. The recommendations from the webinar are referenced in paragraph 7 above.

- 32) The forth webinar was dedicated to the theme “Enhancing the Role of the Youth in fighting Corruption.” The webinar identified that young people are increasingly playing an active role in raising awareness and preventing corruption through stimulating debate and conversations on anti-corruption on social media, using performing arts and the media to influence attitudinal change and participating in research that informs policy reforms. The following recommendations were put forward;
- a) Facilitating inter-generational leadership to ensure cross generational accountability and learning, sustainable development and the creation of opportunities for youth.
 - b) Facilitating greater support for youth-led accountability movements through partnerships with government, the private sector and regional organisations as a means of sustaining innovation and change as well as ensuring that lessons from the national level are scaled to the continent.
 - c) Encouraging integration of governance and anti-corruption in educational curricula at schools and institutions of learning as a means to ensure sensitization and continual dialogue on good governance.
- 33) The Board proposes the theme of the 2021 African Anti-Corruption Day and the African Anti-Corruption Dialogue to be “Regional Economic Communities: Critical Actors in the Implementation of the African Union Convention on Preventing and Combating Corruption”
- 34) The 2020 African Anti-Corruption Dialogue was held virtually from 2 – 4 November 2020. The Dialogue brought together over 740 delegates from National Anti-Corruption Agencies, civil society, media, academia, international organisations to discuss the topic. The key outcomes of the Dialogue are available on the Board’s website www.auanticorruption.org

IX. RESEARCH AND ADVICE

- 35) During the reporting period, the Board finalized the review of two studies. The first was a Continental study on the Implementation Status of the Convention while the other related to Best Practices in Fighting Corruption at the Regional Level in Africa. The studies are available on the website of the Board.
- 36) The Board is also conducting research on strategies to enhance cooperation with regional economic communities, the development of an African Anti-Corruption methodology and the impact of Covid-19 on transparency and anti-corruption in Africa.
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- 37) The Board continued work on the development of the African Anti-Corruption Resource Centre which shall become a one stop centre literature and information on anti-corruption in Africa.
- 38) Following the adoption of the Common African Position on Asset Recovery (CAPAR) by the Assembly in February 2020, the Board engaged in consultation with partners including the Coalition for Dialogue in Africa (CoDA) to popularize the Common Position.

X. ADMINISTRATIVE AND FINANCIAL SITUATION

- 39) With respect to the Administrative and Financial situation, the Board:
- a) Notes with sincere appreciation the continued hosting of the Board's secretariat by Tanzanian authorities. During the reporting period, the Board continued to engage the Tanzanian Government Authorities over matters such as the building of a permanent office premises, the payment of session rooms pending the provision of the permanent structure and Value Added Tax (VAT) refunds. To this end, the Board wishes to request the Tanzania authorities to finalize the architectural drawings of the proposed permanent structure and to submit them to the Board for consideration and onward forwarding to the AU Commission.
 - b) Continued to be fully funded by AU Member States without any direct support from Partners.

XI. IMPLEMENTATION OF DECISIONS

- 40) Pursuant to Executive Council Decision EX.CL/Dec. 1085(XXXVI) on the Board's Activity Report for 2019, the following actions have been taken to implement the decisions;
- a) With respect to the change of name of the Board, the Board engaged the Commission and the request by Nigeria to change the name of the Board was considered and adopted by the Specialized Technical Committee on Justice and Legal Affairs.
 - b) In August 2020, the AU Commission conducted an investigation to address the irregularities related to the payment of a scholarship to a staff member as well as to assist with clarifying the roles and responsibilities between elected officials and technical heads. The Board continues to await the findings of the investigation.

XII. RECOMMENDATIONS

- 41) In light of the foregoing, the Board recommends as follows;
- a) Urges non-state parties to take necessary measures to sign and accede to the Convention. In particular requests Cameroon to take necessary measures to complete the accession process by depositing its instrument of accession with the African Union Commission.
 - b) Congratulates Tunisia for acceding to the Convention;
-

- c) Requests States Parties that are yet to do so to welcome requests for Review Missions by the Board to enable the Board to assess the levels of implementation of the Convention and finalize the state reporting process;
 - d) Requests states to implement the recommendations to enhance efficiency of effectiveness of justice systems in the fight against corruption.
 - e) Urges Rwanda to implement the recommendations and findings of the state reports;
 - f) Requests the Executive Council to endorse the theme of the 2021 African Anti-Corruption Day and African Anti-Corruption Dialogue as “Regional Economic Communities: Critical Actors in the Implementation of the African Union Convention on Preventing and Combating Corruption.”
 - g) Further urges States Parties to review and support the proposals by the Board for comprehensive amendment of the Convention.
 - h) Requests Tanzanian authorities to finalize the architectural drawings of the proposed permanent structure and to submit them to the Board for consideration and approval by the AU Commission.
-

ANNEX 1

List of Current Members of the Board

NO.	NAME	DURATION	TERM	EXPIRY	COUNTRY
1	Begoto Miarom - Chairperson	2 Years	Second term	January 2021	Chad
2	Amal Mahmoud Amar Khalifa – Vice Chairperson	2 Years	First term	January 2022	Egypt
3	Sefako Aaron Seema – Rapporteur	2 Years	Second term	January 2021	Lesotho
4	Hocine Aït Chalal	2 Years	Second term	July 2021	Algeria
5	Elisabeth Gnansounou Fourn	2 Years	Second term	January 2021	Benin
6	Pascal Bamouni	2 Years	Second term	January 2021	Burkina Faso
7	Anne-Marie Rose Mougemba	2 Years	Second term	July 2021	Congo
8	Sabina Seja	2 Years	Second term	July 2021	Tanzania
9	Kayobo Agnes Ng'andu	2 Years	First term	January 2021	Zambia
10	Jean Louis Andriamifidy	2 Years	First term	January 2021	Madagascar
11	Samuel Kimeu	2 Years	First term	July 2021	Kenya

