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United Nations Office on Drugs and Crime

United Nations Convention against Corruption

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Assessor:	Agnieszka Stawiarz
Assessor Position:	Public Prosecutor, Ministry of Justice, Department of International Cooperation and Human Rights
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Completed self-assessment checklists should be sent to:

Corruption and Economic Crime Section
Division for Treaty Affairs
United Nations Office on Drugs and Crime
Vienna International Centre
PO Box 500
1400 Vienna, Austria

Attn: KAMBERSKA Natasha

Telephone: + (43) (1) 26060-4293
Telefax: + (43) (1) 26060-74293
E-mail: uncacselfassessment@unodc.org

A. General information

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1. General information

Focal point:

Agnieszka Stawiarz - public prosecutor, Department of International Cooperation and Human Rights, Division of International Legal Cooperation in Ciminal Matters

Institutions consulted:

Ministry of Finace;
National Prosecutor's Office, Department of Transnational Organized Crime and Corruption;
Central Anticoruption Bureau;
National Police Headquartes;

Please provide information on the ratification/acceptance/approval/accession process of the United Nations Convention against Corruption in your country (date of ratification/acceptance/approval of/accession to the Convention, date of entry into force of the Convention in your country, procedure to be followed for ratification/acceptance/approval of/accession to international conventions etc.).

Poland signed the Convention on 10 Dec 2003 and ratified it on 15 Sep 2006.

Please briefly describe the legal and institutional system of your country.

Poland is a constitutional republic and the Polish legal system is based on the Constitution. Poland's current constitution was adopted by the National Assembly of Poland on 2 April 1997, approved by a national referendum on 25 May 1997, and came into effect on 17 October 1997. It guarantees a multi-party state, the freedoms of religion, speech and assembly. It requires public officials to pursue ecologically sound public policy and acknowledges the inviolability of the home, the right to form trade unions, and to strike, whilst at the same time prohibiting the practices of forced medical experimentation, torture and corporal punishment.

A president is a head of state. The government structure centers on the Council of Ministers, led by a prime minister. The president appoints the cabinet according to the proposals of the prime minister, typically from the majority coalition in the Sejm. The president is elected by popular vote every five years.

Polish voters elect a bicameral parliament consisting of a 460-member lower house (Sejm) and a 100-member upper house Senate (Senat). When sitting in joint session, members of the Sejm and Senat form the National Assembly (the *Zgromadzenie Narodowe*). The National Assembly is formed on three occasions: when a new president takes the oath of office; when an indictment against the President of the Republic is brought to the State Tribunal (*Trybunał Stanu*); and when a president's permanent incapacity to exercise his duties due to the state of his health is declared.

The judicial branch plays an important role in decision-making. Its major institutions include the Supreme Court (*Sąd Najwyższy*); the Supreme Administrative Court (*Naczelny Sąd Administracyjny*); the Constitutional Tribunal (*Trybunał Konstytucyjny*); and the State Tribunal (*Trybunał Stanu*). On the approval of the Senat, the Sejm also appoints the ombudsman or the Commissioner for Civil Rights Protection (*Rzecznik Praw Obywatelskich*) for a five-year term. The ombudsman has the duty of guarding the observance and implementation of the rights and liberties of Polish citizens and residents, of the law and of principles of community life and social justice.

The public prosecutor’s office consists of the Public Prosecutor General, the National Public Prosecutor, the Public Prosecutor General’s other deputies, and public prosecutors of universal prosecutorial bodies, as well as public prosecutors of the Institute of National Remembrance - Commission for the Prosecution of Crimes against the Polish Nation.

The Public Prosecutor General is the chief prosecutorial body. The office of the Public Prosecutor General is held by the Minister of Justice. Public prosecutors of universal prosecutorial bodies include public prosecutors of the National Public Prosecutor’s Office, provincial public prosecutor’s offices (prokuratury regionalne), regional public prosecutor’s offices (prokuratury okręgowe) and district public prosecutor’s offices (prokuratury rejonowe).

Public prosecutors of the Institute of National Remembrance include public prosecutors of the Chief Commission for the Prosecution of Crimes against the Polish Nation, hereafter referred to as “the Chief Commission”, public prosecutors of branch commissions for the prosecution of crimes against the Polish Nation, hereafter referred to as “branch commissions”, public prosecutors of the Vetting Office and public prosecutors of branch vetting offices**.**

The public prosecutor’s office executes tasks related to prosecuting crimes, and maintains law and order.The tasks specified above are executed by the Public Prosecutor General, the National Public Prosecutor and the Public Prosecutor General’s other deputies, as well as public prosecutors subordinate to them by means of:

1) handling or supervising preparatory proceedings in criminal cases and exercising the function of public prosecuting

attorney before courts;

2) bringing actions in civil cases, as well as submitting motions and participating in court proceedings in civil cases relative to the labour and social security law if the protection of law and order, social interest, or citizens' property or rights requires it;

3) taking measures provided for by the law, aiming at a correct and uniform application of the law in court and administrative proceedings, in petty crime cases and in other proceedings provided for by the law;

4) exercising surveillance over the enforcement of temporary detention decisions and other decisions concerning detention;

5) conducting research on crime, fighting crime and crime prevention, as well as cooperating with scientific institutions with regard to research on crime, fighting crime, crime prevention and crime control;

6) gathering, processing and analyzing data in IT systems, including personal data acquired from the proceedings handled or supervised pursuant to the law or from the participation in court and administrative proceedings, in petty crime cases or other proceedings provided for by the law, transmitting the data and the analyses' results to competent authorities, including authorities of another country if the law or an international agreement ratified by the Republic of Poland stipulates it;

7) appealing to courts against unlawful administrative decisions and participating in court proceedings relative to such decisions' conformity with the law;

8) coordinating the activity relative to prosecuting crimes or fiscal offences conducted by other state bodies;

9) cooperating with state bodies, state organizational units and social organizations with regard to preventing crime and other violations of law;

10) cooperating with the Head of the National Crime Information Centre in so far as it is necessary to the execution of his/her statutory tasks;

11) cooperating and participating with regard to measures taken by international or supranational organisations and international teams operating under international agreements, including agreements establishing international organizations, ratified by the Republic of Poland;

12) giving opinions on drafts of normative acts;

13) cooperating with organizations for public prosecutors or employees of the public prosecutor's office, including co-financing of joint research or training projects;

14) taking other actions provided for by laws.

In matters subject to the jurisdiction of military courts, the tasks referred to in the above list are performed by public prosecutors of universal prosecutorial bodies performing duties in the Department for Military Matters and in departments for military matters in regional and district public prosecutor's offices.Public prosecutors for military matters perform duties also in matters outside the jurisdiction of military courts.A public prosecutor can participate in any proceedings conducted by authorities and public administration bodies, courts and tribunals, unless laws stipulate otherwise.A public prosecutor is obliged to administer the acts specified by laws in compliance with the principle of impartiality and equal treatment of all citizens.

The Public Prosecutor General is in charge of the Public prosecutor's Office in person or through the National Public Prosecutor and the Public Prosecutor General's other deputies by issuing dispositions, guidelines and orders.

The Public Prosecutor General is the superior of public prosecutors of universal prosecutorial bodies and public prosecutors of the Institute of National Remembrance.

The Public Prosecutor General's powers and tasks specified in laws may also be exercised and performed by the authorized National Public Prosecutor or the Public Prosecutor General's other deputy. The Public Prosecutor General issues a relevant disposition on that matter.Should the office of the Public Prosecutor General be vacant, or should he/she be temporarily unable to perform the Public Prosecutor General's duties, he/she is replaced by the National Public Prosecutor**.**The National Public Prosecutor as the Public Prosecutor General's first deputy, as well as the Public Prosecutor General's other deputies are appointed from among public prosecutors of the National Public Prosecutor's Office and dismissed from their post by the President of the Council of Ministers upon a motion of the Public Prosecutor General. The National Public Prosecutor and the Public Prosecutor General's other deputies are appointed after consulting the President of the Republic of Poland, and dismissed upon his/her approval.

One of the Public Prosecutor General's deputies is the Public Prosecutor General's Deputy for Organized Crime and Corruption.

One of the Public Prosecutor General's deputies is the Public Prosecutor General's Deputy for Military Matters. Another one of the Public Prosecutor General's deputies is the Director of the Chief Commission, appointed from among public prosecutors of the Institute of National Remembrance. The appointment and dismissal of the Director of the Chief Commission is immediately notified to the President of the Institute of National Remembrance. The Director of the Chief Commission is in charge of the Chief Commission's operations.

A provincial, regional and district public prosecutor is appointed, after presenting his/her candidacy to the relevant public prosecutors' assembly, and dismissed by the Public Prosecutor General upon a motion of the National Public Prosecutor.

Universal prosecutorial bodies are: the National Public Prosecutor's Office, provincial public prosecutor's offices (prokuratury regionalne), regional public prosecutor's offices (prokuratury okręgowe) and district public prosecutor's offices

(prokuratury rejonowe).The National Public Prosecutor's Office provides service to the Public Prosecutor General and to the National Public Prosecutor.

The National Public Prosecutor's Office's principal tasks include also ensuring the participation of a public prosecutor in proceedings before the Constitutional Tribunal, the Supreme Court and the Supreme Administrative Court, handling and supervising preparatory proceedings, exercising instance and service-related supervision over proceedings handled in provincial public prosecutor's offices, coordination of the service-related supervision over preparatory proceedings handled by other prosecutorial bodies, carrying out inspections in provincial public prosecutor's offices, administering acts in relation to legal transactions with other countries and maintaining a central base of legal opinions and a base of the Public Prosecutor General's guidelines and dispositions.

The National Public Prosecutor is in charge of the National Public Prosecutor's Office.

The National Public Prosecutor is the superior public prosecutor of public prosecutors of the National Public Prosecutor's Offices and public prosecutors of other universal prosecutorial bodies.Exercising the powers and performing the tasks of the National Public Prosecutor may be entrusted to the National Public Prosecutor's deputy exclusively in the matters related to heading the National Public Prosecutor's Office. The National Public Prosecutor's deputy is appointed and dismissed by the Public Prosecutor General upon a motion of the National Public Prosecutor.

In the National Public Prosecutor's Office, departments and offices are established. Within departments and offices, it is possible to establish, if need be, divisions or other organizational bodies, including branches.

One of the departments in the National Public Prosecutor's Office is the Department for Organized Crime and Corruption, which is in charge of matters relative to prosecuting organized crime, the most grievous corruption crimes and crimes of terrorist nature.

One of the departments in the National Public Prosecutor's Office is the Department for Military Matters, which is in charge of matters subject to the jurisdiction of military courts.

The Division of Internal Affairs is an independent unit in the National Public Prosecutor's Office, in charge of the matters relative to preparatory proceedings concerning the most grievous crimes committed by judges, court assessors, public prosecutors and public prosecutor's assessors, as well as exercising the function of a public prosecuting attorney in those cases before the court. The Division of Internal Affairs is presided over by a chief, who is the superior public prosecutor of the public prosecutors performing their duties in that division.

Local Divisions of the Department for Organized Crime and Corruption of the National Public Prosecutor's Office are established at provincial public prosecutor's offices.

The principal tasks of a Local Division of the Department for Organized Crime and Corruption of the National Public Prosecutor's Office include handling and supervising preparatory proceedings in cases relative to prosecuting organized crime, the most grievous corruption crimes and crimes of terrorist nature, as well as exercising the function of the public prosecuting attorney in those cases before the court.A Local Division of the Department for Organized Crime and Corruption of the National Public Prosecutor's Office is presided over by a chief.The chief of a Local Division of the Department for Organized Crime and Corruption of the National Public Prosecutor's Office is the superior public prosecutor of public prosecutors of the provincial public prosecutor's office, public prosecutors of regional public prosecutor's offices and public prosecutors of district public prosecutor's offices who perform their duties in that division.

A provincial public prosecutor's office is established for an area of competence of at least two regional public prosecutor's offices.

The principal tasks of a provincial public prosecutor's office include ensuring the public prosecutor's participation in proceedings instituted pursuant to the law before courts of general jurisdiction and provincial administrative courts; handling and supervising preparatory proceedings in cases relative to prosecuting the most grievous financial and economic crimes and tax crimes, and in cases against economic transactions concerning property of great value; exercising supervision over proceedings instituted in regional public prosecutor's offices; as well as carrying out inspections in regional and district public prosecutor's offices**.**

A provincial public prosecutor's office is headed by the provincial public prosecutor.

The regional public prosecutor's office is established for an area of competence of at least two district public prosecutor's offices.

The principal tasks of a regional public prosecutor's office include ensuring a public prosecutor's participation in proceedings instituted by virtue of the law before courts of general jurisdiction as well as, in the offices where departments for military matters have been created, before regional military courts; handling and supervising preparatory proceedings in cases relative to grievous penal, financial and tax crimes, as well as, in the offices where departments for military matters have been created, in cases subject to the jurisdiction of regional military courts; exercising supervision over proceedings instituted in district public prosecutor's offices; as well as carrying out inspections in district public prosecutor's offices.

A regional public prosecutor's office is headed by the regional public prosecutor.

A district public prosecutor's office is established for one or more communes; in justified cases, it is possible to establish more than one district public prosecutor's office within one commune.

A district public prosecutor's office is headed by the district public prosecutor.

In provincial and regional public prosecutor's offices, divisions are created. It is also possible to create sectors, either independent or subordinate to divisions.

In district public prosecutor's offices, it is possible to create sectors or sections.

Departments and offices of the National Public Prosecutor's Office are presided over by directors (dyrektorzy), divisions of the departments and offices of the National Public Prosecutor's Office and divisions in provincial and regional public prosecutor's offices are presided over by chiefs (naczelnicy), and sectors and sections in regional and district public prosecutor's offices, as well as branches of regional and district public prosecutor's offices are presided over by heads (kierownicy).

In a separate communication addressed and e-mailed to the secretariat (uncac.cop@unodc.org), please provide a list of relevant laws, policies and/or other measures that are cited in the responses to the self-assessment checklist along with, if available online, a hyperlink to each document and, if available, summaries of such documents. For those documents not available online, please include the texts of those documents and, if available, summaries thereof in an attachment to the e-mail. If available, please also provide a link to, or the texts of, any versions of these documents in other official languages of the United Nations (Arabic, Chinese, English, French, Russian or Spanish). Please revert to this question after finishing your self-assessment to ensure that all legislation, policies and/or other measures you have cited are included in the list.

Documentation as required has been provided to the secretariat.

Please provide a hyperlink to or copy of any available assessments of measures to combat corruption and mechanisms to review the implementation of such measures taken by your country that you wish to share as good practices.

<https://rm.coe.int/report-on-fourth-assessment-visit-anti-money-laundering-and-combating-/1680716516>
<http://www.oecd.org/daf/anti-bribery/Polandphase3reportEN.pdf>
<http://www.oecd.org/daf/anti-bribery/Poland-Phase-3-Written-Follow-Up-Report-ENG.pdf>

Please provide the relevant information regarding the preparation of your responses to the self-assessment checklist.

Information was obtained from authorities mentioned in the item on institutions involved.

Please describe three practices that you consider to be good practices in the implementation of the chapters of the Convention that are under review.

The National Prosecutor's order of 31 March 2017 (ref. no. PK I BP 024.4.2017) on application of seizure of property introduced the obligation to examine the premises for the application of seizure of property in any case in which suspects are charged with crimes for which property- related penalties or penal measures can be imposed. It particularly concerns forfeiture of proceeds of crime, the obligation to redress the damage and compensation for harm suffered by the victims, as well as the costs of the proceedings that may be incurred by the accused.

The order emphasized the necessity to identify and search for suspects' property by law enforcement authorities.

As a result of the order, in 2017 there was a significant increase in secured property, as compared to previous years, which illustrates the following:

Year	Number of

	decisions on seizure of property, Value of sized property	
2017	**45.340**	**1 288 409 200,33 PLN (352 024 371,67 USD)**
2016	**21.109**	**251 889 855,00 PLN (68 822 364,75 USD)**
2015	**30.820**	**303 509,100 PLN (82 925,98 USD)**

Another noteworthy good practice that positively influenced the implementation of the provisions of the Convention on the return of proceeds from crime was elaborating and dissemination among prosecutors in the field, a written methodology for tracing and seizure of property. The methodology was drawn up jointly by prosecutors as well as the law enforcement authorities including the Police, Central Anticorruption Bureau, Border Guard and Ministry of Justice and Ministry of Finance. The contents of methodology encompasses practical aspects of financial investigation, identifying and tracing of property belonging to suspects and the proper manner of seizure of specific types of assets ranging from the real estate to crypto currencies.

Please describe (cite and summarize) the measures/steps, if any, your country needs to take, together with the related time frame, to ensure full compliance with the chapters of the Convention that are under review, and specifically indicate to which articles of the Convention such measures would relate.

No measure or step required.

II. Preventive measures

5. Preventive anti-corruption policies and practices

2. Paragraph 1 of article 5

1. Each State Party shall, in accordance with the fundamental principles of its legal system, develop and implement or maintain effective, coordinated anti-corruption policies that promote the participation of society and reflect the principles of the rule of law, proper management of public affairs and public property, integrity, transparency and accountability.

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

On January 28, 2016, the new Law on the Prosecutor's Office was adopted, under which, at a level of the National Prosecutor's Office (supreme prosecution body in Poland) the Department for Organized Crime and Corruption was established. The Department and its 11 Local Departments set up in main cities of Poland are specialized to investigate organized crime and the most serious cases of corruption in the parliamentary bodies, government administration, self-government bodies, law enforcement and control agencies. Hitherto, such crimes have been investigated by prosecution units at all levels, and there were no clear criteria for the assignment of the most serious corruption cases**.**

Currently, such investigations are conducted at the level of the National Public Prosecutor's Office. The Department is subordinated directly to the Deputy Prosecutor General for Organized Crime and Corruption. There is also a specialized prosecutor in the Department who deals with the coordination of the on-going investigations involving corruption.

Moreover, in the structure of the National Prosecutor's Office, the Internal Affairs Department was created, whose task is to conduct and supervise preparatory proceedings in cases concerning the most serious corruption among judiciary and prosecutors**.**

On January 6, 2018, based on Resolution No. 207 of the Council of Ministers of December 19, 2017, the *Governmental Anti-Corruption Programme for 2018-2020* (GACP) was established. The adopted *Programme* is the result of work of the Central Anticorruption Bureau (CBA), undertaken as a result of arrangements between the Minister of Interior and Administration, which is responsible for the implementation of the previous anti-corruption programme, and the Minister - Coordinator of Special Services.

The Governmental Anti-Corruption Program for 2018-2020 implements the obligation to conduct systematic actions in the field of anti-corruption resulting from the recommendation of GRECO, recommendations of the European Union

as well as the United Nations Convention against Corruption (UNCAC).

Established *Programme* is not a multi-annual program as defined in the Act of August 27, 2009 on Public Finance (Journal of Laws of 2016, item 1870, as amended). First of all, it should be a document creating the directions of the national anti-corruption policy in the coming years.

Formulating new assumptions, it was assumed that the GACP is to act as a tool ensuring flexible planning and management of legislative, operational, preventive and educational activities undertaken by state services and authorities in the area of counteracting corruption crime. As the main objective, the Central Anticorruption Bureau (CBA) indicated a **real reduction of corruption crime** in the country and **raising public awareness** in the field of counteracting corrupt behavior.

With the entry into force of this new legal act, resolution No 37 of the Council of Ministers of 1 April 2014 regarding the *Government Anti-Corruption Programme for 2014-2019* has lost its legal force.

For the purpose of the Program, the following are defined as **specific objectives**:

• strengthening preventive and educational activities;

• improvement of mechanisms for monitoring corruption threats and monitoring of legal regulations in the field of counteracting corruption crime;

• intensifying cooperation and coordination of actions between law enforcement authorities.

These objectives are in line with the specific objective defined in the Strategy for Responsible Development until 2020 (with a perspective until 2030), which was adopted by the Council of Ministers on February 14, 2017 and constitutes an update of the National Development Strategy 2020, i.e. strengthen level of security and public order as a condition for the development of the country. Effective measures taken in connection with its implementation are to limit phenomena extremely harmful to the functioning of the State, including corruption as well as to respond to clear social expectations.

Compared to the previous anti-coruption programme, the number of tasks has been reduced to 8, and the activities to 33, resignation from permanent tasks was retreated due to the fact that they are implemented on the basis of other legal acts.

The work of the Inter-ministerial Working Group for Coordination and Monitoring of the Implementation of the *Governmenal Anti-Corruption Program for 2018-2020* is chaired by the Head of the Central Anticorruption Bureau, therefore on the Bureau new duties were imposed such as the coordination and monitoring of the Program and provide the administrative service.

The proposed changes are to result in the introduction and using of new standards for the diagnosis, monitoring and prevention of corruption threats, and should ensure the development of effective response mechanisms and improve the effectiveness of relevant services as a necessary condition for the proper

functioning of the State.
As part of the implementation of the GACP for 2018-2020, a task to develop principles for the protection of the law-making system has been realizing, as well as the most important public procurement and monitoring the exercise of rights in the area of commercialization and consolidation of property by companies of significant importance for the national economy. The Head of the CBA, as the leading authority, oversees the action to develop a mechanism for assessing draft legal regulations in the government legislative process in terms of corruption threats. As a part of the implementation of another task, guidelines are developed regarding uniform organizational and legal solutions in the field of counteracting corruption in the public administration.

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

In connection with the adoption on 1 April 2014 by the Council of Ministers of resolutions regarding the *Governmental Anti-Corruption Programme for the years 2014-2019*, the CBA undertook activities related to the implementation of the program. However, after over two years of operation the effects of its implementation were considered unsatisfactory. The assessment made by the Supreme Audit Office in 2016 showed long delays in its implementation, ineffective implementation model, incorrect assignment of tasks or activities to some implementers. The years 2014-2016 have revealed the untapped role of the managing institution managed previous anti-corruption program for 2014-2019, i.e. the Inter-ministerial Workgroup for Coordination and Monitoring Implementation. An analysis of the program's achievements for the years 2014-2019 has shown that continuing the program in its unchanged form and on the applicable rules bring a risk of failure to achieve the set goals. As a result of arrangements between the Minister of Interior and Administration and the Minister - Special Services Coordinator in August 2016, the Central Anticorruption Bureau (CBA) was obliged to start work on a new document, which resulted in place of the *Government Anti-Corruption Program for 2014-2019* new ***Governmental Anti-Corruption Program for 2018-2020*** *has been established*. (See an attachment)

3. Paragraph 2 of article 5

2. Each State Party shall endeavour to establish and promote effective practices aimed at the prevention of corruption.

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

Since 2010, officers of the Central Anti-Corruption Bureau (CBA), based on their experience in the field of combating and preventing corruption, provide training for employees of State institutions, public administration institutions and entrepreneurs with the State Treasury shareholding. Trainings are also conducted during various workshops and conferences devoted to anti-corruption issues. By the end of August 2018, over than 1 000 trainings were conducted at 679 institutions. Over 50 000 people have been trained. The training is supplemented by publications issued by the CBA to public officials and entrepreneurs.

In 2010-2017, the CBA published 45 publications, of which 36 are in Polish, 9 in English and 6 in Polish and English. Publications are also available in the form of e-books and audiobooks on the CBA's official website: www.cba.gov.pl or www.antykorupcja.gov.pl.

The CBA published inter alia:
– Anti-corruption guidelines for public officials;
– Anti-corruption guidelines for entrepreneurs;
– Recommendations of anticorruption proceedings in public procurements;
– Political corruption. Guidelines for representatives of the authorities elected by national elections.

In May 2014, the CBA anti-corruption e-learning platform was established (https://www.szkolenia-antykorupupcyjne.edu.pl), which was set up under the project financed by the EU Commission entitled: *Raising of the anti-corruption training system*. It is a publicly available, free anti-corruption training platform for anyone interested in the subject of corruption in Poland, in particular public officials, entrepreneurs, academia and students. Since the time of set up, the platform has undergone several upgrades. The current version, tailored to the needs of the target groups indicated, includes the latest legislative and organizational regulations in the field of anti-corruption.

Three training modules are available in two language versions - Polish and English:

1) Corruption in public administration - contains information on legal and institutional instruments to fight against corruption, anti-corruption laws

and methods of counteracting the phenomenon, contains examples of corruption and guidelines on how public administration employees should behave in case of corruption and how they can contribute to limit it;

2) Corruption in business - presents information about systemic and institutional anti-corruption solutions operating in the legal and business circulation, as well as about the economic consequences of the occurrence of corruption at the interface between the administration, private sector, society and the State.

3) Preventing corruption - presents the State's anti-corruption policy and whistleblowing issues, presents the role of non-governmental organizations in counteracting corruption and social research related to this issue, provides information on the impact of corruption on the economy, society and politics.

Each module is finished with a test. After passing it, you can generate a certificate confirming the completion of the course. The statistical data shows in August 2018 that from the beginning of the anti-corruption e-learning platform was set up, more than 126 thousand completed training people.

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

The previous reports on the implementation of the Program were prepared by the Minister of Internal Affairs and Administration as the chairman of the Interministerial Working Group for Coordination and Monitoring Implementation of the Governmental Anti-Corruption Programme for the years 2014-2019. The *Government Anti-Corruption Program for 2018-2020*, as a new program, has not yet been evaluated.

Persons entrusted with the executive functions have an obligation to report the information about the obtained benefits to the Benefits Register. The Register is kept by the National Electoral Commission which discloses the data contained therein to the general public once a year.

The corruption-generating mechanisms are revealed each year by the Supreme Chamber of Control in its annual Reports on the activity of the Supreme Chamber of Control, which are drawn up based on the results of controls carried out by the Chamber. Other analytical material published annually is the Map of Corruption - corruption in Poland. It is the report drawn up thanks to cooperation of the Central Anti-Corruption Bureau with the Ministry of Justice, the Ministry of Finance, the General Prosecutor’s Office, the Police, the Internal Security Agency, the Border Guard, the Military Police, the Customs Service and the Prison Service. The publication includes basic data on combating corruption crime in Poland.

4. Paragraph 3 of article 5

3. Each State Party shall endeavour to periodically evaluate relevant legal instruments and administrative measures with a view to determining their adequacy to prevent and fight corruption.

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

1. A specialized prosecutor from the Department for Organized Crime and Corruption of the National Prosecutor's Office coordinating the investigations of the most serious cases of corruption in the country, in 2016-2017 prepared annual reports on the coordination carried out, including statistical data on the number of conducted investigations of this type, the manner of their completion, identified areas of corruption threat, as well as description of selected proceedings.

2 .As part of the implementation of the GACP for 2018-2020, a task to develop principles for the protection of the law-making system has been realizing, as well as the most important public procurement and monitoring the exercise of rights in the area of commercialization and consolidation of property by companies of significant importance for the national economy. The Head of the CBA, as the leading authority, oversees the action to develop a mechanism for assessing draft legal regulations in the government legislative process in terms of corruption threats. As a part of the implementation of another task, guidelines are developed regarding uniform organizational and legal solutions in the field of counteracting corruption in the public administration.

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

Implementation of the GACP for 2018-2020 is conducted at three levels: level I - Coordinators of the Program implementation, level II - implementing institution, level III - the Council of Ministers. Detailed information can be found in the attached resolution No. 207 of the Council of Ministers of December 19, 2017 establishing the *Governmental Anti-Corruption Program for 2018-2020.*

Prime Minister acting on the basis of art. 6 par. 1 of the Act of 23 December 1994 on the Supreme Chamber of Control (Journal of Laws of 2017, item 524), will apply to the Supreme Chamber of Control to carry out an audit of the implementation of the Program after its completion. On an ongoing basis, information on the status of the implementation of the Program's tasks / activities can be found in the CBA’swebsite service <http://ww.antykorupcja.gov.pl>

5. Paragraph 4 of article 5

4. States Parties shall, as appropriate and in accordance with the fundamental principles of their legal system, collaborate with each other and with relevant international and regional organizations in promoting and developing the measures referred to in this article. That collaboration may include participation in international programmes and projects aimed at the prevention of corruption.

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

On November 17, 2016, the Prosecutor of the Department for Organized Crime and Corruption responsible for the coordination of investigations in corruption cases, at the First Anti-Corruption Conference organized by the Police Headquarters at the Higher Police School in Szczytno, delivered a lecture entitled "Combating corruption in Poland, prevention or repression?". The lecture addressed the issue of corruption in business.

On November 23-24, 2017, the Second Anti-Corruption Conference, organized by the Department for Combating Corruption of the Criminal Bureau of the Police Headquarters was held. The aim of the conference was primarily to discuss issues related to effective prevention and combating broadly understood corruption in the light of applicable law in cooperation with law enforcement agencies and government administration.At the conference, the prosecutor responsible for coordinating corruption delivered a lecture entitled "Criminal law mechanisms in the fight against economic corruption and preventive impact of criminal proceedings and sentences imposed on such matters".

The Polish Prosecutor's Office is not party to sectoral agreements in the field of combating corruption or disposing of property from crime but is a party to general cooperation agreements with the Dominican Republic (2015) Uzbekistan (2013), Russian Federation (2010), Lithuania (2006) and Ukraine prosecutors' offices (1998), Bulgaria (1985), Cuba (1987), Hungary (1988), China (1988) and Mongolia (1989).

Nonetheless the National Prosecutor's Office is involved in the works of the International Association of Prosecutors (IAP) which is an international organization committed to setting and raising standards of professional conduct and ethics for prosecutors worldwide, promoting the rule of law, fairness, impartiality and respect for human rights and improving international co-operation to combat crime. National Prosecution Office also participates in the network of anticorruption authorities - The European Partners against Corruption (EPAC) which offers a medium for practitioners to share experiences, identify opportunities, and cooperate across national borders in developing common strategies and high professional standards.

The National Prosecutor of Poland actively participates in the meetings of chief public prosecutors of the Visegrad Group countries (Poland, Czech Republic,

Slovakia and Hungary). At the meetings the most actual problems in combating crime in the region are discussed.

The Central Anticorruption Bureau (CBA) cooperates with many international organizations and law enforcement agencies from other countries. The aim of the cooperation is to exchange best practices, knowledge on corruption phenomena, solutions and instruments functioning abroad, as well as the current exchange of information related to operational and investigative activities carried out by the services of other countries. In implementing the provisions of the Act on the CBA, making the establishment of cooperation with foreign entities dependent on obtaining the consent of the Prime Minister, CBA has so far been approved for bilateral cooperation with 51 countries and 12 international organizations (including the UN, World Bank, Interpol, Europol, Eurojust, EUBAM, OLAF, EPAC, GRECO, IACA). CBA is also a member of other international initiatives, including EPAC/EACN - European Partners Against Corruption / European Anti-Corruption Network. The Steering Committee of the Regional Anti-Corruption Initiative (RAI) associating countries in the region of Southeastern Europe has granted the CBA status observer. This allows the Bureau to participate in various types of anti-corruption initiatives, such as: international projects, trainings, seminars and educational activities, including scientific ones. The Central Anticorruption Bureau (CBA) also established cooperation with the World Bank in the field of corruption prevention.

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

Within the Program "Prevention of and Fight against Crime" (ISEC), the EU Commission decided to grant the CBA for the implementation of the *Development of the anti-corruption training system*. The co-beneficiary of the project was the Lithuanian Special Investigation Service (STT), and the partner of the project - the Latvian Office for Counteracting and Combating Corruption (KNAB). The project was implementing by 36 months in 2013-2015. The sixth international anti-corruption training conferences was held, addressed to representatives of public administration, scientific communities and institutions involved in combating corruption as well as in 2014 an e-learning platform was established as a tool for anti-corruption education and communication for civil servants, entrepreneurs and the public The platform aims to raise the level of public awareness about corruption and its counteraction. English version of the platform has also been provided.

In the years 2014-2016, the Central Anti-Corruption Bureau (CBA) carried out an international project *S4ACA -Siena for Anti-corruption Authorities* from ISEC funds to build and implement the EUROPOL SIENA information exchange system together with the Austrian Federal Anticorruption Bureau (BAK). The project enabled access to the Europol secure information exchange system for the anti-corruption services involved in the project.

In 2013, the CBA in cooperation with the Polish Police General Headquarters organized the 13th Annual International Conference (EPAC/EACN), which was held in Krakow (Poland). The conference was attended by 93 participants - heads of services and anti-corruption institutions from the Europe. Cooperation with the World Bank has resulted in the development of a joint publication entitled: *Aware of fraud and corruption. Handbook for officials dealing in public procurement.*

On the occasion of the International Anti-Corruption Day celebrated on December 9, the CBA has been organizing from 2010 the Annual International Anticorruption Conferences in cooperation with other government agencies and NGOs. So far, nearly 1000 guests from Poland and abroad have participated in the meetings organized by the CBA. The CBA participates in and supports anti-corruption training courses implemented under the EU Twinning assistance in the field of preventing and combating corruption for representatives of anti-corruption authorities of other countries (e.g. Ukraine). The Bureau also participates in the CEPOL program in the field of exchange of law enforcement officers carrying out activities related to preventing and combating corruption. Until now, the CBA participated in three editions of the program, enabling its officers to exchange experiences and good practices as part of study visits to the anti-corruption bodies of other EU and partner countries.

6. Technical Assistance

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

Please outline actions required to ensure or improve the implementation of the article under review and describe any specific challenges you might be facing in this respect.

No assistance would be required.

Do you require technical assistance for the implementation of this article? If so, please specify the forms of technical assistance that would be required. For example:

(NO) No assistance would be required

No assistance would be required.

Is any technical assistance already being provided to you? If so, please provide a general description of the nature of the assistance, including donor information.

No assistance has been provided.

6. Preventive anti-corruption body or bodies

7. Paragraph 1 of article 6

1. Each State Party shall, in accordance with the fundamental principles of its legal system, ensure the existence of a body or bodies, as appropriate, that prevent corruption by such means as:

(a) Implementing the policies referred to in article 5 of this Convention and, where appropriate, overseeing and coordinating the implementation of those policies;

(b) Increasing and disseminating knowledge about the prevention of corruption.

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

The Central Anti-Corruption Bureau (CBA) is a special service established to fight corruption in public and economic area, in particular in the State and local government institutions, as well as to combat activities that undermine the economic interests of the State. It operates on the basis of the Act of June 9, 2006 on the Central Anticorruption Bureau (consolidated text: Journal of Laws of 2017, item 1993).

The Head of the CBA is the central government administration body supervised by the Prime Minister. His activity is subject to the control of the Parliament (Sejm). According to art. 12 para. 3 of the CBA Act, Head of the Central Anticorruption Bureau presents, annually until March 31 to the Prime Minister and Parliament's Special Services Committee the CBA's activities report. Article 12 para. 4 says that the Head of the CBA announces to the Sejm and the Senate annually, by March 31, information on the results of the CBA, with the exception of classified information. Report on the results of the CBA's activity in a given year is published on the CBA's website. (*Information on the results of operations of the Central Anticorruption Bureau in 2017- see attachment)*

Information contains data of an open nature on the subject of intelligence and investigative, control, analytical and information activities, educational and preventive activities, international cooperation and organizational matters. The Head of the CBA also presents information on the results of the CBA's activities in a given year at meetings of the Sejm of the Republic of Poland and the Senate of the Republic of Poland.

In addition, in line with art. 12 para. 2 of the CBA Act, the Head of the CBA, at least 2 months before the end of the calendar year, shall submit to the Prime Minister for approval the annual CBA plan for the next year.The Head of the CBA is appointed for a 4-year term and dismisses the Prime Minister after consulting the President of the Republic of Poland, the College for Special Services and the Sejm Special Services Committee. Re-appointment to the post of the Head may take place only once.

Competences of the Central Anti-Corruption Bureau also include educational activity in the area of preventing corruption.The tasks of the Bureau primarily includes identification, prevention and detection of corruption offences and prosecution of perpetrators as well as revealing and preventing instances of failure to adhere to regulations concerning pursuit of economic activity by individuals performing public functions;To document the bases and to initiate implementation of regulations on the return of benefits obtained on false pretences at the expense of the State Treasury or other state legal persons;

To reveal instances of failure to adhere to legally defined procedures of making and implementing decisions concerning: privatisation and commercialisation, financial support, granting public procurement contracts, disposal of assets of: public finance sector entities, beneficiaries of public funds, enterprises with State Treasury interest or local government units, granting of concessions, permits, exemptions for entities and objects, reliefs, preferences, contingents, plafonds, bank sureties and guarantees;To control correctness and adequacy of asset declarations or declarations on pursuing economic activity filed by individuals who fulfil public functions.

Also, prevention activities form an important part of Central Anti-Corruption Bureau's operations.In addition, it also conducts prophylactic and educational activities. In this respect, it works with other institutions and NGOs that deal with corruption.The CBA has created an anti-corruption e-learning platform, which is located on the website of the Bureau (https://www.szkolenia-antykorupcyjne.edu.pl). This website is addressed to civil servants and can also be used by PTEF.

The Central Anti-Corruption Bureau has 880 officers and employees; its 2017 budget was approximately PLN 150 million. The Central Anti-Corruption Bureau is supervised by the Prime Minister via the Minister - Member of the Council of Ministers - Coordinator of Special Services.

The corruption-generating mechanisms are revealed each year by the Supreme Chamber of Control in its annual Reports on the activity of the Supreme Chamber of Control, which are drawn up based on the results of controls carried out by the Chamber. Other analytical material published annually is the Map of Corruption - corruption in Poland. It is the report drawn up thanks to cooperation of the Central Anti-Corruption Bureau with the Ministry of Justice, the Ministry of Finance, the General Prosecutor's Office, the Police, the Internal Security Agency, the Border Guard, the Military Police, the Customs Service and the Prison Service. The publication includes basic data on combating corruption crime in Poland.

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

The CBA monitors existing threats on an ongoing basis. For example, in 2013, the Bureau issued a preventive and educational publication entitled *Anticipated corruption threats in Poland*. The authors pointed out areas which from the point of view of the economic interests of the State may be particularly threatened by the occurrence of irregularities. The publication was based on the conducted analyzes and based on the experience of cases carried out by the CBA. Its source was also the reports and studies of over 20 services, organs and institutions, which the Bureau turned to. The CBA also publishes a popular science magazine entitled *Anticorruption Review*, in which up to now the topics have been addressed, inter alia: corruption in the context of power institutions, compliance, anti-corruption institutions in Central and Eastern Europe, as well as whistleblowers.

CBA publishes annually information on corruption crime in Poland as a *Map of Corruption*. The aim of the report is to compile data on the issue of combating corruption crime and analysis of individual factors of the phenomenon. The report is prepared on the basis of the CBA's own data and information provided by Ministry of Justice, Public Prosecutor's Office, Police, Internal Security Agency, Border Guard, Military Police, Prison Service and the National Treasury Administration.

8. Paragraph 2 of article 6

2. Each State Party shall grant the body or bodies referred to in paragraph 1 of this article the necessary independence, in accordance with the fundamental principles of its legal system, to enable the body or bodies to carry out its or their functions effectively and free from any undue influence. The necessary material resources and specialized staff, as well as the training that such staff may require to carry out their functions, should be provided.

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

According to art. 48 of the Act on the Central Anticorruption Bureau, a person who meets certain requirements may become an officer of the Central Anticorruption Bureau. Article 49 of the Act stipulates that the physical and mental capacity of candidates for service and CBA officers is determined by medical authorities subordinate to the minister competent for internal affairs. The recruitment process is long, complex and multi-stage. The officer, in connection with the performance of his official duties, enjoys the protection provided for in the provisions of the *Criminal Code* for public officials (Article 75 of the CBA Act).
CBA officers, during their duty undergo a series of trainings. Training - basic and specialist - are organized as needed in connection with the implementation of the statutory tasks of the CBA.

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

Information of CBA'sactivity in 2017 - see attachment

9. Paragraph 3 of article 6

3. Each State Party shall inform the Secretary-General of the United Nations of the name and address of the authority or authorities that may assist other States Parties in developing and implementing specific measures for the prevention of corruption.

Is your country in compliance with this provision?

(Y) Yes

Has your country provided the information as prescribed above? If so, please also provide the appropriate reference.

Central Anticorruption Bureau
Aleje Ujazdowskie 9
00-583 Warszawa
Tel. +48 22 437 22 22
e-mail: bip@cba.gov.pl <mailto:bip@cba.gov.pl>

10. Technical Assistance

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

Please outline actions required to ensure or improve the implementation of the article under review and describe any specific challenges you might be facing in this respect.

Do you require technical assistance for the implementation of this article? If so, please specify the forms of technical assistance that would be required. For example:

(NO) No assistance would be required

Is any technical assistance already being provided to you? If so, please provide a general description of the nature of the assistance, including donor information.

No assistance has bee provided.