List of Board Members and Country Rapporteurships

NAME	COUNTRY
Begoto Miarom	Burundi
	Cameroon
	Central African Republic
	Congo Republic
	Democratic Republic of Congo
Amal Mahmoud Amar Khalifa	Algeria
	Cape Verde
	Morocco
	Benin
	Burkina Faso
Sefako Aaron Seema	Angola
	Botswana
	Eswatini
	Malawi
	Mozambique
Hocine Aït Chalal	Egypt

	Libya
	Mauritania
	Tunisia
	Sarhawi Arab Democratic Republic
Elisabeth Gnansounou Fourn	Togo
	Cote d'Ivoire
	Gambia
	Ghana
	Guinea-Bissau
Sabina Seja	Comoros
	Djibouti
	Eritrea
	Ethiopia
	Kenya
Pascal Bamouni	Guinea
	Liberia
	Mali
	Niger
	Nigeria
Anne-Marie Rose Mougemba	Chad
	Equatorial Guinea
	Gabon
	Sao Tome and Principe
	Senegal
Jean Louis Andriamifidy	Mauritius
	Rwanda
	Seychelles
	Somalia
	South Sudan
Kayobo Agnes Ng'andu	Lesotho
	Namibia
	South Africa
	Sudan
	Zimbabwe
Samuel Kimeu	Madagascar
	Sierra Leone
	Zambia
	Tanzania
	Uganda

ANNEX 2**List of Current Staffing Outlay**

NO.	NAME	POSITION	COUNTRY
1	Charity Hanene Nchimunya	Executive Secretary	Zambia
2	Martha Munthali	Senior Policy Officer for Economic and Statistical Matters	Malawi
3	Selemani Kinyunyu	Senior Policy Officer for Political and Legal Matters	Tanzania
4	Dorica Kgwadi	Finance and Administration Officer	Botswana
5	Christopher Katuu	IT Specialist (short term)	Kenya
6	Stephane Ndilmbaye	Documentalist and Office Assistant	Chad
7	Achille Menuen	Accounts Assistant (short term)	Cote d'Ivoire
8	Wadzanai Nhongo	Bi-lingual secretary (short term)	Zimbabwe
9	Daniel Mollel	Driver/Messenger (short term)	Tanzania

**AFRICAN UNION ADVISORY BOARD ON
CORRUPTION**

المجلس الاستشاري للإتحاد الإفريقي
لمحاربة الفساد



**CONSEIL CONSULTATIF DE L'UNION
AFRICAINNE SUR LA CORRUPTION**

**CONSELHO CONSULTIVO DA UNIÃO
AFRICANA SOBRE CORRUPÇÃO**

ANNEX 3

RWANDA EVALUATION REPORT

DECEMBER 2020

**REPORT PREPARED BY
AFRICAN UNION ADVISORY BOARD ON CORRUPTION**

Introduction

Rwanda became a State Party to the African Union Convention on Preventing and Combating Corruption (AUCPCC) on 31 July 2004 following the deposit of the instrument of ratification on 1 July 2004. In accordance with Article 22 (7) of the Convention, a State Party is obliged to report to the African Union Advisory Board on Corruption the progress it has achieved in the implementation of the provisions of the Convention.

The Africa Union Advisory Board on Corruption in fulfilling its mandate, carried out a Review Mission to the Republic of Rwanda from 20 November to 1 December 2018 in order to assess and verify the status of implementation of the provisions of the AUCPCC as reported in the 2013 Report on the status of fighting corruption submitted by Rwanda to the Board.

A. Anti-Corruption Framework of Rwanda

The Rwandan anti-corruption framework is based on three key pillars: norms, institutions and collaboration among anti-corruption stakeholders particularly citizens, civil society and the private sector¹.

At the level of institutions, The Office of The Ombudsman is the lead agency tasked with preventing and fighting corruption. It is a hybrid body that also has the mandate to encourage compliance with ethical standards for public officials and oversee administrative malpractices. Other government Offices such as The Auditor General (OAG), Rwanda Investigation Bureau (RIB), Rwanda Public Procurement Authority (RPPA) and National Public Prosecution Authority (NPPA) have a mandate to prevent and fight corruption. These institutions have a close working relationship with The Office of The Ombudsman and collectively coordinate their efforts under the National Advisory Council to Fight Against Corruption and Injustice (NACACI).

With respect to norms, Rwanda has a number of national laws and policies that detail the fight against corruption in addition to being a party to several international instruments. These are:

- i. United Nations Convention against Corruption;
- ii. African Union Convention on Preventing and Combating Corruption;
- iii. Constitution of the Republic of Rwanda of 2003 revised in 2015;
- iv. Law N°68/2018 of 30/08/2018 determining offences and penalties in general as amended to date²;
- v. Law N° 30/2013 of 24/5/2013 relating to the Code of Criminal Procedure³;
- vi. Organic Law N° 11/2013/0L of 11/09/2013 Modifying and Complementing the Organic Law N° 61/2008 of 10/09/2008 on the Leadership Code Of Conduct;
- vii. Organic Law N° 61/2008 of 10/09/2008 on the Leadership Code Of Conduct;
- viii. Law N° 54/2018 of 13/08/2018 on fighting against corruption;

¹ See Rwanda Anti-Corruption Policy (July 2012)

² This law was amended in 2019;

³ This law was also abrogated after the AUABC visit by Law n° 027/2019 of 19/09/2019 relating to the Criminal Procedure

- i. Law N° 69/2018 of 31/08/2018 on prevention and punishment of money laundering and terrorism financing;
- ii. Law N° 44bis/2017 of 06/09/2017 relating to the protection of whistle blowers;
- iii. Law N° 04/2003 of 08/02/2013 relating to access to information;
- iv. Law N° 69/2013 of 02/09/2013 on Extradition;
- v. Organic Law N° 005/2018/OL of 30/08/2018 modifying the Organic Law n° 10/2013/OL of 11/07/2013 governing political organisations and politicians
- vi. Organic Law N° 10/2013/OL of 11/07/2013 governing Political Organizations and Politicians;
- vii. Law N° 62/2018 of 25/08/2018 governing public procurement;
- viii. Law N° 76/2013 of 11/09/2013 determining the mission, powers, organization and functioning of The Office of The Ombudsman;
- ix. Law N° 42/2014 of 27/01/2015 governing Recovery of Offence-Related Assets;
- x. Law N° 12/2017 of 07/04/2017 establishing the Rwanda Investigation Bureau and determining its Mission, Powers, Organisation and Functioning;
- xi. Organic Law N° 12/2013/OL of 12/09/2013 on State finances and property;
- xii. Presidential Order N° 64/01 of 12/02/2014 determining the responsibilities, organisation and functioning of the Advisory Council to fight against corruption and injustice;
- xiii. Rwanda Anti-Corruption Policy (2012)