7. Public sector

11. Paragraph 1 of article 7

1. Each State Party shall, where appropriate and in accordance with the fundamental principles of its legal system, endeavour to adopt, maintain and strengthen systems for the recruitment, hiring, retention, promotion and retirement of civil servants and, where appropriate, other non-elected public officials:

(a) That are based on principles of efficiency, transparency and objective criteria such as merit, equity and aptitude;

(b) That include adequate procedures for the selection and training of individuals for public positions considered especially vulnerable to corruption and the rotation, where appropriate, of such individuals to other positions;

(c) That promote adequate remuneration and equitable pay scales, taking into account the level of economic development of the State Party;

(d) That promote education and training programmes to enable them to meet the requirements for the correct, honourable and proper performance of public functions and that provide them with specialized and appropriate training to enhance their awareness of the risks of corruption inherent in the performance of their functions. Such programmes may make reference to codes or standards of conduct in applicable areas.

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

In the Polish **civil service** there are three categories of staff:

1. Civil service employees employed on the basis of employment contract.

2. Civil servants employed on the basis of nomination (classic bureaucrats with a lifelong tenure). The nominated civil servants as a prioritised group have some additional rights compared to the civil service employees. There are two ways of obtaining this status: taking so called qualification procedure (state exam), graduating from the Lech Kaczyński National School of Public Administration (a governmental school directly subordinated to the Prime Minister).

3. Persons occupying senior positions employed on the basis of appointment.

Civil service corps is a general term for the legal relationships within civil service. It includes all three categories.

According to the Constitution the superior of the civil service corps is the Prime Minister. However in practice she/he exercises her/his competencies with the support of the Head of Civil service.

The Head of the Civil service (henceforth: HCS) is the central body competent in civil service issues. The Prime Minister appoints and dismisses the HCS. The office of the HCS is the Chancellery of the Prime Minister (especially: Civil

Service Department).The HCS is responsible for inter alia coordination of the civil service personnel policy, preparing drafts of normative acts, organizing trainings, collecting data on the civil service corps as well as international cooperation.Civil Service Department is an organizational unit of the Chancellery of the Prime Minister, competent in the civil service issues, primarily personnel issues, human resources management and professional development. It provides service to the Head of the Civil Service in carrying out her/his duties and provides organizational and secretarial support to the Public Service Council and the Higher Disciplinary Commission of the Civil Service.

The top, non-political leader of governmental bodies is the Director General (DG). The DG represents the professional leadership in the civil service system, being the government employer in:

1. Chancellery of the Prime Minister,
2. ministries,
3. central offices,
4. voivodship offices.

The political leadership (supervision) of the office is the head of the office. The DG is directly responsible before the head of the office and also responsible before the HCS with regard to the tasks resulting from the Civil Service Act.

The main duties of the DGs are to perform activities envisaged under the labour law in relation to persons employed in the office and implementing the staffing policy. They ensure the continuity of the work of an office, conditions for its operation, as well as the proper work organization.

The Public Service Council is an opinion-giving and advisory body to the Prime Minister. It expresses opinions on i.a.:

- draft of the budget law in its part dealing with the civil service;
- drafts of normative acts concerning the civil service;
- the central training program within the civil service;
- annual reports of the Head of Civil Service.

The Council shall also disseminate, in cooperation with the National School of Public Administration, the best European standards, practices and experiences with regard to the civil service.

In the Polish civil service (government administration) the human resource management is decentralized, which means that a lot of competencies regarding HR management are given at the level of the individual office. However the

personnel decisions must be in line with the Constitution and the Civil Service Act and other pieces of law.

The recruitment process in civil service shall be open and based on the competition principle. The open character of recruitment to the civil service means that it is common, public and transparent, and offers equal access to all candidates. These fundamental rules are expressed by (among others) the obligation to publish job offers, prepare a recruitment report and present the results of the recruitment. Openness of the recruitment also ensures that every citizen, who meets the requirements specified in the vacancy announcement, can apply.

Recruitment based on a competitive principle means the procedure resulting in choosing a candidate who gives the best guarantees to complete tasks and to reach objectives both of the position and the office. It also requires the same evaluation principles, methods, tools and criteria to every candidate applying for the post, as well as ensuring that every candidate has a chance to present himself or herself. The Director General (DG) is responsible for adopting the rules of recruitment procedure and making the final decision about who will be appointed for the vacant position.

There are some basic requirements that every applicant has to meet in order to become a civil service corps member, such as Polish citizenship (foreign citizens can be employed if the DG decides about vacant position available for foreigners and if the applicant meet additional requirements e.g. Polish language knowledge); enjoying full civil rights, no prior criminal record; holding qualifications required for the given position and enjoying an impeccable reputation.

For candidates to the senior positions in the civil service, which are filled on the basis of appointment, there are also some extra requirements: M.A./M.Sc. degree (or equivalent), no prohibition to work on the management posts in public sector or posts connected with spending public money, possession of managerial skills, fulfillment of other requirements defined in the job description and in separate pieces of legislation. In principle senior positions in the civil service include: directors general of offices, directors of departments or equivalent units in the Chancellery of the Prime Minister, ministries, central offices, voivodeship offices as well as deputies of the above mentioned. This category includes also senior positions in the National Tax Administration (i.a. heads of tax offices and their deputies).

The remuneration system shows features of the career system and position-based system as well. It provides progression based on time spent in the civil service, however it gives the opportunity for the DG to personalise the remuneration of the employee based on his/her knowledge, personal performance, qualification and experience. Some components of the remuneration (including basic salary) are calculated by using a multiplier system. It means that the level of a given component is defined by applying a multiplier (a coefficient) to a basic amount (a

basic reference pay). The basic amount is defined each year in the State Budget Act. The level of the multiplier is decided by the DG.

The DG makes his/her decision by taking into consideration the results of the personal performance appraisal, and other aspects as well (see the recommendations of the Head of Civil Service set forth in the standards of human resource management).

Some components of the remuneration depend on the employment status of the official (civil servant/civil service employee/senior manager). They include i.a. bonus for being a civil servant, position allowance, tax executors special bonus, bonus for long term employment, obligatory and optional awards etc.

As it was mentioned, the civil servant status is a special relationship with some additional rights and duties as compared to other civil service corps members.

There are two ways to become a civil servant:

a) One may apply for a vacant position and after a successful recruitment she/he is employed as a civil service employee. Then she/he must work - as a rule - three years in the civil service. Having this work experience the employee may take part in so called qualification procedure (state exam), provided that she/he fulfills some other entry criteria (i.a. knowledge of foreign language, M.A./M.Sc. degree).

b) Being a KSAP graduate is a much faster way to become a civil servant. After an 20 month education (including trainings, domestic and foreign internships) a graduated KSAP student becomes a civil servant automatically.

Prosecution service.

The Law on the prosecutor's office regulates in detail the recruitment, appointment, promotion and retirement of prosecutors of the public prosecutor's organizational units.

Public prosecutors are appointed to prosecutorial positions by the Prosecutor General upon a motion of the National Public Prosecutor. Before the appointment, the Public Prosecutor General may seek the opinion of a competent public prosecutor's office’s board on the candidate for a prosecutorial position. The competent public prosecutor's office’s board gives the opinion to the Public Prosecutor General within 30 days since the date of receipt of the request for an opinion. Should no opinion be given within that deadline, it is assumed that the opinion is positive.

Only a person who meets the following requirements may be appointed to the position of a public prosecutor:

1) he/she is exclusively a Polish citizen and exercises full civil and citizen rights, and has not been finally sentenced for an intentional crime prosecuted by public indictment;

2) he/she is of impeccable moral character;

3) he/she has graduated in law in Poland and obtained the Master degree, or has graduated in law abroad and his/her education has been recognized in Poland;

4) his/her health allows him/her to perform the public prosecutor's duties;

5) he/she is at least 26 years old;

6) he/she has passed the exam to be a public prosecutor or a judge;

7) he/she has held the post of a public prosecutor's assessor or a court assessor for at least a year or has completed a term of service in military prosecutorial bodies laid down in regulations on the military service of professional soldiers;

8) he/she did not serve at, work for, nor was a collaborator of the state security bodies listed in Article 5 of the act of 18 December 1998 on the Institute of National Remembrance - Commission for the Prosecution of Crimes against the Polish Nation (Dz. U. 2016, entry 152), nor was he/she been a judge who, when passing judgments, impaired the dignity of his/her office, acting in defiance of the judiciary's independence, which has been confirmed by a final judgment.

The requirements referred to in (6) and (7) do not apply to:

1) professors and associated professors (doktor habilitowany) of legal sciences at Polish universities, at the Polish Academy of Sciences, in scientific and research institutes and other scientific institutions;

2) judges;

3) lawyers, legal advisers and the president, vice-president and counsellor of the Office of Attorney General of the Republic of Poland who have practised that profession or held such an office for at least 3 years.

The requirements referred to in (7) do not apply to notaries.

To be appointed to the position of a public prosecutor of the National Public Prosecutor's Office, one has to meet the requirements for assuming the position of a public prosecutor and have at least 8 years' work experience in the position of a public prosecutor or a judge, including at least 5 years of work as a public prosecutor of an appellate, provincial or regional public prosecutor's office, or as a public prosecutor of the Institute of National Remembrance, a judge of an appellate court or a regional court, or a military regional court, or, for at least 12 years before the appointment, have been working as a lawyer, legal adviser or notary or have held the office of the president, vice-president and counsellor of the Office of Attorney General of the Republic of Poland.

To be appointed to the position of a public prosecutor of a provincial public prosecutor's office, one has to meet the requirements for assuming the position of a public prosecutor and have at least 6 years' work experience in the position of a public prosecutor or a judge, including at least 3 years of work as a public prosecutor of a regional public prosecutor's office or a public prosecutor of the Institute of National Remembrance, a judge of a regional court or a military regional court, or, for at least 10 years before the appointment, have been working

as a lawyer, legal adviser or notary or have held the office of the president, vice-president and counsellor of the Office of Attorney General of the Republic of Poland.

To be appointed to the position of a public prosecutor of a regional public prosecutor's office, one has to meet the requirements for assuming the position of a public prosecutor and have at least 3 years' work experience in the position of a public prosecutor of a district public prosecutor's office or a public prosecutor of the Institute of National Remembrance, a judge of a district court or a military garrison court, or, for at least 6 years before the appointment, have been working as a lawyer, legal adviser or notary or have held the office of the president, vice-president and counsellor of the Office of Attorney General of the Republic of Poland.

A candidate for a prosecutorial position submits:

1) an information from the National Criminal Register concerning his/her person;

2) a certificate attesting that his/her health allows him/her to perform the public prosecutor's duties.

A candidate for a prosecutorial position born before 1 August 1972 submits also the declaration referred to in Article 7 (1) of the act of 18 October 2006 on disclosing information about documents of the state security bodies from 1944-1990 and contents of those documents (Dz. U., 2013, entry 1388), or the information referred to in Article 7 (3a) of that act.

The National Public Prosecutor seeks information about each candidate for a prosecutorial position from a competent provincial Police commander or the Capital Police Commander. The information about a candidate for a prosecutorial position is obtained and drawn up pursuant to the rules specified for the information about a candidate for a judiciary position. The information is obtained and drawn up on the basis of data contained in computerised police systems.

When presenting the information, the competent Police commander submits to the National Public Prosecutor all collected materials that have been used to draw up the information. Before considering a candidacy, the National Public Prosecutor notifies the candidate for a prosecutorial position about the content of the information obtained from the competent Police commander.

The National Public Prosecutor, after seeking the opinion of the Public Prosecutor General, assigns new prosecutorial and assessor (junior prosecutor) positions to prosecutorial bodies, out of consideration for a rational use of the prosecutorial staff.

In case of a vacancy in a prosecutorial or assessor position, the National Public Prosecutor, after seeking the opinion of the Public Prosecutor General, may, out of consideration for a rational use of the prosecutorial staff:

1) assign the position to another prosecutorial body;

2) transform a prosecutorial position into an assessor position, or an assessor position into a prosecutorial position;

3) cancel the position.

Should a position of a public prosecutor of a district public prosecutor's office be created or vacated, the Public Prosecutor General makes a decision on selecting the candidate for the first prosecutorial position by means of a competition procedure and in particularly justified cases, he/she appoints to that position the candidate indicated in the National Public Prosecutor’s proposal without conducting the competition procedure.

If a decision is made to select the candidate for the first prosecutorial position by means of a competition procedure, the Public Prosecutor General announces the vacancy in the position of a public prosecutor of a district public prosecutor's office in the Official Journal of the Republic of Poland - Monitor Polski.

Every person who meets the requirements for assuming the position of a public prosecutor of a district public prosecutor's office may apply for one vacant prosecutorial position within one month from the announcement of vacancy.

If the application has been made by a person who does not meet the requirements for assuming the position of a public prosecutor, if the application has been made after the deadline or if it does not contain the required documents, the regional public prosecutor notifies the applicant about the decision not to further examine the application, giving the reason. The person whose application has not been further examined may submit a written objection to the National Public Prosecutor within 7 days. If the National Public Prosecutor does not take the objection into consideration, he/she submits it immediately, together with the application, to the Public Prosecutor General. The Public Prosecutor General decides whether to further examine the application.

Having determined that the formal requirements of an application submitted within the deadline have been met, and having determined that the candidate meets the requirements to assume the position of a public prosecutor of a district public prosecutor's office, the regional public prosecutor presents the applicant’s candidacy to the regional public prosecutor's office’s board, together with an assessment of qualifications drawn up by the inspector of the regional public prosecutor's office.

The regional public prosecutor presents to the National Public Prosecutor the candidacies that have received positive opinions from the regional public prosecutor's office’s board, together with the board’s opinion and the assessment of qualifications drawn up by the inspector of the regional public prosecutor's office.

A candidate for a vacant prosecutorial position in a district public prosecutor's office who holds the position of a public prosecutor’s assessor attaches to the application a list of references of dossiers of 50 cases in which he/she has handled or supervised preparatory proceedings, drawn up a charge sheet or a remedy act, appeared at court or submitted procedural writs, or administered other acts or, should such cases be fewer, he/she attaches a list of references of dossiers of all such cases.

A candidate for a vacant prosecutorial position in a district public prosecutor's office who holds the office of a judge or a court assessor attaches to the application

a list of references of dossiers of 50 court cases of various categories, to the examination of which he/she has contributed; or, should such cases be fewer, he/she attaches a list of references of dossiers of all such cases.

A candidate for a vacant prosecutorial position in a district public prosecutor's office who works as a lawyer or a legal adviser, or holds the office of a counsellor of the Office of Attorney General of the Republic of Poland, attaches to the application a list of references of dossiers of 50 court cases of various categories in which he/she has appeared as a legal representative or, if he/she has appeared in a smaller number of cases, a list of references of dossiers of all such cases, indicating the courts in which those cases were or are pending, or copies of all, but no more than 50, legal opinions and other documents drawn up in relation to the application or creation of law; a counsellor of the Office of Attorney General of the Republic of Poland attaches additionally the opinion of a superior.

A candidate for a vacant prosecutorial position in a district public prosecutor's office who works as a notary attaches to the application a list of 50 notarial deeds, concerning various categories of cases, or, if he/she has drawn up a smaller number of such deeds, a list of all of them.

A candidate for a vacant prosecutorial position in a district public prosecutor's office who holds the academic title of professor or the academic degree of assistant professor (doktor habilitowany) of legal sciences attaches to the application a list of publications with, if applicable, reviewers' opinions, copies of legal opinions he/she has drawn up, and a description of achievements with regard to the staff education or scientific contributions.

In case of a candidate for a vacant prosecutorial position in a district public prosecutor's office who holds the office of the president of vice-president of the Office of Attorney General of the Republic of Poland, the aforementioned requirements apply accordingly, depending on the profession practised before being appointed to that office.

A candidate may also attach to the application other documents backing up his/her candidacy, and in particular opinions and recommendations.

An assessment of qualifications for a vacant prosecutorial position in a district public prosecutor's office cannot be made by an inspector who is the candidate's spouse, relative or relative by affinity, or who is in a legal or material relationship with the candidate that may raise doubts as to the inspector's impartiality.

If more than one candidate has applied for a vacant prosecutorial position in a district public prosecutor's office, the assessment of those candidates' qualifications is made by one inspector, unless it is impossible due to the candidates' number or for other valid reasons. The assessment of qualifications of any candidate cannot be made by an inspector who is any candidate's spouse, relative or relative by affinity, or who is in a legal or material relationship with one of the candidates that may raise doubts as to the inspector's impartiality.

The regional public prosecutor communicates the assessment of qualifications to the candidate. Within 14 days from the date of becoming acquainted with the assessment, the candidate has the right to submit written observations on the

assessment of qualifications.

Observations submitted after the deadline are disregarded without being examined, and the reason for disregarding the observations without being examined is given. The candidate whose observations have been disregarded without being examined may submit a written objection to the National Public Prosecutor within 7 days. If the National Public Prosecutor does not take the objection into consideration, he/she submits it, together with the observations, to the Public Prosecutor General. The Public Prosecutor General makes a decision with regard to disregarding the objection without being examined.

Having determined that the observations have been submitted correctly, the regional public prosecutor immediately orders their examination by 3 inspectors. The inspector who made the assessment of qualifications cannot participate in the observations' examinations. Inspectors examine the observations within a deadline of no more than 30 days.

Having examined the observations, inspectors either uphold the assessment of the candidate's qualifications concerned by the submitted observations, or make a contrary assessment. The inspectors' views are drawn up in writing with a statement of reasons and served to the candidate.

The assessment of qualifications of a candidate who holds the position of a public prosecutor's assessor includes the correctness, merits and effectiveness of performing the assigned duties, taking into consideration the workload and the executed tasks' complexity, as well as professional qualifications' upgrading and personal culture.

The assessment of qualifications is made on the basis of an examination of at least 25 dossiers of cases of various categories, selected at random, as well as on the basis of data recorded in public prosecutor's offices, including those recorded for statistical purposes.

Copies of final judgments imposing a disciplinary penalty or final decisions imposing the disciplinary sanction of admonition contained in the public prosecutor's personal file, as well as copies of a superior public prosecutor's final decisions reproaching a transgression in case of a manifest infringement of the law, are attached to the assessment of the candidate's qualifications.

The assessment of qualifications of a candidate who holds the position of a judge or a court assessor includes the analysis of efficiency and effectiveness in taking measures and handling proceedings, personal culture, ability to formulate clear and complete statements when passing judgments and giving reasons for them, as well as professional qualifications' upgrading.

Copies of final judgments imposing a disciplinary penalty and reproaches contained in personal files are attached to the assessment of the candidate's qualifications.

The assessment of qualifications of a candidate who practises the profession of a lawyer, legal adviser or notary, or holds the office of a counsellor of the Office of Attorney General of the Republic of Poland is made on the basis of an examination

of merits, efficiency, reliability and timeliness of the administered acts, or the merits and reliability of legal opinions he/she has drawn up or of other documents drawn up in relation to the application or creation of law, as well as professional qualifications' upgrading and the culture of performing duties, including personal culture and behaviour towards participants in legal proceedings and associates.

The assessment of qualifications of a candidate who practises the profession of a lawyer or legal adviser, or holds the office of a counsellor of the Office of Attorney General of the Republic of Poland is made on the basis of an examination of at least 25 dossiers of cases of various categories or legal opinions and other documents drawn up in relation to the application or creation of law, selected at random. The inspector who makes the assessment of qualifications may also examine ex officio the dossiers of cases in which the candidate appeared as a legal representative in court and which have not been included in the list, as well as request presidents of courts to indicate the reference numbers and present the dossiers of such cases.

The assessment of qualifications of a candidate who practises the profession of notary is made on the basis of an examination of at least 25 notarial deeds, concerning various categories of cases, selected at random. The inspector who makes the assessment of qualifications may also examine ex officio notarial deeds or dossiers of lawsuits in which appeals have been examined regarding a refusal to insert an entry or a refusal to administer an act. A list of final judgments or decisions imposing a disciplinary penalty is attached to the assessment of qualifications of a candidate who practises the profession of a lawyer, legal adviser or notary.

Additionally, a list of warnings given by the professional self-government's competent bodies and notifications of a breach of procedural duties made by a court or a public prosecutor is also attached to the assessment of qualifications of a candidate who practises the profession of a lawyer or legal adviser.

The assessment of qualifications of a candidate who holds the academic title of professor or the academic degree of assistant professor (doktor habilitowany) of legal sciences takes into considerations academic achievements, type and quality of publications, reviewers' opinions, as well as quality and reliability of legal opinions or other documents drawn up in relation to the application or creation of law. Copies of final judgments imposing a disciplinary penalty, unless the penalty has been cancelled, are attached to the assessment of the candidate's qualifications.
When assessing the qualifications of a candidate for a vacant prosecutorial position in a district public prosecutor's office, one has to take into consideration a personal predisposition to the profession of a public prosecutor, including decision-making and cooperation skills, resistance to stress and observance of professional ethic rules.
A public prosecutor enters into a service relationship at the moment of service of the appointment notification. Unless some other deadline has been set, a public prosecutor should report in order to assume the position within 14 days since the date of receipt of the appointment notification. In case of an unjustified failure to assume the position within the deadline of 14 days, the appointment is vacated, which is declared by the Public Prosecutor General. At the appointment, the public

prosecutor takes an oath in the presence of the Public Prosecutor General.

The Public Prosecutor General may, upon a motion of the National Public Prosecutor, dismiss a public prosecutor of a universal prosecutorial body or a public prosecutor of the Institute of National Remembrance if the public prosecutor, despite being penalised twice by a disciplinary court with a disciplinary penalty other than an admonition, has committed a service-related misdeed, including a manifest infringement of the law or an impairment of the dignity of the office of public prosecutor; before the dismissal decision, the Public Prosecutor General hears out the public prosecutor's explanations, unless it is impossible, and seeks the opinion of the meeting of public prosecutors of the National Public Prosecutor's Office or the relevant public prosecutors' assembly in a provincial public prosecutor's office.

The Public Prosecutor General dismisses the public prosecutor of a universal prosecutorial body who has resigned from the position of a public prosecutor or does not meet the requirements referred to in Article 75 § 1 pkt 8 LPO - he/she served at, worked for, or was a collaborator of the state security bodies listed in Article 5 of the act of 18 December 1998 on the Institute of National Remembrance - Commission for the Prosecution of Crimes against the Polish Nation (Dz. U. 2016, entry 152), or was he/she been a judge who, when passing judgments, impaired the dignity of his/her office, acting in defiance of the judiciary's independence, which has been confirmed by a final judgment.

A public prosecutor's service relationship expires after 3 months from the date of service of the dismissal notification, unless a shorter deadline has been set at the concerned public prosecutor's request.

A final judgment of a disciplinary court on dismissal from prosecutorial service and a final court judgment convicting a public prosecutor for an intentional crime prosecuted by public indictment or inflicting a punitive measure on the public prosecutor consisting in a deprivation of public rights, a ban on holding a position of a public prosecutor, demotion or dismissal from professional military service results by operation of law in a loss of the position of a public prosecutor; the public prosecutor's service relationship expires at the moment when the judgment becomes final.

Should a disciplinary court judgment on dismissal from prosecutorial service be revoked as a result of cassation, the public prosecutor is appointed to serve in the position he/she held previously, maintaining the continuity of the service relationship and granting the right to the salary for the period when the public prosecutor in reality remained out of service.

The service relationship of a public prosecutor expires on the day of losing Polish citizenship or obtaining the citizenship of another country.

The basis for determining the basic salary of a public prosecutor in a given year is the average salary in the second quarter of the previous year, published in the Official Journal of the Republic of Poland Monitor Polski by the President of the Chief Statistical Office under Article 20 (2) of the act of 17 December 1998 on retirement pension and other pensions from the Social Insurance Fund (Dz. U.

2015, entry 748, as amended).

If the average salary mentioned above is lower than the average salary published for the second quarter of the year before, the basis for determining the basic salary of a public prosecutor stays the same.

The salaries of public prosecutors in equivalent public prosecutor's positions vary according to the length of service or the performed functions. The basic salary of public prosecutors of district and regional public prosecutor's offices is equal to the basic salary of judges in the analogous organizational units of courts with general jurisdiction. The basic salary of public prosecutors of provincial public prosecutor's offices is equal to the basic salary of judges of appellate courts. The basic salary of public prosecutors of the National Public Prosecutor's Office is equal to the basic salary of judges of the Supreme Court. The functional supplements of the National Public Prosecutor and the Public Prosecutor General's other deputies are equal to the functional supplements of the First President of the Supreme Court and President of the Supreme Court, respectively.

A public prosecutor's basic salary is specified by rates which are determined with the use of multipliers of the basis for determining the basic salary of a public prosecutor.

A public prosecutor who assumes a position in:

1) a district public prosecutor's office - has the right to a basic salary at rate 1;

2) a regional public prosecutor's office - has the right to a basic salary at rate 4, or, if he/she has already been receiving a basic salary at rate 4 or 5 in a lower-ranking position - he/she has the right to a basic salary at rate 5 or 6, respectively;

3) a provincial public prosecutor's office - has the right to a basic salary at rate 7, or, if he/she has already been receiving a basic salary at rate 7 or 8 in a lower-ranking position - he/she has the right to a basic salary at rate 8 or 9, respectively.

If a public prosecutor has held another, appropriately equivalent, position of a public prosecutor or a judge before assuming the position of a public prosecutor, he/she has the right to a basic salary in the newly assumed position at a rate at least equal to the salary rate to which he/she has had the right in the position held previously.

A public prosecutor's basic salary is fixed at an immediately higher rate after another 5 years of work in a given position of a public prosecutor

A public prosecutor has the right to a functional supplement due to the performed function.

A public prosecutor has the right to a seniority supplement in the amount of 5% of the basic salary currently received by the public prosecutor from the 6th year of work onwards, increased by 1% of that salary with each subsequent year of work, until the amount reaches 20% of the basic salary. After 20 years of work, the supplement is paid in the amount of 20% of the basic salary currently received by the public prosecutor, regardless of the length of service exceeding that period.

The curriculum of the initial prosecutor's training includes specific issues of criminal liability for corruption offenses and other crimes against the activity of public institutions, as well as principles of ethics related to the performance of the prosecutor's function.

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

The work ethics applicable in the civil service is made up of several types of regulations, principles and guidelines. The members of the civil service corps, in the performance of their tasks, are guided by the law and the civil service rules including inter alia: principle of legality, rule of law, protection of human and civil rights, transparency, rational management of public funds etc.

The members of the civil service corps observe the principles of ethics of the civil service corps. The focus is rather on good behaviour and the protection of values which create the basis for the Polish civil service. These principles are the dignified conduct, public service, loyalty, political neutrality, impartiality, diligence and fairness.

In order to make clear and simultaneously strengthen the values and ethics in civil service, a Code of Conduct was established. It contains the work standards (civil service rules), values (ethical principles mentioned above) and clarification of the rules enshrined in the legislation.

12. Paragraph 2 of article 7

2. Each State Party shall also consider adopting appropriate legislative and administrative measures, consistent with the objectives of this Convention and in accordance with the fundamental principles of its domestic law, to prescribe criteria concerning candidature for and election to public office.

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

See the response to article 7 paragraph 1.

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

See the response to article 7 paragraph 1

13. Paragraph 3 of article 7

3. Each State Party shall also consider taking appropriate legislative and administrative measures, consistent with the objectives of this Convention and in accordance with the fundamental principles of its domestic law, to enhance transparency in the funding of candidatures for elected public office and, where applicable, the funding of political parties.

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

See the response to article 7 paragraph 1

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

See the response to article 7 paragraph 1

14. Paragraph 4 of article 7

4. Each State Party shall, in accordance with the fundamental principles of its domestic law, endeavour to adopt, maintain and strengthen systems that promote transparency and prevent conflicts of interest.

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

Referring to the issue of compliance of Polish legislation with the mentioned provision of the Convention, it should first be pointed out that in the Polish legal system a legal definition of the conflict of interests has not been adopted. The lack of such a definition does not cause a lack of response from the public administration to conflicts of interest or a lack of monitoring of activities to identify a conflict of interest. There are also a number of legal institutions that, without using the phrase "conflict of interest" explicitly, fulfill the functions of identifying such a conflict and allow for its management and elimination. The legislator noting the need to ensure impartiality of public officials and other persons implementing the most important tasks from the point of view of the interests of the State and the rule of law, assured in many applicable legal acts of verification of potential conflict of interest and exclusion of persons from certain proceedings in case of its real or probable occurrence.

Examples of this type of regulation can be found in:

1) Act of 14 June 1960 - Code of Administrative Proceedings (consolidated text: Journal of Laws of 2017, item 1257)
2) Act of June 6, 1997 - Code of Criminal Proceedings (consolidated text: Journal of Laws of 2017, item 1904),
3) Act of November 17, 1964 - the Code of Civil Proceedings (consolidated text: Journal of Laws of 2018, item 1360),
4) Act of 16 September 1982 on the employees of state offices (consolidated text: Journal of Laws of 2017, item 2142),
5) Act of 21 August 1997 on limitation of conducting business activity by persons performing public functions (i.e., Journal of Laws of 2017, item 1393),
6) Act of 27 July 2001 on foreign service (ie: Journal of Laws of 2017, item 161),
7) Act of 6 September 2001 - Pharmaceutical Law (consolidated text: Journal of Laws of 2017, item 2211),
8) Act of 30 August 2002 - Law on proceedings before administrative courts (i.e. Journal of Laws of 2018, item 1302),

9) Act of 21 November 2008 on local government employees (ie, Journal of Laws of 2018, item 1260),

10) Act of November 6, 2008 on consultants in health care (ie, Journal of Laws of 2017, item 890),

11) Act of 27 August 2004 on health care services financed from public funds (i.e. Journal of Laws of 2018, item 1510),

12) Act of 26 June 2014 on certain contracts concluded in connection with the execution of orders of fundamental importance for national security (ie: Journal of Laws of 2017, item 2031),

13) Act of January 29, 2004 - Public Procurement Law (ie, Journal of Laws of 2017, item 1579),

14) Act of May 12, 2011 on reimbursement of medicines, foodstuffs for particular nutritional purposes and medical substances (i.e., Journal of Laws of 2017, item 1844),

15) Act of 11 July 2014 on the rules for the implementation of programs in the field of financial cohesion policy in the financial perspective 2014-2020 (i.e. Journal of Laws of 2018, item 1431),

16) Act of 18 March 2011 on the Office for Registration of Medicinal Products, Medical Substances and Biocidal Products (consolidated text: Journal of Laws of 2016, item 1718),

17) Act of 6 November 2008 on patients 'rights and the advocate for patients' rights (consolidated text: Journal of Laws of 2017, item 1318).

In the case of provisions shaping the rules of civil, criminal and administrative proceedings, the functions guaranteeing the impartiality of persons taking part in them are realized through the institution of exclusion from participation in the proceedings.

Examples of this type of regulation can be found in:

1) Article. 41 § 1 of the Act - Code of Criminal Proceedings - stating that the judge is excluded, if there is such a circumstance that it could raise reasonable doubt as to its impartiality,

2) Art. 49 of the Act - Code of Civil Proceedings - stating that the court excludes a judge at his request or at the request of a party, if there is such a circumstance that it could raise reasonable doubt as to the impartiality of the judge in the case,

3) Article. 24 § 1 of the Act - Code of Administrative Proceedings - excluding the employee of the body in administrative proceedings,

4) Art. 19 of the Act - Law on proceedings before administrative courts - stating that the court excludes a judge at his request or at the request of a party, if there is such a circumstance that it could raise reasonable doubt as to its impartiality in a given case.

In the aforementioned provisions, the concept of impartiality should be understood as the impartial impartiality of the judge, including both the judge's subjective sense of his impartiality and his impartiality in external perception based on the belief of the average observer of the trial. It also applies to the behavior of the judge in the courtroom and outside it, from which it could result that the judge is in a particular way oriented to the participants of the proceedings or to the case. This is about the behavior of the judge referring both to the assessment of the case before the sentence is issued, as well as to express opinions assessing the participants of the proceedings, which may indicate a particular attitude of the judge to the case or persons participating in it. The basis for exclusion may be emotional relations (both positive and negative), but also personal economic links, e.g. financial links.

In the provisions of some of the above seventeen legislators set the obligation to submit declarations and declarations regarding conflicts of interest, e.g. on the basis of art. 8c of the Act of 6 November 2008 on consultants in health care, declarations are submitted by consultants and candidates for consultants, while pursuant to art. 6 par. 2 of the Act of 26 June 2014 on certain contracts concluded in connection with the execution of orders of fundamental importance for the security of the State, declarations are made by persons executing on behalf of the State Treasury activities in proceedings for the conclusion of an offset agreement or related to the execution of the offset agreement. In certain cases, the veracity of statements and declarations submitted is verified by the Central Anticorruption Bureau (CBA).

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The necessity of unifying and legal strengthening of institutions of conflict of interest, establishing a transparent procedure for its verification and including a wide range of people in public positions in this procedure decided on a legislative initiative taking into account, among others, these postulates. On October 24, 2017, the Minister - Coordinator of Special Services presented to the inter-ministerial consultations and public consultations a draft project of *Act on transparency of public life*, which introduces a definition of a conflict of interest, means for its identification and procedures for verifying obligations related to it. At present, this project has been referred to the Standing Committee of the Council of Ministers.

The Central Anticorruption Bureau reported at the stage of inter-ministerial consultations its remarks and proposals for changes in the project, inter alia proposed a definition of the conflict of interest as follows: *"conflict of interest - it means a really occurring or indirect or direct contradiction between public activities of persons acting on behalf of or acting for public finance sector entities in the understanding of public finance regulations and other entities possessing public funds and their property or personal interests that threaten or would threaten to objectively and impartially perform their official duties. "*

The Central Anticorruption Bureau (CBA) also considered the key to underline the need to manage a conflict of interest in public institutions and to introduce the duties of persons managing these institutions in terms of its identification and elimination, at an early stage of activities and proceedings, so that allegations of lack of impartiality can be prevented.

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

The Central Anticorruption Bureau (CBA) verifies the veracity of declarations regarding conflicts of interest submitted by:

1) consultants and candidates for consultants based on art. 8c of the Act of November 6, 2008 on consultants in health care,
2) persons performing acts on behalf of the State Treasury in proceedings for the conclusion of an offset agreement or related to the performance of an offset agreement pursuant to art. 6 par. 2 of the Act of 26 June 2014 on certain contracts concluded in connection with the execution of procurements of fundamental importance for the security of the state,
3) members of the Economic Commission pursuant to art. 20 para. 2 of the Act on reimbursement of medicines, foodstuffs for particular nutritional purposes and medical substances,
4) candidates for members of the Transparency Council before being appointed to

this Council, and members of the Transparency Council before each meeting of this Council pursuant to art. 31 sec. 9 of the Act on healthcare services financed from public funds,

5) candidates for the members of the Council for Tarification and members of the Council for Tarification on the basis of art. 31 sec. 9 of the Act on health care services financed from public funds.

In 2017, the CBA received 5 828 declarations regarding conflicts of interest.

Number of declarations regarding the conflict of interests submitted to the CBA in 2017.

Authority
Number of declarations

- Economic Comission (By the Minister of Health) ---------- 1012
- Transparency Council (by the President of the Agency for the Assesment of Medical Technology and Tariffs) ----------765
- The Tariffs Council (by the President of the Agency for the Assesment of Medical Technology and Tariffs) ----------235
- Offset Committee (by The Minister of Defence) ----------26
- Consultants for health care ----------3790

The Central Anti-Corruption Bureau (CBA) does not have statistics on the process of managing a conflict of interest in public institutions and data on the declarations gathered by these institutions regarding a conflict of interests, in a situation in which it was not legally obliged to verify them.

15. Technical Assistance

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

Please outline actions required to ensure or improve the implementation of the article under review and describe any specific challenges you might be facing in this respect.

No assistance would be required.

Do you require technical assistance for the implementation of this article? If so, please specify the forms of technical assistance that would be required. For example:

(LA) Legislative assistance: please describe the type of assistance

No assistance would be required.

(IB) Institution-building: please describe the type of assistance

No assistance would be required.

(PM) Policymaking: please describe the type of assistance

No assistance would be required.

(CB) Capacity-building: please describe the type of assistance

No assistance would be required.

(RA) Research/data-gathering and analysis: please describe the type of assistance

No assistance would be required.

(IC) Facilitation of international cooperation with other countries: please describe the type of assistance

No assistance would be required.

(OT) Others: please specify

No assistance would be required.

Is any technical assistance already being provided to you? If so, please provide a general description of the nature of the assistance, including donor information.

8. Codes of conduct for public officials

16. Paragraph 1 of article 8

1. In order to fight corruption, each State Party shall promote, inter alia, integrity, honesty and responsibility among its public officials, in accordance with the fundamental principles of its legal system.

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

The basic legal act that regulates the conduct of public officials is the constitution that sets up the rules for public authorities which are of utmost importance to the impartiality of public administration bodies. These are the principles of: the rule of law (legalism) and equality before the law.

According to Article 7 of the Constitution of the Republic of Poland, "The organs of public authority shall function on the basis of, and within the limits of, the law."

Thus, the way in which public officials execute their competencies may not be arbitrary, but must result from the powers they are entrusted with. So, to make a decision a public officials must have competence to act in a given area and act in accordance with specified decision-making procedures, while the contents of the decision must comply with the norms of the law. Thus, the rule of law is closely connected with conflict of interest: impartial discharge of duties by public administration bodies is the derivative of acting on the basis of, and within the limits of, the law. PTEFs must make decisions and perform official tasks solely on the basis of statutory premises, hence the principle excludes consideration for any personal or financial preferences.

The issue of conflict of interest and public officials rules of conduct must also be analysed in the context of the constitutional principle of equality before the law. Article 32(1) of the Constitution of the Republic of Poland says that "All persons shall be equal before the law. All persons shall have the right to equal treatment by public authorities."

Treatment by public authorities may not depend on personal or financial benefits of the person who makes a given decision.

Another legal act that refers to the rules of public officials conduct and to preventing the conflict of interest in the Code of Administrative Procedure. The group of main principles covered by the Code of Administrative Procedure includes the principles of legalism of administration operation (Article 6), administrative rule of law (Article 7), and care for confidence of citizens who participate in proceedings in public authorities (Article 8). None of these principles could be adhered to without ensuring impartial decisions of public administration.

The Act on restriction of the right to pursue economic activity by individuals performing public functions, hereinafter referred to as the Anti-Corruption Act, restricts the ability to pursue economic activity by individuals performing public functions.

The Act stipulates explicit bans on PTEFs, defined in detail in the answer to

question 2.1.
This provision has been introduced to prevent situations and involvements that may create temptation to abuse one's public function. The purpose of the extensive formulation of the list of forbidden positions is to eliminate situations and involvements that may not only challenge personal impartiality or integrity of public officials, but also undermine the authority of state constitutional bodies, thus weakening the confidence of voters and the public in their adequate operation. The ban is absolute - there is no discretion and the nature of economic activity is of no matter here.
In addition, pursuant to Article 7(1) of this Act, the individuals subject to the Act may not be hired by an entrepreneur or perform any other work for the entrepreneur if they partook in making any decisions concerning this individual entrepreneur. The waiting period is a year, beginning when the person ceases to fulfil a public function.
Another area of public officials activity that is particularly vulnerable to threats of a conflict of interest is public procurement. The Act defines the principles of exclusions for individuals whose impartiality in awarding public procurement contracts is doubtful.
The principle of impartiality and objectivism of individuals performing tasks in public procurement procedures is enshrined in Article 7(2) of the Public Procurement Law. The category of individuals subject to exclusion is generally defined as "individuals performing tasks in public procurement procedures."
Under pain of a penalty for false representations, the individuals who perform tasks in public procurement procedures make written declarations that there are or there are not any circumstances that result in lack of impartiality, described in the Act.
All the above-mentioned regulations serve to introduce principles of conduct, inter alia for public officials, whose purpose is to avoid a conflict of interests or any other unethical act.
At present, work is underway on an act on public life transparency, whose main purpose is to improve the transparency of Polish authorities. Currently, the act is in the course of consultations within the government and with the society.

As for the prosecution service in the Article 96 of The Law on Prosecution is stated that a public prosecutor is obliged to follow the public prosecutor's oath. In and out of service, a public prosecutor should guard the authority of his/her office and avoid all things that could impair the public prosecutor's dignity or lessen the trust in his/her impartiality.

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

When it comes to prevention of corruption and to conflicts of interests, the draft act stipulates the following practical solutions in this regard:

- A register of contracts - an obligation is introduced to keep a register of contracts for the delivery of goods, provision of services, and construction works. The obligation to keep a register will cover public authority bodies, state control bodies and law enforcement bodies, courts, tribunals, local government units, state and local government legal persons, and obliged

companies.
Thanks to this solution, all contracts for the delivery of goods, provision of services, and construction works concluded by the entities obliged to keep registers will become open and publicly available.