With respect to stakeholder engagement in the fight against corruption, Rwandan citizens are regularly consulted on the state of governance. These include the joint setting of performance contracts between citizens and state governance bodies (*Imihigo*), weekly and monthly ward meetings as well as the ability of citizens to engage with leadership during annual governance dialogues. Also accountability day is organized in local government. A number of civil society organisations also operate within the Country that work in the field of corruption most notably Transparency International– Rwanda. The private sector also plays a key role in reporting and mitigating corruption. The Chief Executive Officer of Private Sector Federation and the Executive Secretary of Civil Society Platform are members of the National Advisory Council to Fight against Corruption and Injustice (NACACI)⁴.

Various online platforms were set up to speed up the services and minimize physical contacts. These are e-services, e-procurement, e-payment, courts (Rwanda Integrated Electronic Case Management System), Integrated Payroll and Personnel Information System (IPPIS) with its two portals: Rwanda Employee Self-Service Portal and Rwanda Civil Service Recruitment Portal etc

B. Major Observations

This report presents levels of domestication and implementation of the Convention by the Republic of Rwanda. It was developed on the basis of a 2013 Report on the State of the Fight Against Corruption in Rwanda submitted to the Board as well as the

⁴ See Article 3 of Presidential Order N° 64/01 of 12/02/2014 determining the Responsibilities, Organisation and Functioning of the Advisory Council to Fight against Corruption and Injustice.

findings of the Review Mission conducted in November / December 2018. The report shall present the observations in accordance with the provisions of the Convention.

1. Legislative and Other Measures (Article 5)

1.1. Criminalization of corrupt practices (Article 5(1))

Observations

Rwanda has fully implemented Article 5 (1) of the Convention in creating offences prescribed in Article 4. Laws meant to specifically combat corruption were adopted as evidenced by the enactment of Law N° 54/2018 of 13/08/2018 on fighting against corruption (articles 2, 4-17), Organic Law N° 11/2013/0L of 11/09/2013 modifying and complementing the Organic Law N° 61/2008 of 10/09/2008 on the leadership code of conduct and Law N° 69/2018 of 31/08/2018 on prevention and punishment of money laundering and terrorism financing (articles 2&23). Below are some of the sections of Rwandan law that confirm the criminalisation of corrupt practices.

Article 4(2) of Organic Law modifying and complementing the Organic Law N° 61/2008 of 10/09/2008 on the leadership code of conduct proscribes bribery by public officials. Rwandan legislation provides for corruption in a broad sense, as the relevant articles of Law N° 54/2018 of 13/08/2018 on fighting against corruption. Articles 4 to 16 punish corrupt acts by “any person”. These articles thus comply with the provisions of article 15, paragraph (a) (b), article 16, paragraph (1) (2), and article 21 (a), paragraph (a) (b) of the Convention. The term “any person” is used with regard to active and passive corruption.

Influence peddling is an offence under article 7 of Law N° 54/2018 of 13/08/2018 on fighting against corruption like the above mentioned articles are applicable to any person rather than to public officials alone.

Due to these laws, the national authorities have been able to investigate and prosecute prescribed offences as shown below:

Table 1: Economic and Financial Crimes Handled 2017-2018

Crime	Received cases	Filed with court	Closed cases	Total cases handled	%	Pending cases
Corruption and related offences	730	476	242	718	98.4	12
Embezzlement	544	343	173	516	94.9	28
Misuse of property of public interest	33	8	19	27	81.8	6
Public tenders related offences	32	8	15	23	71.9	9
Tax related offences	30	14	14	28	93.3	2
Illegal exemption	14	5	8	13	92.9	1
Total	1,383	854	471	1,325	95.8	58

Table 2: Conviction Rate for Economic and Financial Crimes Handled 2017-2018

Crime	Pronounced cases	Cases won	Cases lost	Conviction rate
Corruption and related offences	365	289	76	79.2%
Embezzlement	297	237	60	79.8%
Tax related offences	33	25	8	75.8%
Public tenders related offences	12	6	6	50.0%
Misuse of property of public interest	5	4	1	80.0%
Total	712	561	151	78.8%

Table 3: Economic and Financial Crimes Handled 2016-2017

Crime	Received cases	Filed with court	Closed cases	Referred to Other organs	Total cases handled	% of cases handled	Pending cases
Corruption and related offences	404	271	122	4	397	98.27	7
Embezzlement	573	350	201	6	557	97.2	16
Public tenders related offences	4	2	2	0	4	100	0
Illegal exemption	5	2	3	0	5	100	0
Tax related offences	43	36	6	1	43	100	0
Misuse of property of public interest	7	1	4	2	7	100	0
Total	1,036	662	338	13	1,013	97.78	23

Table 4: Conviction Rate for Economic and Financial Crimes Handled 2016-2017

Crime	Pronounced cases	Cases won	Cases lost	Conviction rate
Embezzlement	346	294	52	84.97%
Corruption and related offences	230	191	39	83.04%
Public tenders related offences	3	1	2	33.33%
Tax related offences	8	8	0	100%
Total	587	494	93	84.16%

Table 5: Economic and Financial Crimes Handled 2015-2016

Crime	Received cases	Filed with court	Closed cases	Referred to other institutions	Total cases handled	%	Pending cases
Corruption and related offences	315	196	83	19	298	94.6	17

Embezzlement of public property	261	157	95	5	257	98.5	4
Public tenders related offences	10	3	3	0	6	60	4
Illegal exemption	5	1	1	0	2	40	3
Tax related offences	11	10	1	0	11	100	0
Misuse of property of public interest	4	2	0	0	2	50	2
Embezzlement in banks and micro finances	34	30	4	0	34	100	0
Embezzlement in cooperatives	70	46	22	0	68	97.1	2
Total	710	445	209	24	678	95.5	32