- Bans on individuals who fulfil public functions - the existing bans are extended to include a ban on performing paid tasks in or for a commercial law company and a ban on being a member of management bodies of associations or foundations that can pursue or pursue economic activity.
- A ban on employment - the existing ban was extended to three years. It means that individuals who perform public functions cannot be employed for three years since they cease to fulfil a position or a function, if they participated in issuing decisions that concerned directly a given entrepreneur. Also a penal provision is introduced that covers individuals who undertake employment contrary to the ban (fine, restriction of liberty, or deprivation of liberty for up to 2 years).
- Financial declaration - a completely new model form of a financial declaration, which will constitute an appendix to the draft act, has been drawn up. All individuals obliged to file a financial declaration will do so using a single form. Financial declarations will be open and published in a public information bulletin, except the declarations of service officers. The financial declarations will be kept for five years. The extent of the declarations was extended to include information inter alia on common property of the spouses, insurance policies, information on the ability to dispose of financial resources of other entities. The head of the Central Anti-Corruption Bureau will have the right to request every person in a public function (also not covered by the obligation to file financial declarations), at any time, to file such a declaration. Also, the head of the Central Anti-Corruption Bureau will have the right to request members of the management board of an obliged company, who are not covered by the obligation to file a financial declaration, to submit such a declaration.
- The draft act also stipulates that an individual in a public function, when in office and, in specified cases, while already not in office, must avoid a conflict of interests that consists in performing tasks that would trigger suspicions of partiality or acting in the interests of an entity in which he/she does not fulfil a public function.

The final shape of the solutions included in the above-mentioned act will be known alter the legislative process is finalised.

17. Paragraph 2 and 3 of article 8

2. In particular, each State Party shall endeavour to apply, within its own institutional and legal systems, codes or standards of conduct for the correct, honourable and proper performance of public functions.

3. For the purposes of implementing the provisions of this article, each State Party shall, where appropriate and in accordance with the fundamental principles of its legal system, take note of the relevant initiatives of regional, interregional and multilateral organizations, such as the International Code of Conduct for Public Officials contained in the annex to General Assembly resolution 51/59 of 12 December 1996.

Is your country in compliance with these provisions?

(Y) Yes

See also the response to the paragaraph 1 of this article.

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with these provisions of the Convention.

As a follow-up to the principle enshrined in Article 96 of The Law on Prosecution,

on December 12, 2017 the National Council of Prosecutors adopted the Collection of the Principles of Professional Ethics of Prosecutors.

According to the Collection of the Principles of Professional Ethics the prosecutor has, among others, obligation: 1) to observe the law and good manners; 2) act honestly; 3) behave with dignity and honor; 4) take care of the authority of the office and the authority of the prosecutor's office; 5) be respectful of the organs of the Republic of Poland and their representatives.

The prosecutor may not: 1) use positions or functions to support the self-interest or interests of other persons or entities, in particular his/her relatives, and act to the detriment of other persons or entities; 2) behave in a manner that would discredit the prosecutor's dignity or weaken trust in his/her office.

In addition, the prosecutor is obliged to avoid conducts and situations that could undermine confidence in his/her independence, impartiality and professional integrity or give the impression of disrespect for the law, as well as avoid personal contacts and economic relations with persons and other entities that could create a conflict of interest and thus negatively affect the perception of the prosecutor's impartiality and undermine the trust in the prosecutor's office.

The practical application of the rules of professional ethics is subject to mandatory training during the prosecutor's apprenticeship.

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

Please see also pervious paragraphs of this article.

18. Paragraph 4 of article 8

4. Each State Party shall also consider, in accordance with the fundamental principles of its domestic law, establishing measures and systems to facilitate the reporting by public officials of acts of corruption to appropriate authorities, when such acts come to their notice in the performance of their functions.

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

See also responses to the previous paragraphs of this article.

Due to the entry into force of the Act of 16 November 2016 on the National Revenue Administration, the Internal Inspection Bureau was established within the Ministry of Finance (hereinafter: MoF), as a unit responsible for identifying, detecting and combating corruption offenses committed by persons employed in the National Revenue Administration (hereinafter: NRA). In order to accomplish these tasks, the Bureau performs operational, analytical and investigative activities. The organizational structure of the Internal Inspection Bureau includes the headquaters in the MoF in Warsaw and local units - one in each of the revenue administration regional office. Information on corruption offenses can be provided: personally to the employees of the Internal Inspection Bureau, in a written form to the postal address and the email address (https://www.mf.gov.pl/web/bip/krajowa-administracja-skarbowa/kontakt/formularz-biw) or via phone (no. 22 694 33 44).

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

See responses to the previous paragraphs of this article.

19. Paragraph 5 of article 8

5. Each State Party shall endeavour, where appropriate and in accordance with the fundamental principles of its domestic law, to establish measures and systems requiring public officials to make declarations to appropriate authorities regarding, inter alia, their outside activities, employment, investments, assets and substantial gifts or benefits from which a conflict of interest may result with respect to their functions as public officials.

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

An important aspect of the anti-corruption provisions existing in Poland is the obligation on persons performing public functions subject to these regulations to submit asset declarations which also require providing information on the participation of companies management or other types of relationships with such entities, information on business activity alone or jointly with other people or managing this type of activity.
For example, the Act of August 21, 1997 on the limitation of the performence of commercial activity by persons fulfilling public functions (Journal of Laws of 2017, item 1393), so-called the *Anti-Corruption Act* obliges to submit asset declarations, introduces prohibitions and restrictions in conducting business activity, as well as in other additional activities such as: sitting in commercial law companies, foundations conducting business activity, holding commercial law companies in companies more than 10% shares or shares representing more than 10% of the share capital - in each of these companies, being employed or performing other activities in commercial law companies that could give rise to suspicion of their bias or interest; being members of management boards, supervisory boards or revision committees of cooperatives, with the exception of supervisory boards of housing co-operatives.

In addition, the Act also introduces restrictions after employment, i.e. persons occupying public functions may not, within one year of ceasing to take up a position or perform a function, be employed or perform other activities with an entrepreneur, if they participated in issuing a decision in individual cases concerning that entrepreneur this does not apply to administrative decisions on determining the assessment of local taxes and fees on the basis of separate regulations, with the exception of decisions regarding allowances and exemptions in these taxes or fees. In justified cases, consent to employment before the end of the year may be expressed by a commission appointed by the Prime Minister.

Assets declarations are therefore a tool aimed at verifying the avoidance of a conflict of interests by persons performing public functions. On the one hand, this verification is done by disclosing the financial status of the person obliged to submit a statement, as well as by providing information on the performance of functions in business entities, business operations or holding certain share or share

packages.

In order to fully harmonize the Polish legal system with mentioned provision of the Convention, it is necessary to reform the provisions regarding the submission of asset declarations. These provisions are currently dispersed in many legal acts, and to some extent they are imprecise. For these reasons, a draft law on transparency of public life was prepared, which aims to unify the provisions governing the issue of asset declarations. This project is currently at the inter-ministerial level.

When it comes to the outside activities or employment, the Law on Prosecution under Article 103 provides for in that a public prosecutor cannot take up additional employment, with the exception of employment in a didactic, research and didactic, or research position if total working time does not exceed full working time of employees employed in those positions, provided that that employment does not interfere with performing the public prosecutor's duties.

Moreover, a public prosecutor cannot take up another occupation or way of making profit which would interfere with performing the public prosecutor's duties, could lessen the trust in his/her impartiality or impair the dignity of the office of public prosecutor.

A public prosecutor cannot:

1) be a member of a management board, a supervisory board or a board of auditors of a commercial law company;

2) be a member of a management board, a supervisory board or a board of auditors of a cooperative;

3) be a member of a management board of a foundation running a business;

4) hold more than 10% of shares in a commercial law company or hold shares corresponding to more than 10% of the share capital;

5) run a business on his/her own account or together with other persons, or manage such business, or be a representative or agent in running such business.

Public prosecutors of a district public prosecutor's office and public prosecutors of a regional public prosecutor's office notify the competent regional public prosecutor about their intention to take additional employment, as well as about the intention to take up another occupation or way of making profit, public prosecutors of a provincial public prosecutor's office notify the competent provincial public prosecutor, public prosecutors of the National Public Prosecutor's Office, provincial public prosecutors and regional public prosecutors notify the National Public Prosecutor, and the National Public Prosecutor and the Public Prosecutor General's other deputies notify the Public Prosecutor General.

If the public prosecutor to whom the notification is addressed considers that a public prosecutor's taking up or continuation of an additional employment, another occupation or a way of making profit interferes with performing the public prosecutor's official duties, impairs the dignity of his/her office or lessens the trust

in the public prosecutor's impartiality, he/she makes and objection against it within 14 days from the date of receipt of the notification.

The rules described above also apply to retired public prosecutors.

All the public prosecutors are obliged to submit a declaration of their financial standing. The declaration of financial standing covers only individual property and joint property of husband and wife. The declaration should contain in particular the information on financial assets, real estate and shares in commercial law companies, as well as property which has been acquired by means of an auction by that person or his/her spouse from the State Treasury, a local government unit, a union of such units, or a government or local government legal person.

The declaration is submitted accordingly by public prosecutors to the competent provincial public prosecutor, regional public prosecutor, chief of a branch commission or chief of a branch vetting office, who analyzes the data contained in the declarations by 30 June every year.

The Public Prosecutor's General's deputies, the Director of the Chief Commission, the Director of the Vetting Office, public prosecutors of the National Public Prosecutor's Office, public prosecutors of the Chief Commission, public prosecutors of the Vetting Office, provincial public prosecutors, public prosecutors of Branch Divisions of the Department for Organized Crime and Corruption of the National Public Prosecutor's Office, regional public prosecutors, as well as chiefs of branch commissions and chiefs of branch vetting offices submit the declaration to the Public Prosecutor General, who analyzes the data contained in the declarations by 30 June every year.

Moreover the declaration is submitted before assuming the position, and subsequently every year before 31 March, as of 31 December of the previous year, as well as on the day of leaving the position of public prosecutor.

The declaration is submitted under criminal liability for making a false declaration.

Information contained in the declaration, including the first name and surname, are publicly accessible, except for the address, information about the location of real estate, as well as information that make it possible to identify the public prosecutor's or public prosecutor's assessor's movable property. At the request of the public prosecutor who has submitted the declaration, the superior public prosecutor may decide to grant the information contained in the declaration the protection provided for information classified as "reserved", specified by the provisions of the act of 5 August 2010 on the protection of classified information if the disclosure of that information could result in a threat to the public prosecutor or persons nearest to him/her. The declaration is kept for 6 years.

The publicly accessible information contained in declarations on financial standing is published by the Public Prosecutor General, competent provincial or regional public prosecutor, chief of a branch commission or chief of a branch vetting office in Biuletyn Informacji Publicznej referred to in the act of 6 September 2001 on the access to public information (Dz. U. 2016, entry 1764) no later than on 30 September each year.

One copy of the declaration is transmitted by the public prosecutor authorized to collect the declaration to the tax office competent for the public prosecutor's place of residence. The competent tax office is authorized to analyze the data contained in the declaration, including a comparison of its content with the content of previously submitted declarations and annual tax returns (PIT). If the result of the analysis raises grounded doubts as to the legality of origin of the property disclosed in the declaration, the tax office refers the case for appropriate proceedings.

A retired public prosecutor does not submit a declaration on financial standing, unless he/she is an adviser of the Public Prosecutor General or the National Public Prosecutor.

According to the art. 149 of the Act on the National Revenue Administration, every employees of the National Fiscal Information, the revenue administration regional office or the National School of Treasury is obliged to make a statement about her/his financial status every year by March 31.

The statement is made to the head of the organizational unit of the NRA, in which the person is employed.

The managers of the NRA's organizational units and an organizational unit within the MoF, performing tasks in the area of asset declarations, are authorized to analyze statements made by employees of the National Fiscal Information and revenue administration regional offices. The same unit within the MoF is also authorised to analyse statements made by employees of the National School of Treasury.

The director of the National Fiscal Information, a director of the revenue administration regional office, a head of the tax office, a head of the customs and tax office, the Headmaster of the National School of Treasury and their deputies, declare their financial status to the Head of the National Revenue Administration.

The authorised unit within the MoF analyse the statements of persons mentioned above.

For matters concerning the financial status of persons employed in organizational units of NRA which are not regulated the provisions of the Act of August 21, 1997 on restricting business activity by persons performing public functions (Journal of Laws of 2017, item 1393) shall apply accordingly.

According to the art. 200 of the Act on the National Revenue Administration, the officer of the Customs and Tax Service is obliged to submit a statement about his/her financial status:

1) in the case of making a business relationship and when leaving the service;
2) annually;
3) at the request of the head of the NRA's organizational unit.

The statement shall be submitted by March 31, as at 31 December of the previous year. The statement is made to the head of the NRA's organizational unit.

The director of the revenue administration regional office, the head of the reveniue

office, the head of the customs and tax office and their deputies shall submit declarations of financial status to the head of the National Revenue Administration.

In the case of failure in submiting a statement on time due to absence from the service, the officer submits the statement on the first day after appearing in the service.

The statement should contain information about the sources and amount of income received, cash resources held, real estate, participation in civil companies or commercial law companies, shares or stocks in these companies, property acquired from the State Treasury, other state legal entity, commune, inter-communal connection, poviat, poviat union, district-communal union or metropolitan union, which was subject to sale by tender, movable property, other property rights and monetary liabilities.

The managers of these units and the organizational unit of the office servicing the minister performing tasks in the area of asset declarations are authorized to analyze statements made by persons employed in the National Fiscal Information and tax administration chambers. In the case of people employed in the School, the analysis of asset declarations is made by the organizational unit of the office servicing the minister performing tasks in the area of asset declarations.

The statement of financial status are kept for 6 years.

In addition to the analysis of the statements, the provisions of the Act on National Revenue Administration provide for the possibility to review the statements. The analysis of statements consists in comparing the statement submitted in a given year with statements made previously and checking information in available databases. Control of statments is a set of activities consisting in checking the status of the declared property with the status of assets in available databases, comparing the submitted declarations and performing other activities for this purpose. The basis for carrying out the asset analysis is own information, external information and routine checks. The basis for carrying out an asset control is an application informing about irregularities. If irregularities are found in the submitted declarations, the competent law enforcement authorities shall be notified of the suspicion of committing a crime or a decision shall be issued.

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

Examples of the implementation of mentioned provision of the Convention are regulations regarding the obligation to submit asset declarations in broadly understood anti-corruption provisions, including those as quoted in item 2.

20. Paragraph 6 of article 8

6. Each State Party shall consider taking, in accordance with the fundamental principles of its domestic law, disciplinary or other measures against public officials who violate the codes or standards established in accordance with this article.

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

Most of the regulations on submission of asset declarations provide for criminal and business sanctions for submitting untruth in these declarations. Moreover these provisions also provide for administrative sanctions in the form of dismissal from the position in relation to officials who break restrictions on conducting specific activities, performing specific functions or holding too large blocks of shares or stocks in commercial law companies. In order to fully harmonize the Polish legal system with aforementioned provision of the Convention, it is necessary to reform the provisions regarding property declarations of persons performing public functions. These provisions are currently dispersed in many legal acts, moreover, the sanctions for providing untruth in these declarations or sanctions for breaking the prohibitions laid down in anti-corruption laws are to some extent shaped in a different way (in relation to certain groups of public officials no sanctions were foreseen). For these reasons, a draft law on transparency of public life was developed, which aims to unify the provisions governing the submission of asset declarations, including sanctions related to this issue. This project is currently at the inter-ministerial level of consultations.

Pursuant to the Law on Prosecution, a public prosecutor is liable to disciplinary action for service-related misconducts, including a manifest and glaring infringement of the law and impairments of the dignity of office (disciplinary misconducts). A public prosecutor's action or omission performed exclusively in public interest is not a disciplinary misconduct.

A public prosecutor is also liable to disciplinary action for his/her conduct before assuming the position if he/she breached the duties or impaired the dignity of a public office held at the time, or proved to be unworthy of the office of public prosecutor.

In case of an abuse of the freedom of speech when performing official duties which is an insult, prosecuted by private accusation, to a party, a party's representative or defence counsel, a guardian, a witness, an expert or an interpreter, a public prosecutor is only liable to disciplinary action.

In case of petty crimes, a public prosecutor is only liable to disciplinary action. A public prosecutor may consent to be prosecuted for petty crimes referred to chapter XI of the act of 20 May 1971 - Petty Crimes Code (Dz. U. 2015, entry 1094, as amended) following the procedure specified in that provision. If a public prosecutor commits a petty crime referred to in chapter XI of the act of 20 May 1971, the public prosecutor's acceptance of a penalty notice or payment of a fine

in case of being penalised with a fine imposed in the absence of a person referred to in Article 98 § 1 (3) of the act of 24 August 2001 - Petty Crimes Procedure Code (Dz. U. 2013, entry 395, as amended), is a declaration of consent to being prosecuted in that form.

A public prosecutor's consent to being prosecuted in accordance with the procedure specified in § 4 excludes disciplinary liability.

Should a substantial misconduct be found with regard to the efficiency of preparatory proceedings, the superior public prosecutor may reprove the public prosecutor in writing and demand that the misconduct's effects be remedied. The reproved public prosecutor may, within 7 days, submit a written objection to the reproving superior public prosecutor, which does not release him/her from the obligation to remedy immediately the misconduct's effects. The reproved public prosecutor notifies the superior public prosecutor of the measures that have been taken to this end. If an objection is submitted, the reproving superior public prosecutor revokes the reproval or submits the case for examination to the disciplinary court.

The disciplinary court issues a decision which either upholds the reproval as valid or revokes the reproval and discontinues the proceedings after hearing out the disciplinary accuser and the reproved public prosecutor, unless hearing them out is not possible. The disciplinary court's decision is not subject to appeal.

A copy of the document with the reproval that has not been revoked is attached to the public prosecutor's personal file.

After 2 years since the reproval became final, the Public Prosecutor General or the competent provincial or regional public prosecutor orders the removal of the document's copy from the public prosecutor's personal file if no other misconduct has been found during that period with regard to the efficiency of preparatory proceedings resulting in a reproval, if the public prosecutor has not been reproached for an infringement, no disciplinary sanction has been imposed or no disciplinary misconduct has been found. At the public prosecutor's request, the copies may already be removed after one year.

The Public Prosecutor General may reprove a provincial, regional and district public prosecutor in writing if he/she finds a substantial misconduct with regard to heading a public prosecutor's office or exercising supervision.

That can be exercised by the Public Prosecutor General towards the National Public Prosecutor and the Public Prosecutor General's other deputies, by a provincial public prosecutor towards a regional and district public prosecutor operating within the province, and by a regional public prosecutor towards a subordinate district public prosecutor. When a provincial public prosecutor reproves a district public prosecutor, he/she notifies the competent regional public prosecutor and, in the case of any more grievous misconduct, the Public Prosecutor General.

Should a manifest infringement of the law with regard to handling a case be found, the superior public prosecutor, without prejudice to other rights, reproaches the public prosecutor who has committed that infringement, having first requested an

explanation. Finding and reproaching an infringement does not affect the case's settlement.

The reproached public prosecutor may, within 7 days, submit an objection in writing to the reproaching superior public prosecutor, which does not release him/her from the obligation to remedy the infringement's effects. If an objection is submitted, the reproaching superior public prosecutor revokes the reproach or submits the case for examination to the disciplinary court.

The disciplinary court issues a decision which either upholds the reproach as valid or revokes the reproach and discontinues the proceedings after hearing out the disciplinary accuser and the reproached public prosecutor, unless hearing them out is not possible. The reproached public prosecutor may make an appeal against a decision refusing to take his/her objection into consideration. The appeal is examined by the same disciplinary court sitting in a different, equivalent formation.

A copy of the document with the reproach that has not been revoked is attached to the public prosecutor's personal file.

If a provincial public prosecutor reproaches a public prosecutor of a district public prosecutor's office, he/she notifies the competent regional public prosecutor and, in case of any more grievous infringement, the Public Prosecutor General.

A disciplinary proceedings cannot be initiated after more than 5 years since the act was committed, and they are discontinued in case of their unlawful initiation. If disciplinary proceedings have been initiated before that deadline, disciplinary prescription takes place 8 years after the act. Despite the prescription referred to in the previous sentence, the disciplinary court either finds the public prosecutor guilty of a disciplinary misconduct, discontinuing the proceedings with regard to the infliction of a disciplinary penalty, or acquits the accused public prosecutor.

If a disciplinary misconduct shows all features of a crime, the prescription of disciplinary punishability cannot take place before the prescription specified in the relevant provisions of the act of 6 June 1997 - Penal Code (Dz. U. Nr 88, entry 553, as amended).

Disciplinary penalties include:

1) admonition;

2) reprimand;

3) dismissal from function;

4) transfer to another place of service;

5) dismissal from prosecutorial service.

In case of a disciplinary misconduct of lesser importance, the disciplinary court may refrain from inflicting a penalty.
The Public Prosecutor General is the disciplinary superior of public prosecutors of universal prosecutorial bodies, the provincial public prosecutor is the disciplinary superior of public prosecutors of the provincial public prosecutor's office, public

prosecutors of regional public prosecutor's offices and district public prosecutor's offices in the area of operations of the provincial public prosecutor's office, and the regional public prosecutor is the disciplinary superior of public prosecutors of the regional public prosecutor's office and public prosecutors of district public prosecutor's offices in the area of operations of the regional public prosecutor's office.
The disciplinary cases are settled by disciplinary courts operating under the Public Prosecutor General:

1) in the first instance - Disciplinary Court;

2) in the second instance - Disciplinary Court of Appeal.

Members of disciplinary courts are independent with regard to passing judgments and are only subject to the laws.

Disciplinary proceedings before a disciplinary court are open. A disciplinary court may decide to institute disciplinary proceedings in camera for reasons of morals, state security and public order, as well as in order to protect the parties' private life, for reasons of another important private interest or an important interest of preparatory proceedings.

Should disciplinary proceedings be instituted in camera, the judgment is delivered openly.

A disciplinary judgment may be made publicly known after it has become final, pursuant to a resolution of the disciplinary court adopted ex officio or at a party's request, in the way specified by the resolution, which is not subject to appeal.

§ 5. Dossiers of finally terminated disciplinary proceedings are made publicly accessible in accordance with the rules specified in the law of 6 September 2001 on access to public information**.**

For disciplinary misconducts of lesser importance which do not justify the initiation of disciplinary proceedings, the superior public prosecutor imposes on subordinate public prosecutors the disciplinary sanction of admonition.

The copy of the document by which the disciplinary sanction of admonition has been imposed is attached to the public prosecutor's personal file.

The public prosecutor penalised with the disciplinary sanction of admonition may, within 7 days from the date of the admonition's service to him/her, submit an objection to the public prosecutor who is the immediate superior of the public prosecutor who has imposed that sanction.

If an objection is submitted, the superior public prosecutor revokes the disciplinary sanction of admonition and discontinues the relevant proceedings or revokes the disciplinary sanction and submits the case for examination to a disciplinary court through the disciplinary accuser.

A public prosecutor may be suspended in duties for a period of 6 months if it is necessary to immediately prevent him/her from performing duties due to the nature of the disciplinary misconduct. Suspension in duties does not release the public

prosecutor from the obligation to remain at the superior's disposal and perform the duties which are defined precisely in the order on the suspension in duties, but which nevertheless cannot include administration of acts reserved by the law to a public prosecutor.

The right to suspend in duties may be exercised by disciplinary superiors. The decision on a suspension in duties is subject to appeal to a disciplinary court. The disciplinary court's judgment on the suspension is not subject to appeal.

In the course of proceedings before a disciplinary court, the disciplinary court may at any moment revoke the suspension in duties.

In case of a final permission to prosecute a public prosecutor, as well as when a motion for legal incapacitation has been submitted to the relevant court, the disciplinary superior may suspend the public prosecutor in duties until the final termination of the proceedings. The decision on the suspension in duties is subject to appeal to a disciplinary court. The disciplinary court's judgment on the suspension is not subject to appeal. The disciplinary superior may at any moment revoke the suspension in duties.

The suspension in duties referred to in § 1 is obligatory if the issued permission to prosecute a public prosecutor concerns an intentional crime prosecuted by public indictment liable to punishment of imprisonment of at least 5 years. In that case, the suspension cannot be revoked until the final termination of the proceedings.

If a public prosecutor has been suspended in duties, a disciplinary court may, upon a motion of the disciplinary superior, decrease the public prosecutor's salary to 50% for the suspension period. The decision on decreasing the salary is subject to appeal. If no disciplinary proceedings have been initiated within 6 months since the day of suspension in duties, or if disciplinary proceedings have been discontinued or has ended in an acquittal, the public prosecutor receives the retained share of the salary with statutory interest.

Disciplinary accusers are: the Public Prosecutor General's disciplinary accuser, the Public Prosecutor General's disciplinary accuser's first deputy, and the disciplinary accuser's deputies, one for each provincial area. Disciplinary accusers are appointed by the Public Prosecutor General for a term of office from among public prosecutors.

Disciplinary accusers carry out discovery proceedings at the request of the Public Prosecutor General, the competent provincial or regional public prosecutor, as well as on their own initiative, after preliminary clarification of the circumstances necessary to determine the features of a misconduct, as well as after the public prosecutor has submitted a statement or explanations in writing, unless such a submission is not possible. In case of every initiation of discovery proceedings, the competent accuser immediately notifies the Public Prosecutor General's disciplinary accuser, who may refer further proceedings to another accuser. After the discovery proceedings, if there are no grounds for initiating disciplinary proceedings, the disciplinary accuser issues a decision refusing to initiate such proceedings. The copy of the decision is served to the Public Prosecutor General and the body that requested disciplinary action.

Within 7 days from the date of service of the decision on refusal to initiate disciplinary proceedings, the Public Prosecutor General and the body that requested disciplinary action have the right of appeal to a disciplinary court.

If there are grounds for initiating disciplinary proceedings, the disciplinary accuser's deputy requests the Public Prosecutor General to appoint a disciplinary accuser from outside the provincial area in which the public prosecutor against which disciplinary discovery proceedings have been instituted performs service. The appointed disciplinary accuser initiates disciplinary proceedings.

After written presentation of charges, the accused may submit explanations and motions for taking evidence within 14 days. The accused may also submit a statement in writing which shall be considered as explanations. After that deadline and, if needed, after taking further evidence, the disciplinary accuser submits a motion for the examination of a disciplinary case to a disciplinary court. The motion should contain a precise specification of the act which is the subject of the proceedings, statement of reasons and list of evidence requested to be taken.

If the disciplinary accuser finds no grounds to submit a motion for the examination of a disciplinary case, he/she issues a decision on the discontinuation of disciplinary proceedings. The copy of the decision is served to the Public Prosecutor General, the body that requested disciplinary action and the accused.

After the receipt of a motion for the examination of a disciplinary case, the president of the disciplinary court fixes the date of the hearing. The period between the motion's receipt and the date of the hearing should not be longer than 30 days.

The accused may also appoint a defence counsel from among public prosecutors, lawyers and legal advisers at the stage of disciplinary proceedings handled by a disciplinary accuser. Appointment or change of the defence counsel.

If a public prosecutor's service relationship is terminated or expires in the course of disciplinary proceedings, the proceedings continue. If the accused has taken up work in a public administration body, an office providing service to a public administration body, the Office of the Attorney General of the Republic of Poland, as a lawyer, legal adviser or notary, the court transmits the judgment to the relevant public administration body, head of the office, the President of the Office of the Attorney General of the Republic of Poland, the Supreme Bar Council, the National Council of Legal Advisers or the National Notarial Council, respectively.

The statement of reasons of the Disciplinary Court's judgment is drawn up in writing upon the motion of the Public Prosecutor General, the disciplinary accuser or the accused within 21 days since the date of receipt of the judgment. In particularly justified cases, the president of the Disciplinary Court may extend the deadline for drawing up the statement of reasons for another 14 days.

The Public Prosecutor General, the accused and the disciplinary accuser have the right to appeal against the judgment of a disciplinary court passed in the first instance. The appeal should be examined within one month from the date of its receipt.

The statement of reasons of the Disciplinary Court of Appeal's judgment is drawn up in writing upon a motion of the Public Prosecutor General, the disciplinary accuser or the accused within 14 days from the date of its receipt. In particularly justified cases, the president of the Disciplinary Court of Appeal may extend the deadline for drawing up the statement of reasons for another 14 days.

The judgment with the statement of reasons is served to the proposer of the motion and to the Public Prosecutor General.

The parties and the Public Prosecutor General have the right to lodge a cassation against a judgment passed by the Disciplinary Court of Appeal to the Supreme Court. The cassation may be lodged for the reason of a glaring infringement of the law or a glaring incommensurability of a disciplinary penalty.

The deadline for lodging a cassation is: for a party - 30 days, for the Public Prosecutor General - 3 months - from the date of service of the judgment with the statement of reasons to the party or to the Public Prosecutor General, respectively.

A party lodges a cassation via the disciplinary court that passed the contested judgment.

The Public Prosecutor General lodges a cassation directly to the Supreme Court.

The Supreme Court examines the cassation in a hearing, in a panel of 3 judges.

The Public Prosecutor General, the disciplinary accuser or the penalised public prosecutor may request the body that issued the decision terminating the proceedings to reopen the disciplinary proceedings.

The reopening of the disciplinary proceedings to the disadvantage of the accused is possible if the proceedings' discontinuation or the judgment's passing was a result of a crime or if new circumstances or evidence that could give grounds for conviction or a more severe punishment have been found within 5 years from the discontinuation or from the judgment.

The reopening of the proceedings to the advantage of the penalised person is possible even after the death of the latter if new circumstances or evidence that could give grounds for acquittal or a less severe punishment are found.

In case of the penalized person's death, the motion for the reopening of the proceedings may be submitted by his/her spouse, lineal relatives, siblings, adopter or adoptee, and the disciplinary accuser or the Public Prosecutor General.

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

Examples of the implementation of this provision are regulations on sanctions for providing untruth in asset declarations and sanctions for breaking anti-corruption laws. Declarations and statements are made under penalty of perjury for making false declarations under Art. 233 § 1 and 6 of *Penal Code*. There are also no national statistics on, for example, persons who break the "anti-corruption" regulations,

therefore dismissed from the positions of persons or statistics concerning persons accused of providing untruth in asset declarations.

Examples of the implementation of measures

24 public prosecutors was disciplinary punished in connection with violation of dignity of the office between 2016 - 2017 (in 2016 - 8 persons, in 2017 - 16 persons). The following penalties were imposed:

- admonition - 4 (2016 - 1, 2017 - 3),
- reprimand - 11 (2016 - 5, 2017 - 6),
- dismissal from prosecutorial service - 4 (2017 - 4),
- deprivation of the right to retirement - 4 (2016 - 2, 2017 - 2),
- suspention of salary valorization - 1 (2017 - 1).

I.The disciplinary case ref. no PK I SD 23.2016.

On February 23, 2009 the Disciplinary Court for Prosecutors at the Prosecutor General received a motion dated on 17 February 2009 of the Appellate Prosecutor's Office in Łódź to initiate disciplinary proceedings against Anna S. - prosecutor of the District Prosecutor's Office in Łódź on the ground that she had discredited dignity of the prosecutor's office, as on September 26, 2008 she had been driving a car on the public road being in a state of alcohol intoxication.

By decision taken on March 9, 2009, the Chairman of the Disciplinary Court for Prosecutors at the Prosecutor General initiated disciplinary proceedings against the above-mentioned prosecutor.

On July 14, 2009, the Disciplinary Court received the indictment of 30 June 2009 against the above-mentioned prosecutor for an act under Art. 178a § 1 of the Criminal Code (driving in the state of intoxication) submitted to the District Court for Łódź - Śródmieście. On April 29, 2010, a judgment was passed in the above-mentioned case. When the judgment became final, the files of the case were sent to the Disciplinary Court.

By judgment of 11 April 2016, the accused Anna S. was found guilty of the act she had been charged with imposing a penalty of deprivation of her right to retirement together with the right to receive a remuneration.

The indicated judgment was not appealed against by the parties to the proceedings.

II. The disciplinary case ref. no PK I SD 13.2017.

On February 16, 2017, the Disciplinary Court at the Prosecutor General was filed by a motion dated on 15.02. 2017 drafted by the Regional Prosecutor's Office in Lublin, to institute disciplinary proceedings against Tomasz D. - a prosecutor of the District Prosecutor's Office in Mrągowo for discrediting dignity of the prosecutor's office.

The motion was based on the following facts. On February 5, 2016, in Biała Podlaska, Tomasz D. wearing a reflective vest with the inscription "PROKURATOR" demanded to open the door of the apartment that belonged to Anna K.S. By showing Anna K.S. a gun- shaped pepper gas spray and shouting at her , Tomasz D. threatened her which resulted in the intervention of police officers from the Municipal Police Headquarters in Biała Podlaska.

On March 22, 2010, a judgment of the Disciplinary Court was pronounced. The accused Tomasz D. was found guilty of the act he was charged with and punished with a reprimand. The judgment was not appealed.

21. Technical Assistance

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

Please outline actions required to ensure or improve the implementation of the article under review and describe any specific challenges you might be facing in this respect.

No assistance was required.

Do you require technical assistance for the implementation of this article? If so, please specify the forms of technical assistance that would be required. For example:

(NO) No assistance would be required

No assistance would be required.

Is any technical assistance already being provided to you? If so, please provide a general description of the nature of the assistance, including donor information.

9. Public procurement and management of public finances

22. Paragraph 1 of article 9

1. Each State Party shall, in accordance with the fundamental principles of its legal system, take the necessary steps to establish appropriate systems of procurement, based on transparency, competition and objective criteria in decision-making, that are effective, inter alia, in preventing corruption. Such systems, which may take into account appropriate threshold values in their application, shall address, inter alia:

(a) The public distribution of information relating to procurement procedures and contracts, including information on invitations to tender and relevant or pertinent information on the award of contracts, allowing potential tenderers sufficient time to prepare and submit their tenders;

(b) The establishment, in advance, of conditions for participation, including selection and award criteria and tendering rules, and their publication;

(c) The use of objective and predetermined criteria for public procurement decisions, in order to facilitate the subsequent verification of the correct application of the rules or procedures;

(d) An effective system of domestic review, including an effective system of appeal, to ensure legal recourse and remedies in the event that the rules or procedures established pursuant to this paragraph are not followed;

(e) Where appropriate, measures to regulate matters regarding personnel responsible for procurement, such as declaration of interest in particular public procurements, screening procedures and training requirements.

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

The Public Procurement Act of 29 January 2004, an act of law crucial in this regard. Furthermore there are several areas of Polish law that are relevant to public procurement, such as: Civil Law, Civil Procedure Law, Competition Law, Criminal and Labour Law applicable to public procurement contracts. Due to the legal framework, the principal procedures for awarding contracts are open tendering and restricted tendering. Open tendering means contract award procedures in which, following a public contract notice, all interested economic operators may submit their tenders. Restricted tendering means contract award procedures in which, following a public contract notice, economic operators submit requests to participate in a contract award procedure, and tenders may be submitted by economic operators invited to submit their tenders. Awarding entity may award contracts by the mean of other procedures (e.g. negotiated procedure with publication, competitive dialogue, negotiated procedure without publication, single-source procurement procedure, request-for-quotations procedure or by electronic bidding procedure) only under the circumstances specified.

According to the Public Finance Act every public finance sector unit (mentioned in article 9) is obliged to establishe a system of internal control (articles 68-71). Such a system should allow the unit to act efficiently and in compliance with law and internal

procedures. Risk management is an obligatory part of it The manager of public finance sector unit is responsible for designing, implementing and reviewing the system.

Additionally, ministers and local government authorities are also responsible for functioning internal control system in the subordinated public finance sector units.

The Minister of Finance issued The internal control standards for the public finance sector (based on an internationally recognized standards), as well as the guidelines on internal control selfassessment and the guidelines on risk management.

Internal control system in public sector units are examined by internal auditors (articles 272-296). The main objective of internal audit is to assess the adequacy, effectiveness and efficiency of the system. The IIA's International Standards for the Professional Practice of Internal Auditing has been adopted in the public sector in Poland and internal auditors have to take them into consideration during their work.

According to the standards, internal auditors "are not expected to have the expertise of a person whose primary responsibility is detecting and investigating fraud

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

Practical exemples are no available.

23. Paragraph 2 of article 9

2. Each State Party shall, in accordance with the fundamental principles of its legal system, take appropriate measures to promote transparency and accountability in the management of public finances. Such measures shall encompass, inter alia:

(a) Procedures for the adoption of the national budget;

(b) Timely reporting on revenue and expenditure;

(c) A system of accounting and auditing standards and related oversight;

(d) Effective and efficient systems of risk management and internal control; and

(e) Where appropriate, corrective action in the case of failure to comply with the requirements established in this paragraph.

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

Procedures for the adoption of the national budget

The procedures are specified in The Constitution:
- (http://www.sejm.gov.pl/prawo/konst/angielski/kon1.htm) and The Public Finance Act
- (http://prawo.sejm.gov.pl/isap.nsf/DocDetails.xsp?id=WDU20091571240).

The project of the budget is publicly available on the Ministry of Finance website:

https://www.mf.gov.pl/ministerstwo-finansow/dzialalnosc/finanse-publiczne/budzet-panstwa/ ustawy-budzetowe/2018/projekty-ustawy

The project of the budget is also given for consultation to the Social Dialogue Council (Rada Dialogu Społecznego) which is the main institution of the national tripartite dialogue that engages the representatives of employees, employers and government in the discussion on the public issues, projects of legal solutions and other decisions taken, concerning the interests of the employers and employees.

Additionally, during the whole process of budget adoption media and the public can have full information on the works done in the Parliament. Online streaming if available via the Sejm website (http://www.sejm.gov.pl/Sejm8.nsf/transmisje.xsp).

Each year by the end of May The Ministry of Finance must prepare a report on the execution
of the budget for the previous year. It is available on the website:

https://www.mf.gov.pl/pl/ministerstwo-finansow/dzialalnosc/finanse-publiczne/budzet-panstwa/wykonanie-budzetu-panstwa/sprawozdanie-z-wykonania-budzetu-panstwa-roczne#

Independently of the Ministry of Finance, the Supreme Audit Office (Najwyższa Izba Kontroli) prepares its own report on the budget execution:

https://www.nik.gov.pl/aktualnosci/finanse-publiczne/wykonanie-budzetu-panstwa-w-2017.html

Timely reporting on revenue and expenditure

The Ministry of Finance is responsible for preparing revenue and expenditures reports (https://www.mf.gov.pl/en/ministry-of-finance/state-budget/estimated-execution-of-the-state-budget). It is done on a monthly basis.

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

Additional reports are presented on the Public Data website:

https://danepubliczne.gov.pl/group/budzet_finanse_publiczne

24. Paragraph 3 of article 9

3. Each State Party shall take such civil and administrative measures as may be necessary, in accordance with the fundamental principles of its domestic law, to preserve the integrity of accounting books, records, financial statements or other documents related to public expenditure and revenue and to prevent the falsification of such documents.

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

See the response to the preceding paragraph.

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

See the response to the preceding paragraph.

25. Technical Assistance

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

Please outline actions required to ensure or improve the implementation of the article under review and describe any specific challenges you might be facing in this respect.

Do you require technical assistance for the implementation of this article? If so, please specify the forms of technical assistance that would be required. For example:

(NO) No assistance would be required

Is any technical assistance already being provided to you? If so, please provide a general description of the nature of the assistance, including donor information.

10. Public reporting

26. Subparagraph (a) of article 10

Taking into account the need to combat corruption, each State Party shall, in accordance with the fundamental principles of its domestic law, take such measures as may be necessary to enhance transparency in its public administration, including with regard to its organization, functioning and decision-making processes, where appropriate. Such measures may include, inter alia:

(a) Adopting procedures or regulations allowing members of the general public to obtain, where appropriate, information on the organization, functioning and decision-making processes of its public administration and, with due regard for the protection of privacy and personal data, on decisions and legal acts that concern members of the public;

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

Since 2010, the CBA publishes annually information on corruption crime in Poland as a Map of Corruption. The aim of the report is to compile data on the issue of combating corruption crime and analysis of individual factors of the phenomenon. The report is prepared on the basis of the CBA's own data and information provided by Ministry of Justice, Public Prosecutor's Office, Police, Internal Security Agency, Border Guard, Military Police, Prison Service and the National Treasury Administration.

According to the Constitution of the Republic of Poland, a citizen shall have the right to obtain information on the activities of organs of public authority as well as persons discharging public functions. The right to obtain information includes inter alia access to documents. Limitations upon the above-mentioned right may be imposed solely to protect freedoms and rights of other persons and economic subjects, public order, security or important economic interests of the State defined in the acts (Article 61 of the Constitution).