Table 6: Conviction Rate Economic and Financial Crimes Handled 2015-2016

Crime	Pronounced cases	People prosecuted	People convicted	People non convicted	Conviction rate
Embezzlement	102	186	128	58	68.82%
Misuse of property of public interest	2	2	2	0	100%
Corruption and related offences	187	221	192	29	86.88%
Public tenders related offences	10	34	21	13	61.76%
Tax related offences	4	12	8	4	66.67%
Embezzlement in banks and micro finances	44	72	64	8	88.89%
Embezzlement in cooperatives	51	84	68	16	80.95%
Total	400	611	483	128	79.05%

The above tables present a statistical representation of economic and financial crimes handled in between 2015 and 2018 and the according conviction rates. It evidences that Rwanda has enacted and is prosecuting offences stipulated in the Convention. It further evidences effective investigation and adjunction of economic and financial crimes as conviction rates are consistently over 75%. High conviction rates can serve as a strong deterrent factor and is a disincentive for any person contemplating engaging in corrupt activity.

1.2. Regulation of Incorporation of Foreign companies (Article 5(2))

Observations

Rwanda is compliant with this provision. Rwanda has enacted the Law governing companies N° 17/2018 of 13/04/2018. Chapter X of the law (articles 232-243) details the incorporation procedures and compliance requirements of foreign companies operating in Rwanda.

1.3. Establishment and Strengthening of Anti-Corruption Bodies (Article 5 (3))

Observations

Rwanda is compliant with this provision. The Office of The Ombudsman is an independent public institution, which was established by article 139 of the Constitution of the Republic of Rwanda of 2003 as revised in 2015. Its organization and functions were established by Law No 76/2013 of 11/9/2013 determining the Mission, Powers, Organization and Functioning of The Office of The Ombudsman. Other government institutions which are also independent such as The Auditor General, Rwanda Investigation Bureau, Rwanda Public Procurement Authority and National Public Prosecution Authority have additional mandate to prevent and fight corruption. These institutions have a close working relationship with The Office of The Ombudsman and collectively coordinate their efforts under the National Advisory Council to Fight against Corruption and Injustice.

1.4. Adoption of legislative and other measures to create, maintain and strengthen internal accounting auditing and follow up systems (Article 5(4))

Observations

Rwanda is compliant with this article. It has an Organic Law N° 12/2013/OL of 12/09/2013 on State finances and property and Law n° 62/2018 of 25/08/2018 governing public procurement; those laws govern the management and oversight of public income and public procurement respectively. It has also put in place public accounting and auditing systems and procedures including the creation of The Office of The Auditor General, Financial Intelligence Center, National Public Procurement Authority, Internal Tender Committee, Internal Auditors within the institutions who work under The Government Chief Internal Auditor, the existence of a Parliamentary Public Accounts Committee as well as Rwanda Revenue Authority (customs and revenue collection entities).

The Office of The Auditor General publishes an annual report that details how expenses are utilized and managed. Administrative and criminal sanctions are levied on entities and individuals who mismanage or misappropriate resources.

1.5. Protection of Witnesses and Informants (Article 5 (5))

Observations

Rwanda is partially compliant with this article. It has no witness protection law, but the protection of whistle blowers and informants is guaranteed by the Law N° 44bis/2017

of 06/09/2017 relating to the protection of whistle blowers. The legislation provides for protection strategies to be detailed in a presidential order; however, the evaluation did not receive information on the existence of these strategies.

Further, Article 7 of the law requires all disclosures to include the identity of the whistleblower, the location of the disclosure and the circumstances under which the information became known to the whistleblower and the reasons for making the disclosure. Such a requirements may place a whistleblower at risk, detract from the information being disclosed and bars the publication of information on corrupt activities anonymously.

1.6. Measures to ensure that citizens report corruption without fear of consequent reprisals (Article 5(6))

Observations

Rwanda has no protection of witnesses. It has the Law N° 44bis/2017 of 06/09/2017 relating to the protection of whistle blowers which places an obligation on all persons to report corruption as well as to receive protection from reprisals. The legislation provides for protection strategies to be detailed in a presidential order; however, the evaluation did not receive information on the existence of these strategies.

Article 9 of the legislation provides for awards for disclosures that result in recovery of property or safety of public interest as an incentive measure.

1.7. Sanctions for false and malicious reports against innocent persons (Article 5(7))

Observations

Rwanda is compliant with this article. Law N° 44bis/2017 of 06/09/2017 relating to the protection of whistle blowers prohibits disclosures of false information or those that are aimed at an individual's personal interest or based on grounds of hatred, jealousy or potential conflict.

Article 15 provides that sanctions for false or malicious disclosures include prosecution, imposition of a jail term of between one to three years coupled of a fine between 500,000 and 1,000,000 Rwandan francs.

1.8. Promoting awareness and education in the fight against corruption (Article 5(8))

Observations

Rwanda is compliant with this article. The Office of The Ombudsman publishes reports, brochures and leaflets on the topic of corruption. The Office of The Ombudsman also has a spokesperson, information officers and runs awareness campaigns across the Country. The Office of The Ombudsman also facilitates the creating of anti-corruption clubs at schools and educational intuitions. The evaluation mission also saw billboards, banners and labels in the city, at various government Offices and in public spaces.

2. Laundering of the Proceeds of Corruption (Article 6)

Observations

Rwanda has complied with the provisions of this Article and has enacted Law N° 69/2018 of 31/08/2018 on prevention and punishment of money laundering and terrorism financing. Article 3(8)(a) of the law defines the offence of money-laundering in accordance with the Convention by providing for a wide range of underlying offences to which the law applies. Article 23 establishes a broad spectrum of offences in compliance with the Convention.

The evaluation mission was informed that Rwanda has established a Financial Investigation Unit pursuant to Presidential Order N° 27/01 of 30/05/2011 determining the organization, functioning and mission of the Financial Investigation Unit that is located within the Rwanda Investigation Bureau. The Financial Intelligence Unit issues periodic directives aimed at preventing money laundering.

Rwanda is also a member of the East and Southern Africa Anti-Money Laundering Group (ESAAMLG) and was evaluated in 2012 and it submitted a progress report in November 2018.