The right of access to public information is universal, subject to Article 5 of the Act of 6 September 2001 on access to public information (Journal of Laws of 2016, item 1764, as amended). No person exercising the right to public information shall be required to demonstrate a legal or factual interest (Article 2 of the above Act).

Members of the Council of Ministers (the Prime Minister, Deputy Prime Ministers, ministers, chairpersons of the committees who make up the Council of Ministers) and the Head of the Chancellery of the Prime Minister, as public authority bodies, must make public information available (Article 4(1)(1) of the Act on access to public information).

In particular, access should be provided to public information (i.e. any information on public affairs) concerning:

1) Domestic and foreign policy, including on:

a. Intended actions of the legislative and executive power,
b. Drafting normative acts,
c. Agendas in the area of implementing public tasks, the manner of their implementation, execution and effects of execution of these tasks;

2) The above-mentioned entities obliged to make public information available, including on:
   a. The legal status or legal form,
   b. Organisation,
   c. Area of activity and competence,
   d. Bodies and individuals performing functions in these bodies, and their competencies,
   e. The ownership structure of the entities referred to in Article 4(1)(3)-(5) of the Act on access to public information,
   f. Assets at their disposal;
3) The operating rules of the above-mentioned entities obliged to make public information available, including on:
   a. The procedures of public authorities and their organisational units,
   b. The procedures of state legal persons and local government legal persons in the area of performing public tasks, and their operation within budget and non-budget economy,
   c. The ways in which public law acts are adopted,
   d. The ways in which issues are accepted and handled,
   e. The status of accepting issues, the order of handling or resolving issues,
   f. Registers, records, and archives kept, and the ways and principles of making available the data from these registers, records, and archives,
   g. Recruitment for vacancies, to the extent defined in separate regulations;
4) Public data, including:
   a. The content and form of official documents, in particular:
   – The content of administrative acts and other decisions,
   – Documentation on the course and effects of controls, as well as addresses, positions, requests, and opinions of the entities performing controls,
   – The content of verdicts of: common courts, the Supreme Court, administrative courts, military courts, the Constitutional Tribunal, and the Tribunal of State,
   b. Positions in public matters of public authority bodies and of public officials within the meaning of the Penal Code,
   c. The content of other addresses and evaluations made by public authority bodies,
   d. Information on the condition of the state, local governments and their organisational units;
5) Public assets, including:
   a. Assets of the State Treasury and other state legal persons,
   b. Other property rights due to the state and state debt,
   c. Assets of local government units, professional and economic self-

governments, assets of legal persons of local governments and of health insurance funds,

d. The assets of the entities referred to in Article 4(1)(5) of the Act on access to public information derived from disposal of the assets referred to in subparagraphs (a)-(c), benefits from these assets and encumbrances thereon,
e. Income and losses of commercial companies in which the entities referred to in subparagraphs (a)-(c) have a dominant position within the meaning of the Code of Commercial Companies and Partnerships, as well as disposing of this income and the manner in which losses are covered,
f. Public debt,
g. State aid,
h. Public burdens (Article 6(1) of the above-mentioned Act on access to public information).

The right to public information includes the right inter alia to obtain public information (including to obtain information processed to the extent that is of particular importance to public interest) and access to official documents (Article 3 of the said Act). Public information is made available by way of publishing public information, including official documents, in the Public Information Bulletin, making available on request (or without a written request in the case of public information that can be made available immediately), by way of laying out or displaying in publicly available places, and by fixing devices that allow reading public information in publicly available places (Article 7 of the said Act),

Public information of particular importance to innovation development in the country and development of the information society that, due to the way in which it is kept and made available, allows it reuse within the meaning of the Act of 25 February 2016 on reuse of public sector information (Journal of Laws item 352, as amended), in a useful and effective manner, constitutes a set and is made available at the central repository. Government administration bodies are obliged to provide their information resources and metadata that describe their structure for the purpose of making available at the central repository (Article 9a(1) and (2) of the above-mentioned Act).

The detailed manner, procedure, and deadlines for making information available are regulated by the Act on access to public information (Article 8-15 of the Act).

The right to public information is subject to limitations within the scope and under the rules specified in the provisions on the protection of classified information, on the protection of the secrets protected by law and on compulsory restructuring, as well as due to the privacy of a natural person or commercial secret. However, this limitation does not apply to information on persons holding public offices, or which is related to the holding of such offices, including information about conditions of appointment to an office and office performance, or to instances when a natural person or an entrepreneur waive their right. Subject to the above restrictions, it is forbidden to restrict access to information on issues resolved in proceedings before state bodies, in particular in administrative, penal, or civil proceedings, due to the protection of the interest of a party, if proceedings concern public authorities or other entities performing public tasks or individuals in public functions - to the extent of these tasks or functions (Article 5(1)-(3) of the said Act).

Access to public information can be refused by way of a decision that can be

appealed against (Article 16-17 of the abovementioned Act).
Meetings of the Council of Ministers
The Council of Ministers, acting collegially, examines the matters and makes decisions at its meetings.
Meetings of the Council of Ministers are held in camera. The Council of Ministers must inform the public on the topics of its meetings and the decisions it makes. It does not apply to issues for which the Prime Minister ordered to be proceeded in camera (Article 22 of the Act of 6 August 1998 on the Council of Ministers (Journal of Laws of 2012 item 392, as amended).
Documents planned to be examined by the Council of Ministers are made available at the sites of the Public Information Bulletin of the ministers and heads of central offices responsible for drafting them and in the Public Information Bulletin of the Government Legislation Centre.
The agenda is developed and amended by the Secretary of the Council of Ministers (Article 12 of Resolution No 190 of the Council of Ministers of 29 October 2013 - The Rules of Procedure of the Council of Ministers (Journal of Laws of 2016, item 1006, as amended)). The agenda of the Council of Ministers is published in the Public Information Bulletin of the Council of Ministers.
Meetings of the Council of Ministers are fully recorded (on the basis of sound recordings); the records are working documents of the Council of Ministers (and kept at the Chancellery of the Prime Minister, subject to provisions on the protection of classified information); also records of findings are drafted that include a full account of the decisions made by the Council of Ministers during particular meetings, taking into account the results of votes and recorded dissenting opinions. The records of findings are provided to the members of the Council of Ministers, voivodes, and bodies and individuals defined by the Prime Minister (Article 16 of the Rules of Procedure of the Council of Ministers).
From each meeting of the Council of Ministers a press release is prepared, in particular devoted to the topics of meetings and the decisions made. Press releases are drafted and publicised by the press spokesperson of the Government (Article 17 of the Rules of Procedure of the Council of Ministers).
Members of the Council of Ministers and other individuals who take part in meetings of the Council of Ministers may not, without the consent of the Prime Minister, reveal any information on the course of these meetings, individual opinions or positions expressed during meetings by the attendees (Article 18 of the Rules of Procedure of the Council of Ministers).

Transparency of the government legislative process
The detailed principles of handling draft government documents are defined in the Rules of Procedure of the Council of Ministers and partially in the Act of 7 July 2005 on lobbying activity in the law-making process.
The Council of Ministers keeps a register of legislative work of the Council of Ministers that covers draft assumptions for draft acts, draft acts, draft ordinances of the Council of Ministers (Article 3(1) of the Act on lobbying activity in the law-making process), and a register of programming work of the Council of Ministers into which draft strategies, programmes and other government documents are inscribed (Article 25 of the Rules of Procedure of the Council of Ministers).
The Prime Minister and the ministers keep registers of legislative work containing draft ordinances of the Prime Minister and of the ministers (Article 4(1) of the above-mentioned Act).

The registers contain information on draft government documents, including inter alia brief information on the reasons and the need to introduce the solutions planned to be included in the draft; specification of the essence of the solutions planned to be included in the draft; name and position or function of the person responsible for draft development; information about the resignation from work on the draft, giving the reason for such resignation - in the case of resignation from work on the draft (Article 3(2) and Article 4(2) of the said Act). The registers are published in the Public Information Bulletin of respective bodies (Article 3(3) and Article 4(2) of the above-mentioned Act).

The Council of Ministers or its auxiliary body may specify the date of the planned adoption by the Council of Ministers of the draft included in the register of legislative work. The Council of Ministers submits to the Sejm, once in 6 months, a list of draft acts with specified dates of their adoption by the Council of Ministers (Article 3a of the above-mentioned Act).

A draft government document subject to entering into a relevant register of legislative work or a register of programming work of the Council of Ministers may be referred to reconciliation, public consultations, or opinioning after it is entered into a given register (Article 25 and Article 31 of the Rules of Procedure of the Council of Ministers).

Draft assumptions for draft acts, draft acts and draft ordinances are published in the Public Information Bulletin upon their being forwarded for consultation to the members of the Council of Ministers (Article 5 of the above-mentioned Act). Also, all documents concerning work on a draft are published in the Public Information Bulletin (Article 6 of the above Act), including positions submitted by some entities in the framework of reconciliations, opinioning, and public consultations, answer of the initiator to comments.

Draft government documents are published in the Public Information Bulletin at the website of the initiating body - the body authorised to develop the draft, hold the reconciliation process, public consultations, or opinioning and to submit the draft for examination, i.e. inter alia members of the Council of Ministers and the Head of the Chancellery of the Prime Minister.

At the same time, according to the Rules of Procedure of the Council of Ministers, draft assumptions for a draft act, draft acts or draft ordinances (together with draft substantiation, assessment of the forecasted socio-economic effects of a normative act (OSR) and any documents concerning work on the draft) are also made available by the initiating body in the Public Information Bulletin at the website of the Government Legislation Centre on a dedicated website - the Government Legislative Process.

The current versions of draft government documents (along with documents concerning work on these drafts) are published in the Public Information Bulletin at every stage of the government legislative process, from the moment a draft is referred to inter-ministerial consultations, public consultations, or consultations with the judiciary and prosecution services or other relevant institutions.

The Government Legislative Process website also publishes final draft ordinances referred for signature by the Prime Minister or the competent minister, and draft acts adopted by the Council of Ministers and referred to the Sejm. In addition, the Government Legislative Process website publishes act functioning assessments (ex-post OSR), if they are developed.

The Public Information Bulletin publishes, as documents concerning work on drafts, notifications of interest in work on draft assumptions for a draft act, draft

act, or draft ordinance, submitted under the procedure defined by the provisions on lobbying activity in the law-making process , as well as notifications made by entities engaged in professional lobbying (Article 7(3) of the Act on lobbying activity in the law-making process).
The rules and procedure for publishing normative acts and some other legal acts, international agreements, and collective labour arrangements are laid down in separate acts (such as the Act of 20 July 2000 on publishing normative acts and certain other legal acts (Journal of Laws of 2017, item 1523)).
As a principle, government documents are public. Documents that constitute secret information are classified according to the principles laid down in regulations on the protection of classified information. Classified information is subject to protection in the manner defined in the above-mentioned Act until declassification or a change in classification.

Public consultations in the government legislative process
Public consultations are held at the beginning of the government legislative process. The initiating body (including a member of the Council of Ministers, Head of the Chancellery of the Prime Minister), having entered a draft into a relevant register and having developed the draft, presents the draft government document for public consultations (as a rule, public consultations are conducted in parallel with the process of reconciliation with the members of the Council of Ministers, Head of the Chancellery of the Prime Minister, and the Government Legislation Centre, and with the process of consultation by government administration bodies or other state bodies and institutions whose competence is covered by the draft, and by the entities defined in separate regulations, including trade unions).
In the framework of public consultations, the initiating body may refer a draft government document to social organisations or other interested entities or institutions to obtain their positions. Presenting a draft for public consultations, the initiating body takes into account the content of the draft government document, as well as other circumstances, such as significance of the draft and its expected socio-economic effects, the degree of its complexity and its urgency; the initiating body also follows guidelines on the conduct of public consultations (Article 36 of the Rules of Procedure of the Council of Ministers).

Guidelines for the conduct of public consultations in the framework of the government legislative process are available in the Public Information Bulletin at the website of the Government Legislation Centre. The guidelines define, inter alia, the rules of conducting public consultations and selected methods thereof. Public consultations can be held in writing (using a dedicated platform for on-line consultations) and in the form of consultation meetings.

When referring a draft government document to public consultations, the initiating body specifies a deadline for issuing a position (Article 40 of the Rules of Procedure of the Council of Ministers).
If the initiating body considers it conducive to adequate conduct of public consultations, it may invite representatives of entities that presented their positions in public consultations to attend a consultation conference with the representatives of the entities that submitted their comments on the draft government document in the framework of reconciliations or opinioning, or organise a separate conference

with the participation of representatives of the entities that presented their opinion in public consultations (Article 47 of the Rules of Procedure of the Council of Ministers).
The initiating body prepares a report from the consultations. Discussion of the results of public consultations and consultations with states the entities that presented their positions or opinions and includes a review of these positions or opinions, as well as the initiating body's reference (Article 51(2) of the Rules of Procedure of the Council of Ministers).
Documents concerning ongoing public consultations are published in the Public Information Bulletin.

Public hearing
According to the Act on lobbying activity in the law-making process, the entity responsible for drafting an ordinance may conduct a public hearing concerning the draft. The information about the date of the public hearing concerning a draft ordinance is published in the Public Information Bulletin at least 7 days before the public hearing. Every entity that notified interest in the work on a draft ordinance at least 3 days before the date of the public hearing has the right to take part in the public hearing (Article 9 of the above-mentioned Act).
After submission of a draft act to the Sejm, a public hearing concerning the draft may be conducted, in line with the rules laid down in the Standing Orders of the Sejm (Article 8 of the said Act).

The obligation to present information on lobbying
The obligations of public authority bodies concerning the activity of entities that engage in lobbying towards these bodies are defined in the Act of 7 July 2005 on lobbying activity in the law-making process (Journal of Laws of 2017, item 248).
Public authority bodies must, without delay, publish in the Public Information Bulletin the information on actions taken towards them by entities carrying out professional lobbying activity and on the solutions expected by those entities (Article 16(1) of the Act on lobbying activity in the law-making process).
Where it has been established that professional lobbying activities are carried out by an entity not entered into the register, the competent public authority body must without delay notify the minister in charge of public administration of that fact (Article 17 of the said Act).

The detailed procedure to be followed by employees of the offices supporting public authority bodies in dealing with entities carrying out professional lobbying activity and with entities carrying out professional lobbying activity without being entered into the register, including the procedure for documenting contacts with such entities, is defined by the head of a given office (Article 16(2) of the said Act).

The heads of offices supporting public authority bodies prepare, once a year by the end of February, information on the actions undertaken towards the authorities in the preceding year by entities carrying out professional lobbying activity. The information must include: specification of issues towards which professional lobbying activity was carried out, indication of the entities that conducted professional lobbying activity, identification of the forms of professional lobbying activity, including information whether it consisted in supporting specific drafts or

acting against them; definition of influence exerted by an entity carrying out professional lobbying activity in the law-making process on a given issue. This information is immediately published in the Public Information Bulletin (Article 18 of the Act on lobbying activity in the law-making process).

Handling of petitions by the bodies

The principles of filing and processing petitions as well as the handling of petitions by the bodies are regulated by the Act of 11 July 2014 on petitions (Journal of Laws of 2017, item 1123).
According to the Act, information concerning petitions filed to public authority bodies is revealed. Information with a scan of a petition, date when it was filed and, if they consent, the name of the person or entity that filed the petition or the entity in the interest of which the petition was filed is immediately published on the website of the entity processing the petition or the office that supports it. The said information in immediately updated with data on the course of the proceedings, in particular on opinions solicited, the planned date and manner of handling the petition (Article 8 of the said Act).

The Sejm adopts the State budget by means of a Budget act (Article 219(1) of the Constitution of the Republic of Poland). As any other act, the budget is public. The principles of and procedure for preparation of a draft State Budget, the level of its detail and the requirements for a draft State Budget, as well as the principles of and procedure for implementation of the Budget, are specified by statute (Article 219(2) of the Constitution of the Republic of Poland).
The Council of Ministers adopts a draft State Budget and supervises the implementation of the State Budget and passes a resolution on the closing of the State's accounts and reports on the implementation of the Budget (Article 146(4)(5) and (6) of the Constitution of the Republic of Poland).
Pursuant to the Act of 27 August 2009 on public finance (Journal of Laws of 2017, item 2077), management of public funds is public. The above principle does not apply to public funds whose origin or purpose was classified on the basis of separate regulations or if it results from international agreements (Article 33 of the above-mentioned Act).
The rule of openness in management of public funds is envisaged inter alia by:

- Openness of the debate on the budget in the Sejm and Senate;
- Openness of the debate on the report on the implementation of the State budget in the Sejm;
- Making the following public: amounts of grants from the State budget, the amounts of grants from State targeted funds, collective data on public finance, information on the implementation of the State budget in subsequent months;
- Making public by public finance sector units information on: the scope of tasks or services performed or rendered by the unit and the amount of public funds provided for their implementation, the rules and terms of rendering services to entitled entities, the rules of paying for the services rendered;
- Making available by public finance sector units a list of entities from outside the public finance sector that received grants from public funds, co-

financing of a task or a loan, or whose debt towards a public finance sector unit was remitted;
- Making available annual reports concerning the finance and operation of organisational units that belong to the public finance sector;
- Making public the content of activity plans, reports on the execution of activity plans, and declarations on the status of management control (Article 34(1) of the above-mentioned Act).

The Minister of Finance makes public a report on the implementation of the budget act, adopted by the Council of Ministers (Article 34(2) of the above-mentioned Act). The Council of Ministers, within the 5-month period following the end of the fiscal year, presents to the Sejm a report on the implementation of the budget act, together with information on the status of the State debt. Within 90 days following receipt of the report, the Sejm considers the report presented to it, and, after seeking the opinion of the Supreme Chamber of Control, passes a resolution on whether to grant or refuse to grant approval of the financial accounts submitted by the Council of Ministers (Article 226 of the Constitution of the Republic of Poland).
The Minister of Finance makes public aggregate data concerning all financial operations of the public finance sector, covering in particular income and expenditure, revenue and spending, liabilities and dues, guarantees and warranties, as well as data concerning the implementation of the State budget for particular months, including the amount of deficit or surplus (Article 36(1) of the above Act).
Public finance sector units keep accounts according to the regulations on accounting, following the principles laid down in the Act on public finance (Article 40(1) of the said Act).

In the light of the above information, it should be stated at the same time that at present a draft act on public life transparency is proceeded in the framework of the government legislative process (as at 15 November 2017 - the draft is in the process of intergovernmental consultation, consultations with interested state holders, and public consultations). According to the justification of the above draft (version as of 23 October 2017), “the main purpose of the planned act is to consolidate transparency of the Polish State. The changes suggested by the act’s initiator assume arrangement of the provisions currently in force, but also introduction of new solutions, unknown in the Polish law to-date. Their common goal is to strengthen the transparency of management of the State and its assets. Thanks to the provisions proposed in the draft, the control of the authorities, both institutional and social, will be strengthened.”
The above-mentioned draft act (version of 23 October 2017) assumes that the act would define inter alia:

1) The rules and procedure of access to information on public affairs;
2) The rules of transparency in the law-making process;
3) The rules and procedure of conducting activity that aims at influencing public authority bodies in the law-making process.

At the same time, the above-mentioned draft act (version of 23 October 2017) provides for revoking inter alia:

1) The Act of 6 September 2001 on access to public information;
2) The Act of 7 July 2005 on lobbying activity in the law-making process.

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

No exemples available.

27. Subparagraph (b) of article 10

Taking into account the need to combat corruption, each State Party shall, in accordance with the fundamental principles of its domestic law, take such measures as may be necessary to enhance transparency in its public administration, including with regard to its organization, functioning and decision-making processes, where appropriate. Such measures may include, inter alia:

...

(b) Simplifying administrative procedures, where appropriate, in order to facilitate public access to the competent decision-making authorities; and

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

See the response to the preceding paragarph

11. Measures relating to the judiciary and prosecution services

30. Paragraph 1 of article 11

1. Bearing in mind the independence of the judiciary and its crucial role in combating corruption, each State Party shall, in accordance with the fundamental principles of its legal system and without prejudice to judicial independence, take measures to strengthen integrity and to prevent opportunities for corruption among members of the judiciary. Such measures may include rules with respect to the conduct of members of the judiciary.

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

See response to the General information section

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

See the response to general information section.

31. Paragraph 2 of article 11

2. Measures to the same effect as those taken pursuant to paragraph 1 of this article may be introduced and applied within the prosecution service in those States Parties where it does not form part of the judiciary but enjoys independence similar to that of the judicial service.