3. Fight against Corruption and Related Offences in the Public Service (Article 7)

Observations

Rwanda is in compliance with this article. It has enacted Organic Law No 61/2008 of 10/09/2008 on the Leadership Code of Conduct, modified and complemented by the Organic Law N° 11/2013/OL of 11/09/2013 on the Leadership Code of Conduct which provides for minimum standard of behavior and conduct for leaders in the Country in order to gain moral authority capable of leading society in a good manner; this Law applies to heads of public institutions, Government services and institutions governed by statutes, or people holding political offices Its implementation is monitored by The Office of The Ombudsman (art 36 of the Organic Law).

Article 19 of Organic Law N° 61/2008 of 10/09/2008 on the Leadership Code of Conduct, as amended to date, requires any leader to declare his or her assets to The Office of The Ombudsman. Articles 37-40 of the Law n° 76/2013 determining the mission, powers, organization and functioning of The Office of The Ombudsman also provide for details on assets declaration (who, what, when to declare) and sanctions. Those declarations are administered by The Office of The Ombudsman and by Senate (for Office of The Ombudsman Staff). The annex of that law provides the list of officials who are required to annually declare their assets. The evaluation mission was informed that asset declarations are submitted electronically.

Article 7 of Law N° 76/2013 of 11/9/2013 determining the mission, powers, organization and functioning of The Office of The Ombudsman provides that The Office shall provide advice to leaders and other civil servants or private operators with

the aim of fighting behaviour and all practices likely to be a source of injustice, corruption and related offences.

Article 76 and 77 of Law N° 86/2013 of 11/09/2013 establishing the general statutes for public service provides for categories of administrative sanctions. Article 82 provides for modalities for imposing disciplinary sanctions to public servants through a presidential order. Ministerial Instructions N° 002/M.J/AG/15 of 01/10/2015 on determining modalities for holding liable public servants who cause loss to the state provides for the procedure for sanctioning public officials. Further, Cabinet Resolutions N° 19(c) of 12/12/2008 establishes a blacklist of all staff expelled from public service on grounds of gross misconduct.

Chapter IV of Law N° 30/2013 of 24/5/2013 relating to the Code of Criminal Procedure provides for procedures for prosecution of persons with privilege of jurisdiction and members of Parliament. The evaluation mission was informed that categories of public officials with immunities who are suspected of corruption may be investigated pending the removal of their immunities following which they may be prosecuted.

Pursuant to the Law N° 62/2018 of 25/08/2018 governing public procurement, Article 6 establishes fundamental principles governing public procurement as transparency, competition, economy, effective, efficient and fast work, fairness and accountability. Further, Article 4 also requires all public procurement to be done electronically through an e-procurement portal.

Conduct of Members of Parliaments is governed by Special Statutes: Organic Law N°007/2018.OL of 08/09/2018 determining the functioning of the Senate and Organic Law N°006/2018.OL of 08/09/2018 determining the functioning of The Chamber of Deputies.

Article 129 of the Organic Law N°007/2018.OL of 08/09/2018 determining the functioning of the Senate provides for Conduct of a Senator, a Senator must be of high integrity and good morals, be a role model in complying with the Constitution and other Laws while remaining loyal to the oath he/she took before taking office.

Any Senator failing to comply with the provisions of Paragraph One of this Article, can be called to order, warned, reprimanded or excluded from the Senate upon approval by three-fifths (3/5) of the Senators present.

Articles 29-30 of the Organic Law N°007/2018.OL of 08/09/2018 establish Committee in charge of Assessment of The Senate's Activities, Senators' Conduct and Immunity.

Article 16 of Organic Law N°006/2018.OL of 08/09/2018 determining the functioning of The Chamber of Deputies establishes Committee in charge of Assessment of the Chamber of Deputies Activities, Deputies' Conduct, Discipline and Immunity.

Article 107 of Organic Law N°006/2018.OL of 08/09/2018 provides for, During the proceedings of the Plenary Assembly, a Deputy exhibits good conduct, good discipline and integrity while refraining from using offensive or provocative language, causing disturbances, disrupting order or interrupting a speaker.

Article 3 of the law n° 54/2018 of 13/08/2018 on fighting against corruption gives obligations to organs in prevention of corruption. The law provides for that any public organ, private institution, civil society member or international organization operating in Rwanda must:

- 1° implement mechanisms for the prevention of corruption;
- 2° to carry out activities in transparency;
- 3° submit a report to the relevant authorities;
- 4° ensure that there is no corruption practices within it;
- 5° present activities that were performed in the prevention and against corruption upon request by a competent organ;
- 6° have a document describing modalities and timeframe for decision making;
- 7° collaborate with other institutions in line with the required timeframe while presenting the activities performed or providing any information requested by another institution;
- 8° ensure equal treatment of clients and timely delivery of services.

The Office of the Ombudsman requests for administrative sanctions against the leader of an organ that fails to comply with the above provisions.

Art 17 of the Law n° 54/2018 determines aggravating circumstances for the offence of corruption committed by a person in leadership position.

When the acts constituting the offences referred to under Article 4 to Article 16 of the Law n° 54/2018 have been committed by a person in leadership position in public organs, private sector, in civil society and in international organizations operating in Rwanda, that leader is liable to the highest penalty for that offence.

4. Illicit Enrichment (Article 8)

Observations

Rwanda is in compliance with this article. Pursuant to Article 9 of the Law N° 54/2018 of 13/08/2018 on fighting against corruption, any person who cannot justify the source of his or her assets compared with his or her lawful income commits an offence. Upon conviction, he/she is liable to imprisonment for a term of not less than seven (7) years but not more than ten (10) years with a fine of three (3) to five (5) times the value of the property the legal source of which, he/she is not able to justify

5. Access to Information (Article 9)

Observations

Rwanda is fully compliant with this article. Article 38 of the Constitution of Rwanda provides for the right to access to information. Rwanda has subsequently enacted Law N° 04/2013 of 08/02/2013 relating to access to information. Article 10 of the law provides that the provision of information is an obligation without fee, however, depending on the means for providing the information, charges for making copies or sending information may be charged to the applicant.

Various ministerial orders detail how the constitutional right to access to information is realized. These are:

- ✓ *Ministerial Order N° 009/07.01/13 of 19/12/2013 determining private organs to which the law relating to Access to Information Applies;*
- ✓ *Ministerial Order N° 007/07.01/13 of 27/12/2013 determining the time limit for the provision of information or explanations of not providing it;*
- ✓ *Ministerial Order N° 006/07.01/13 of 19/12/2013 determining In details the information to be disclosed;*
- ✓ *Ministerial Order N°005/07.01/13 of 19/12/2013 determining which information could destabilize national security and*
- ✓ *Ministerial Order N° 008/07.01/13 of 19/12/2013 determining the procedure of charges of fees related to access to information.*

They detail that access to information requests should be handled in no more than three days. Further, they provide for entities other than state/ public entities that must also provide information. It is a requirement for public and private organs to designate information officers (art 8 and 15 of the Law on access to information).

6. Funding of Political Parties (Article 10)

Observations

Rwanda is in compliance with the article. It has Organic Law N° 005/2018/OL of 30/08/2018 modifying the Organic Law n° 10/2013/OL of 11/07/2013 governing political organisations and politicians which prescribes sources of financing for political parties and details reporting on funds received. Article 7 of the law requires a political organisation or a politician to inform in writing the authority in charge of registration of political organisations within thirty (30) days from the date of reception, indicating the donor, the type and value of donations, with a copy to The Office of The Ombudsman. Pursuant to Article 6(4) of Law N°56/2016 of 16/12/2016 establishing the Rwanda Governance Board and determining its Mission, Organisation and Functioning, the Rwanda Governance Board takes action against any political party that violates the law.

The Office of The Ombudsman has the mandate to receive annually declaration of assets of political organizations and verify their origin and use (art 4 of the Law n° 76/2013). Political organizations have an obligation to submit, not later than the 30 September of the following fiscal year, to the authority in charge of the registration of political organizations its financial statements, with a copy to The Office of The Ombudsman (art 26 of Organic Law n° 10/2013/OL).

Sanctions for failure to comply are stated in Article 12 of the Organic Law N° 005/2018/OL of 30/08/2018 modifying the Organic Law n° 10/2013/OL of 11/07/2013 governing political organizations and politicians as; a formal warning and summons to submit the books of accounts within a prescribed time, suspension of state grants allocated to the political organisation until the submission of the books of accounts and suspension of a political organisation for a period of one year. The sanctions referenced are imposed by The Office of The Ombudsman and notified to the Rwanda Governance Board.

7. Private Sector (Article 11)

Observations

Rwanda is in compliance with the article. It has enacted Law N° 17/2018 of 13/04/2018 governing companies which creates the offence of carrying on business fraudulently. Further, Article 3 of Law N° 54/2018 of 13/08/2018 on fighting against corruption creates an obligation on companies to set up mechanisms for the prevention of corruption.

The government cooperates specifically with the Private Sector Federation, an umbrella organisation for all private sector entities in Rwanda. The evaluation mission was informed that the Private Sector Federation is engaged in combatting corruption in so far as its members are sensitized not to carry out acts of corruption and to report cases of corruption. They cooperate with the competent organs to provide information that requires investigation in case of suspicion of corruption. In addition, the private sector is a member of the National Advisory Council to Fight Against Corruption and Injustice where it contributes to the development of strategies and approaches to fighting corruption.

Under the anticorruption policy, The Private Sector has an obligation to put in place the strategies to fight against corruption.

8. Civil Society and the Media (Article 12)

Observations

Rwanda is in compliance with this article. Article 38 of the Rwandan Constitution enshrines the right to freedom of press, of expression and of access to information while Article 39 provides for the right to freedom of association.

Both the media and civil society organisations are expressly listed in the National Anti-Corruption Strategy as key stakeholders in the fight against corruption. Civil society are also represented at the National Advisory Council to Fight Corruption and Injustice.

The evaluation mission witnessed the presence of several civil society organisations that work on anti-corruption and transparency issues. These organisations conduct research, field investigations and advocate for victims of corruption by submitting cases of perpetrators of corruption crimes to the competent institutions responsible for prosecution.

Rwanda has enacted Law N° 04/2013 of 08/02/2013 relating to access to information and has also adopted several Ministerial orders that stipulate modalities to access information.

The evaluation mission was informed that media contribute to the fight against corruption by tracking down perpetrators of corruption and publishing information about them. Such information enables authorized organs to conduct necessary

investigations. The evaluation mission was also informed that The Office of The Ombudsman has a close working relationship with the media and periodically briefs them on the status of cases under investigation or prosecution.

9. Jurisdiction (Article 13)

Observations

Rwanda is in partial compliance with this Article. It establishes its territorial jurisdiction in accordance with Article 13(1)(a) of the Convention pursuant to articles 9-14 of Law N°68/2018 of 30/08/2018 determining offences and penalties in general

Active personality jurisdiction pursuant to Article 13(1)(b) of the Convention is established under articles 9 and 13 of the Law N°68/2018 of 30/08/2018 determining offences and penalties in general.

Rwanda has established universal jurisdiction over the crime of corruption pursuant to article 14 of the Law N°68/2018 of 30/08/2018 determining offences and penalties in general thereby complying with Article 13(1)(c). Any person, whether a Rwandan or foreign citizen, a national or foreign non-governmental organization or association, that commits, inside or outside the territory of Rwanda, an international crime or transnational crime may, if apprehended on the territory of Rwanda, be punished in accordance with the Rwandan law (article 14 of the Law n° 68/2018). Rwanda has not however domesticated the protective principle jurisdiction required under Article of the Convention 13(1)(d).

The prohibition of double jeopardy pursuant to Article 13(3) of the Convention is enshrined in Article 7 of the Law N°68/2018 of 30/08/2018 determining offences and penalties in general.

10. Minimum Guarantees of a Fair Trial (Article 14)

Observations

Rwanda is compliant with this Article. Article 15 of the Rwandan Constitution guarantees equality before the law while Article 29 enshrines the right to due process. Article 38 of Law N° 30/2013 of 24/5/2013⁵ relating to the Code of Criminal Procedure provides for the rights of accused persons while Article 39 provides for the right to legal counsel including the right to legal aid.

Rwanda is a state party to the African Charter on Human and Peoples' Rights.

11. Extradition (Article 15)

Observations

Rwanda has complied with the provisions of this Article. It has enacted Law N° 69/2013

⁵ This law was abrogated after the AUABC visit by Law no 027/2019 of 19/09/2019 relating to the Criminal Procedure (rights for suspects are provided for by articles 46, 68, 126).

of 02/09/2013 on Extradition which provides for extradition on the basis of extradition treaties and for offences that exist under Rwandan law.

Rwanda prohibits the extradition of its nationals pursuant to Article 29 of its Constitution and Article 5 of the Extradition Law.

According to article 18 of the Law on extradition, If Rwanda does not extradite the requested person to another Country, it shall try him/her with the consent of the requesting State.

12. Confiscation and Seizure of the Instrumentalities and Proceeds of Corruption (Article 16)

Observations

Rwanda has complied with this Article. Through Article 10(3) of Law N° 12/2017 of 07/04/2017 Establishing the Rwanda Investigation Bureau and Determining its Mission, Powers, Organisation and Functioning, the Rwanda Investigation Bureau has the power to search and seize and administer instrumentalities or proceeds of corruption.

All investigators have the power to search and seize and administer instrumentalities or proceeds of corruption as provide for by article 30 of the Law n° 30/2013 of 24/5/2013 relating to the code of criminal procedure⁶

Article 20 of Law N° 54/2018 of 13/08/2018 on fighting against corruption provides for Confiscation of proceeds of corruption where If the defendant is found guilty of corruption, the court orders the confiscation of property or proceeds resulting from the offence.

Rwanda has also enacted Law N° 42/2014 of 27/01/2015 Governing Recovery of Offence-Related Assets which provides a framework for laying down and enhancing powers and competences of the organs in charge of the tracing, recovery and management of assets and benefits. It also provides the framework for cooperation between Rwanda and foreign States towards recovery of assets and benefits related to offences.

Article 19 of the Law N° 42/2014 of 27/01/2015 governing Recovery of Offence-Related Assets provides for Return of assets to a requesting State.

13. Bank Secrecy (Article 17)

Observations

Rwanda has complied with this Article of the Convention. The article 158 of the Law N°68/2018 of 30/08/2018 determining offences and penalties in general provides for Breach of professional secrecy where any person who reveals professional secrecy

⁶ This law was abrogated after the AUABC visit by Law no 027/2019 of 19/09/2019 relating to the Criminal Procedure (seizure and caveat of objects are provided for by article 57).

entrusted as privilege to keep by virtue of function, occupation or mandate of a religion, whether in service or after leaving the service, commits an offence.

Upon conviction, he/she is liable to imprisonment for a term of not less than one (1) year and not more than two (2) years and a fine of not less than two million Rwandan francs (FRW 2,000,000) and not more than three million Rwandan francs (FRW 3,000,000).

However, it is not a breach of professional secrecy:

1° if the law requires or allows the disclosure of a professional secrecy;

2° for a person providing information to judicial authorities.

Article 22 of the law n° 54/2018 of 13/08/2018 on fighting against corruption provides that “During the investigation, the investigator, the prosecutor or the judge is authorized to demand information or seize the bank and finance institution’s records, financial and property or commercial records and any other thing likely to facilitate investigation.

Professional secrecy cannot constitute an obstacle to investigation measures taken by the investigator, the public prosecutor or the judge in their efforts to know the truth”.

According to the article 12 of the Law no 76/2013 of 11/09/2013 determining the mission, powers, organization and functioning of The Office of The Ombudsman, The Office has powers to request for documents, testimonies and explanations necessary for its investigations from public, parastatals, private organs and non-government organizations. It may hear from any person and request him/her to give necessary testimonies for the smooth running of the investigation.

The confidential nature of a document cannot prevent The Office from obtaining it.

Rwanda has also established a Financial Investigation Unit via Presidential Order N°27/01 of 30/05/2011 determining the Organization, Functioning and Mission of the Financial Investigation Unit. Pursuant to Article 6 of the Order, banks and other reporting units are mandated to submit suspicious transaction statements regarding funds or movements of funds that are suspected to be linked with or intended to be used in money laundering activities. Article 8 further requires banks and reporting units to transmit information, documents and registries necessary to exercise their functions.

Article 15 of Presidential Order N°27/01 of 30/05/2011 Determining the Organization, Functioning and Mission of the Financial Investigation Unit also empowers the Financial Investigation Unit to cooperate with other financial investigation unit from another Country or other foreign counterparts with similar functions, about a suspicious transaction report, provided that the counterparts concerned are under the same obligations of professional secrecy.

14. Cooperation and Mutual Legal Assistance (Article 18)

Observations

Rwanda is in compliance with this Article. Various legal instruments enumerated above provide for cooperation in relation to investigation, asset seizure and recovery and extradition.

Rwanda has obligation to cooperate with foreign States in recovering its assets in foreign Countries and returning assets of foreign States on its territory (article 18-25 of the Law no 42/2014 of 27/01/2015 governing the recovery of offence-related asset).

The National Public Prosecution Authority has to cooperate with judicial institutions whether national or those of other Countries in activities related to prosecution of criminals, fighting against criminality and protecting victims and witnesses in accordance with relevant Laws (article 28 of the Law N°014/2018 of 04/04/2018 determining the organization, functioning and competence of the National Public Prosecution Authority and of the Military Prosecution Department)

The Law n° 69/2013 of 02/09/2013 on extradition determines the extradition procedures for purpose of investigation, prosecution and enforcement of sentences.

Rwanda has strong cooperation networks regionally and continentally. It is a member of the East African Association of Anti-Corruption Authorities (EAAACA), East and Southern Africa Anti-Money Laundering Group (ESAAMLG), Asset Recovery Inter-Agency Network for the Eastern Africa (ARIN-EA), Association of Anti-Corruption Agencies in Commonwealth Africa, member of International Prosecutors Association (IPA), African Prosecutors Association (APA), East Africa Association of Prosecutors (EAAP) as well as a member of the African Association of Anti-Corruption Authorities. The evaluation mission was informed that officials of The Office of The Ombudsman participate at various international fora including the meetings of the Assembly of States Parties of the United Nations Convention Against Corruption.

15. International Cooperation (Article 19)

Observations

Rwanda is in compliance with this article. Various legal instruments enumerated above (Paragraph 14) provide for cooperation in relation to investigation, asset seizure and recovery and extradition.

16. National Authorities (Article 20)

Observations

Rwanda has complied with this Article. It has enacted Law N° 76/2013 of 11/09/2013 determining the mission, powers, organization and functioning of The Office of The Ombudsman as an independent body with administrative and financial autonomy. The senior leadership of The Office of The Ombudsman also enjoy security of tenure.

Institutions such as RIB, NPPA, OAG, RPPA, PSF, Civil Society Platform, MINIJUST, MINALOC, MININTER, RNP, Supreme Court with The Office of The Ombudsman have a close working relationship and collectively coordinate their efforts under the

National Advisory Council to Fight Against Corruption and Injustice (NACACI) through which they communicate; the Council exists from National to Cell level.

The evaluation mission was informed that The Office has approximately 80 staff members who have undergone specialized training on anti-corruption.

17. Good Practices and Lessons Learnt from Rwanda

The analysis of the reports and the documentation received as well as the discussion with key stakeholders during the evaluation mission identified some good practices that have emerged from Rwanda's experience in fighting corruption that can be emulated by other States Parties. They include:

- i. **Use of technology in public services:** Rwanda has implemented e-systems that have significantly reduced corruption risks in procurement (umucyo), e-service (Irembo), in courts (Rwanda *Integrated Electronic Case Management System- IECMS*), in payment (The Integrated Financial Management Information & System- IFMIS), Integrated Payroll and Personnel Information System (IPPIIS) with its two portals: Rwanda Employee Self-Service Portal and Rwanda Civil Service Recruitment Portal
- ii. **Incorporation of cultural values and traditional practices:** Rwanda has incorporated the joint setting of performance contracts between citizens and state governance bodies from the traditional *Imihigo* practise as a means to foster accountability and citizen participation.
- iii. **High conviction rate:** From the year 2015, Rwanda has recorded high conviction rates in excess of 75% in the prosecution of economic and financial crimes. This evidences effective investigation and adjudication of corruption cases. This high conviction rate also serves as a strong deterrent factor and is a disincentive for any person contemplating engaging in corrupt activity.
- iv. **Strong leadership and political courage:** The presence of strong leadership and political courage permeates from the presidency to state institutions and subsequently to society at large. There is a true zero tolerance culture to corruption.
- v. **Collaboration and Partnership:** Rwanda has established a National Advisory Council to Fight against Corruption and Injustice that is chaired by The Ombudsman and brings together all anti-corruption actors including representatives of the private sector and civil society. The forum ensures collaboration and synergies in the fight against corruption.

18. Challenges in Implementation of the Convention

The following challenges were noted in implementation of the Convention:

- **Adequate capacity to investigate cybercrimes:** The evaluation mission was informed of the absence of sufficient capacity to investigate cybercrimes and economic crimes that committed using advanced technology.
- **Insufficiency of statistical data:** The evaluation mission noted the

insufficiency of statistical data to validate progress in the fight against corruption by relevant national bodies.

- **Prohibition of anonymous disclosures:** Rwanda's whistleblower law mandates disclosures to identify their authors thereby barring anonymous disclosures. This may serve to put whistleblowers at risk.
- **Lack of implementation of the protective principle jurisdiction:** Rwanda has not however domesticated the protective principle jurisdiction required under Article of the Convention 13(1)(d).

19. Recommendations

The following recommendations are put forward:

- Put in place a training programme for staff of relevant bodies to capacitate them to deal with cybercrimes and economic crimes that committed using advanced technology. Timeframe for implementation: Within 1 year
- Ensure adequate recording keeping and the development and periodic review of statistical data as a monitoring and evaluation tool as well as to identify trends and threats. Timeframe for implementation: Within 1 year
- Review and align Law N° 44bis/2017 of 06/09/2017 relating to the protection of whistle blowers to provide for anonymous disclosures. Timeframe for implementation: Within 1 year
- Review and align national laws to ensure domestication of the protective principle jurisdiction required pursuant to Article 13(1)(d) of the Convention. Timeframe for implementation: Within 1 year

20. Conclusion

Rwanda has enacted several laws and established key institutions that demonstrate Rwanda's resolve to the fight against corruption. The use of technology, involvement of society and strong political courage among others, are notable good practices that other countries can learn and adapt.

The Board encourages Rwanda to consider the recommendations, align existing legislation to the Convention, and strengthen its oversight mechanisms to amplify its efforts in the fight against corruption.

**DRAFT DECISION ON THE REPORT OF THE AFRICAN UNION
ADVISORY BOARD ON CORRUPTION**

I. PREAMBLE / LEGISLATIVE BACKGROUND

1. **TAKES NOTE** of the Report of the African Union Advisory Board on Corruption and the recommendations contained therein;

II. BODY

2. **COMMENDS** Tunisia for acceding to the African Union Convention on Preventing and Combating Corruption (AUCPCC).
3. **URGES** Cameroon to take necessary measures to complete the accession process by depositing its instrument of accession with the African Union Commission.
4. **NOTES** the successful completion of the review of Rwanda and requests authorities to implement the recommendations contained in the State Review Report.
5. **URGES** Member States to implement the recommendations to enhance efficiency of effectiveness of justice systems in the fight against corruption. In particular calls on Member States to develop clear and independent processes for the selection, appointment and discipline of judicial officers and implementing measures to ensure expeditious delivery of justice in economic crime cases including through specialized courts, imposing time limits on the hearing and determination of cases as measures to strengthen public trust in justice systems.
6. **ENDORSES** the theme for the 2021 African Anti-Corruption Day as “Regional Economic Communities: Critical Actors in the Implementation of the African Union Convention on Preventing and Combating Corruption.”
7. **REQUESTS** Tanzania to finalize the architectural drawings of the proposed permanent structure and to submit them to the Board for consideration and approval by the AU Commission.

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