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

Prosecution office has not been addressed by the provisions of the Polish Constitution. The structure, powers and tasks of the prosecution service, as well as its internal rules of governance are regulated by the latest Law on public prosecutor's office (LPO) adopted on 15 January 2016 .

As regards prosecutorial independence Article 7 § 1 LPO provides that when administering the acts specified by laws, a public prosecutor is independent. Certain limitations to that principle have been enshrined in Article 7 § 2-6, and Article 8 LPO.

The limitations consist in obligation of the public prosecutor to enforce dispositions, guidelines and orders of a superior public prosecutor. An order concerning the content of an act in court proceedings is given by a superior public prosecutor in writing and, if requested by the public prosecutor, with a statement of reasons. Should there be an obstacle to communicating the order in writing, it is allowed to give the order orally, the superior being nevertheless obliged to confirm it in writing as soon as possible. The order is included in the public prosecutor's own documentation of the case. Should a public prosecutor not agree with an order concerning the content of an act in court proceedings, he/she can request the order to be changed or himself/herself to be excluded from administering the act or from participating in the case. The exclusion is finally adjudicated by the public prosecutor who is the immediate superior of the public prosecutor who has given the order.
If any new circumstances emerge in court proceedings, the public prosecutor makes the decisions related to the further course of the proceedings independently. If the decision may result in a need to incur expenses exceeding the amount specified by the organizational body's head, the public prosecutor may make the decision after obtaining the approval of the organizational body's head.
A superior public prosecutor has the right to change or revoke a decision of a subordinate public prosecutor. A change or revocation of a decision must be made in writing and is included in the dossier of the case. A change or revocation of a decision that has been served to the parties, their representatives or defense counsel and other authorized persons may only be made in accordance with the procedure and principles specified by the law.

The issues of code of conduct and disciplinary mechanism have been addressed

above in the responses concerning Article 8, paragraph 6.

The issue of training requirements for members of the prosecution service have been addressed above in the response concerning Article 6 paragraph 1,

The Issues of asset declaration have been addressed above in the response concerning Article 8, paragraph 5.

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

Examples of breaching of a prosecutorial code of conduct which led to the application of disciplinary measures have been presented on pages 20-23

Cases in which members of the prosecution service have been subject to criminal proceedings as a result of alleged acts of corruption.

I. A case handled by the Silesian Local Department for Organized Crime and Corruption of the national Prosecutor's Office

On April 4, 2017, the prosecutor of the Silesian Local Division of the Department for Organized Crime and Corruption in Katowice filed an indictment with the District Court in Rzeszów against Anna H. the former Appellate Prosecutor in Rzeszów. She was accused among others of two corrupt acts, qualified under art. 228 § 1 of the Criminal Code (passive corruption) and art. 230 § 1 of the Criminal Code (trading in influence). Both criminal offences were committed in 2010 - 2012 in connection with the performed function of the Appellate Prosecutor. Anna H. was charged of accepting personal benefits in exchange for handling future cases in a favorable way for identified persons, for exerting influence on the prosecutors of the subordinate District Prosecutor's Office in four preparatory proceedings and 2 court proceedings and for settling matters (tax and examination proceedings) in state and local government institutions, including the Examination Committee for the Bar Examination and the Tax Chamber.

The court trial against Anna H. is pending.

II. A case handled by the Wielkopolski Local Department for Organized Crime and Corruption of the National Prosecutor's Office.

On July 26, 2017, the Prosecutor of the Wielkopolski Local Department for Organized Crime and Corruption of the National Prosecutor's Office in Poznań filed the indictment against Sebastian Z. with the District Court in Poznań. Sebastian Z. holding a position of a prosecutor in one of the District's Prosecution Offices was charged for committing criminal offences qualified under art. 231 § 2 of the Criminal Code (abuse of power), art. 286 § 1 of the Criminal Code (fraud) art. 228 § 4 of the Criminal Code (soliciting a bribe) Frauds consisted in swindling or attempting to swindle money as alleged fees related to the pre-trial proceedings

conducted or supervised by the prosecutor's office. Charges of soliciting bribes concerned the demands of payments in exchange for the performance of a service activity, e.g. for the return of a driving license seized in the course of the proceedings.

Statistics regarding number of reports of corruption in prosecution service received and number of investigation

In years 2015-2017, 160 reports of alleged corruption among prosecutors were submitted. As a result of conducted investigations, four prosecutors were accused of corruption.

32. Technical Assistance

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

Please outline actions required to ensure or improve the implementation of the article under review and describe any specific challenges you might be facing in this respect.

Do you require technical assistance for the implementation of this article? If so, please specify the forms of technical assistance that would be required. For example:

(NO) No assistance would be required

Is any technical assistance already being provided to you? If so, please provide a general description of the nature of the assistance, including donor information.

12. Private sector

33. Paragraphs 1 and 2 of article 12

1. Each State Party shall take measures, in accordance with the fundamental principles of its domestic law, to prevent corruption involving the private sector, enhance accounting and auditing standards in the private sector and, where appropriate, provide effective, proportionate and dissuasive civil, administrative or criminal penalties for failure to comply with such measures.

2. Measures to achieve these ends may include, inter alia:
(a) Promoting cooperation between law enforcement agencies and relevant private entities;
(b) Promoting the development of standards and procedures designed to safeguard the integrity of relevant private entities, including codes of conduct for the correct, honourable and proper performance of the activities of business and all relevant professions and the prevention of conflicts of interest, and for the promotion of the use of good commercial practices among businesses and in the contractual relations of businesses with the State;
(c) Promoting transparency among private entities, including, where appropriate, measures regarding the identity of legal and natural persons involved in the establishment and management of corporate entities;
(d) Preventing the misuse of procedures regulating private entities, including procedures regarding subsidies and licences granted by public authorities for commercial activities;
(e) Preventing conflicts of interest by imposing restrictions, as appropriate and for a reasonable period of time, on the professional activities of former public officials or on the employment of public officials by the private sector after their resignation or retirement, where such activities or employment relate directly to the functions held or supervised by those public officials during their tenure;
(f) Ensuring that private enterprises, taking into account their structure and size, have sufficient internal auditing controls to assist in preventing and detecting acts of corruption and that the accounts and required financial statements of such private enterprises are subject to appropriate auditing and certification procedures.

Is your country in compliance with these provisions?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with these provisions of the Convention.

Referring to the issue of conformity of Polish legislation with the said provision of the Convention, it should be pointed out that this compliance is ensured by art. 7 par. 1 of the Act of 21 August 1997 on the limitation of the performance of commercial activity by persons fulfilling public functions.

This provision applies to:

1) persons holding managerial positions within the meaning of the Act on the remuneration of persons holding managerial positions, i.e. the President of Poland, the Speaker of the Sejm, the Speaker of the Senate, Prime Minister, Deputy Speakers of the Sejm and Senate, Deputy Prime Minister, President of the Supreme Audit Office, President of the Constitutional Tribunal , Minister, President of the National Bank of Poland, Ombudsman, Children's Rights Ombudsman, Inspector General for Personal Data Protection, President of the Institute of National Remembrance - Commission for the Prosecution of Crimes Against the Polish Nation, Chairman of the National Council of Radio and Television, President of the State Treasury, vice-president of the Constitutional Tribunal, Vice

President of the Supreme Audit Office, Head of the Sejm Chancellery, Head of the Senate Chancellery, Deputy Chief of the Chancellery of the Sejm, Deputy Chief of the Chancellery of the Senate, Chief of the Chancellery of the Prime Minister, Chief Labor Inspector, Deputy Chief Labor Inspector, Head of the National Electoral Office, Minister of State, Chief of the Chancellery of the President, Deputy Chief of the Chancellery of the President, deputy prosecutor general, vice president of the State Treasury's General Prosecutor's Office, President of the Polish Academy of Sciences, secretary of state, member of the National Council of Radio and Television, first deputy of the President of the National Bank Polish Undersecretary of State (Deputy Minister), Deputy President of the National Bank of Poland, Secretary of the Committee for European Integration, Deputy Ombudsman, Deputy General Inspector of Personal Data Protection, Insurance Ombudsman, head of the central office, Vice President of the Polish Academy of Sciences, voivode, deputy head of the central office, deputy chairman ;

2) judges of the Constitutional Tribunal;

3) employees of state offices, including members of the civil service corps, holding managerial positions:

   a) a director general, a director of a department (an equivalent unit) and his deputy as well as a head of a department (an equivalent unit) - in supreme offices and central state organs,

   b) the general director of the voivodship office, the director of the department (equivalent unit) and his deputy and the chief accountant - in the field offices of the general government administration,

   c) the head of the office and his deputy - in the field offices of the governmental bodies of the special administration;

4) employees of state offices, including member of civil service, holding positions equivalent in terms of wages with the positions mentioned in point 3;

5) other than those listed in points 3 and 4 of the members of civil service employed in the office of the minister competent for public finances;

6) other than those listed in points 3 and 4 of the members of civil service employed in the organizational units of the National Fiscal Administration;

7) the director general of the Supreme Audit Office and employees of the Supreme Audit Office supervising or performing control activities;

8) mayors (mayors, city presidents), deputy mayors (mayors, city presidents), treasurers of communes, secretaries of communes, heads of commune organizational units, managers and members of governing bodies of communal legal persons and other persons issuing administrative decisions

on behalf of the commune head or mayor or the city president;

9) members of county management boards, treasurers of county, county secretaries, heads of organizational units of the county, managers and members of management bodies of county legal persons and other persons issuing administrative decisions on behalf of the foreman;

10) members of voivodship management boards, treasurers of voivodships, heads of provincial self-government organizational units, managers and members of management bodies of voivodship legal persons and other persons issuing administrative decisions on behalf of the voivodship marshal;

11) members of the board of the metropolitan union, the treasurer of the metropolitan union and the secretary of the metropolitan union.

The abovementioned persons, within a year of finished of holding their position or perform a function, may not be employed or engage in other activities with an entrepreneur, if they participated in issuing a decision in individual cases concerning that entrepreneur. The scope of the prohibition under art. 7 (1) does not apply to administrative decisions regarding the determination of the tax and local fees pursuant to separate regulations. However, this rule does not apply to decisions regarding tax deductions and exemptions in these taxes or fees. Employment contrary to the prohibition is an offense under art. 15 of the Act, at risk of arrest or fine.

In justified cases, consent to employment before the end of the year may be expressed by the Commission examining applications for consent to the employment of persons who performed public functions at the Prime Minister. The Committee considers cases in three-person composition - the provisions of the Code of Administrative Proceedings shall apply to proceedings before the Commission.

Consent may not apply to:

– President of the Republic of Poland,
– Speaker of the Sejm and deputy speakers,
– Speaker of the Senate and deputy speakers,
– the Prime Minister and vice presidents,
– Head of the Chancellery of the Sejm,
– Head of the Chancellery of the Senate,
– President of the Supreme Audit Office,
– General Prosecutor,
– Ombudsman,
– President of the Supreme Administrative Court,
– First President of the Supreme Court,
– President of the Supreme Court,
– President of the National Bank of Poland, his first deputy and vice-president of

the National Bank of Poland,
– President of the National Council of Radio Broadcasting and Television,
– Chief Labor Inspector,
– President of the Polish Academy of Sciences,
– Head of the National Electoral Office,
– Insurance Ombudsman.

Art. 296a. § 1. Whoever in charge of a managerial function in an organisational unit carrying out business activity or having employment relationship, or contract of mandate, or contract for a specific task demands or accepts material or personal benefits or a promise of the same in return for the abuse of granted powers or failing to fulfil a duty assigned to such person that may inflict material damage on such unit or may constitute an act of unfair competition or inadmissible act of preference in favour of a buyer, or a recipient of goods, services or other performance

shall be subject to the penalty of the deprivation of liberty for a term of between 3 months and 5 years.

§ 2. The same penalty shall be imposed on a person who in cases specified in § 1 provides or promises to provide material or personal benefits.

§ 3. In the event of a lesser significance the perpetrator of the act specified in § 1 or 2

shall be subject to a fine, the penalty of restriction of liberty or the penalty of deprivation of liberty for up to 2 years.

§ 4. In the event that the perpetrator of the act specified in § 1 causes considerable material damage, the perpetrator

shall be subject to the penalty of the deprivation of liberty for a term of between 6 months and 8 years.

§ 5. The perpetrator of the act specified in § 2 or in § 3 in conjunction with § 2 shall not be subject to a penalty if the material or personal benefits or the promise of the same have not been accepted and the perpetrator notified on such fact a body entitled to prosecute and revealed all essential circumstances before such body was notified on this act.

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

In years 2015-2017, the public prosecutor's offices conducted 227 investigations into alleged corruption in a privet sector. As a result of them, 89 people were accused of corruption and 39 were convicted. 78 cases were finalized with decisions of discontinuation of investigation.

No legal entity was held liable for corruption in a private sector.

34. Paragraph 3 of article 12

3. In order to prevent corruption, each State Party shall take such measures as may be necessary, in accordance with its domestic laws and regulations regarding the maintenance of books and records, financial statement disclosures and accounting and auditing standards, to prohibit the following acts carried out for the purpose of committing any of the offences established in accordance with this Convention:

(a) The establishment of off-the-books accounts;

(b) The making of off-the-books or inadequately identified transactions;

(c) The recording of non-existent expenditure;

(d) The entry of liabilities with incorrect identification of their objects;

(e) The use of false documents;

(f) The intentional destruction of bookkeeping documents earlier than foreseen by the law.

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

see response to preceding paragraph

35. Paragraph 4 of article 12

4. Each State Party shall disallow the tax deductibility of expenses that constitute bribes, the latter being one of the constituent elements of the offences established in accordance with articles 15 and 16 of this Convention and, where appropriate, other expenses incurred in furtherance of corrupt conduct.

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

See the response to the paragraph 1

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

See the response to the paragraph 1

36. Technical Assistance

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

Please outline actions required to ensure or improve the implementation of the article under review and describe any specific challenges you might be facing in this respect.

No example availabe.

Do you require technical assistance for the implementation of this article? If so, please specify the forms of technical assistance that would be required. For example:

(NO) No assistance would be required

Is any technical assistance already being provided to you? If so, please provide a general description of the nature of the assistance, including donor information.

13. Participation of society

37. Paragraph 1 of article 13

1. Each State Party shall take appropriate measures, within its means and in accordance with fundamental principles of its domestic law, to promote the active participation of individuals and groups outside the public sector, such as civil society, non-governmental organizations and community-based organizations, in the prevention of and the fight against corruption and to raise public awareness regarding the existence, causes and gravity of and the threat posed by corruption. This participation should be strengthened by such measures as:
(a) Enhancing the transparency of and promoting the contribution of the public to decision-making processes;
(b) Ensuring that the public has effective access to information
(c) Undertaking public information activities that contribute to non-tolerance of corruption, as well as public education programmes, including school and university curricula;
(d) Respecting, promoting and protecting the freedom to seek, receive, publish and disseminate information concerning corruption. That freedom may be subject to certain restrictions, but these shall only be such as are provided for by law and are necessary:
(i) For respect of the rights or reputations of others;
(ii) For the protection of national security or ordre public or of public health or morals.

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

Implementing GACP's provisions for the years 2014-2019, the Central Anti-Corruption Bureau (CBA) has undertaken activities aimed at developing a recommendation for dealing with the clerk-client and uniform organizational standards in public offices. Therefore a questionnaire was prepared on the subject of existing anti-corruption solutions and known corruption risks that were sent out to over 3 000. entities - all ministries and subordinate units, central offices, voivodship and marshal offices and local government units. To analyze the statistical data collected in the survey, the Academic Foundation IPSO ORDO was selected, which prepared a general statistical analysis and a preliminary qualitative analysis. On this basis, the publications was prepared on the rules of conduct for persons exposed to corruption, creation of guidelines for uniform anti-corruption organizational standards in offices and recommendations for their implementation in all offices in the country.

An important initiative to facilitate citizens' contact with the CBA's officers to report corruption was established of a free CBA line in December 2010 (800 808 808), sygnal@cba.gov.pl

Currently applications to the CBA are sent by correspondence via a free hotline and e-mail. You can also inform about irregularities personaly in one of the eleven CBA's district departments.

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

CBA and the Center for Education Development (ORE), as part of the agreement signed in March 2014, carried out a pilot project of the educational project called *Ethics not only for a tyke.* The cooperation mainly involved conducting trainings for coordinators and regional leaders in the field of anti-corruption issues, developing a guide for teachers and launching an e-learning platform. The project was aimed at teachers and pupils of primary school, as well as parents and local communities. Almost 220 schools took part in it, over 27 500 pupils were trained. 90% of teachers using the program have observed at least partial changes in pupils' attitudes and behavior. On June 12, 2015, a conference summarizing the pilot project took place, and the project itself ended in August 2015. With a view to counteracting corruption, the Central Anti-Corruption Bureau (CBA) also carried out a social campaign "*Corruption, how much you pay for it*" from November 22, 2012 to January 17, 2013. The CBA's partners were: Anti-Corruption Coalition of Non-Governmental Organizations (AKOP), Customs Service, Ministry of the Interior and Ministry of Sport and Tourism. Nearly a two-month campaign was to inform citizens why it is not worth giving bribes.

38. Paragraph 2 of article 13

2. Each State Party shall take appropriate measures to ensure that the relevant anti-corruption bodies referred to in this Convention are known to the public and shall provide access to such bodies, where appropriate, for the reporting, including anonymously, of any incidents that may be considered to constitute an offence established in accordance with this Convention.

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

See the response to preceding paragraph.

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

See the response to preceding paragraph.

39. Technical Assistance

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

Please outline actions required to ensure or improve the implementation of the article under review and describe any specific challenges you might be facing in this respect.

Do you require technical assistance for the implementation of this article? If so, please specify the forms of technical assistance that would be required. For example:

(NO) No assistance would be required

Is any technical assistance already being provided to you? If so, please provide a general description of the nature of the assistance, including donor information.

14. Measures to prevent money-laundering

40. Subparagraph 1 (a) of article 14

1. Each State Party shall:
(a) Institute a comprehensive domestic regulatory and supervisory regime for banks and non-bank financial institutions, including natural or legal persons that provide formal or informal services for the transmission of money or value and, where appropriate, other bodies particularly susceptible to money-laundering, within its competence, in order to deter and detect all forms of money-laundering, which regime shall emphasize requirements for customer and, where appropriate, beneficial owner identification, record-keeping and the reporting of suspicious transactions;

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

The Polish system of counteracting money laundering is regulated by the Act of 1 March 2018 on counteracting money laundering and terrorist financing (hereinafter the Act). The Act entered into force on 13 July 2018. Information provided below reflect the current, new legal framework however the statistics quoted refer to and stem from the previous regulations.

According to the Act the coordinating role in the system plays the General Inspector of Financial Information (GIFI).

The GIFI is appointed and dismissed by the Prime Minister at the request of the minister competent for public finance after seeking the opinion of the minister - member of the Council of Ministers competent for coordination of the activity of special forces. The GIFI is ranked as Secretary or Undersecretary of State in the Ministry of Finance.

In the performance of its tasks the GIFI is supported by the Department of Financial Information of the Ministry of Finance, which acts as the Polish Financial Intelligence Unit (PFIU).

The system of combating money laundering and the financing of terrorism in Poland except from GIFI covers also:
- obligated institutions (inter alia: banks, financial institutions, cooperative savings and credit unions, payment institutions, electronic money institutions, offices of payment services and clearing agents, investment firms, custodian banks, foreign legal entities pursuing brokerage activities, investment funds, insurance companies, insurance intermediaries, currency exchangers, platforms of virtual currencies, exchangers between virtual currencies and means of payment, exchangers between virtual currencies, intermediators in those exchanges, notaries, attorneys, legal advisers, foreign lawyers, tax advisers, accountants, intermediaries in real estate trading, postal operators, entities pursuing activities in the scope of games of chance, betting, card games and gaming on low-value-prize machines, foundations, associations, entrepreneurs

who accept or make cash payments for goods of the total value equal to or exceeding the equivalent of 10,000 EUR).

The complete list of the obligated institutions is prescribed in Article 2 (1) of the Act.

Duties imposed on the obligated institutions cover inter alia: recognising and documenting the recognised risk of money laundering, submitting a form identifying the institution as obligated institution to the GIFI, applying customer due diligence measures (including enhanced CDD), providing the GIFI with the information on transaction exceeding 15000 EUR, notifying the GIFI of circumstances which may indicate the suspicion of money laundering, suspending transaction and blocking the account for the request of the GIFI in case the specific transaction or the specific assets may be associated with money laundering, submitting on the request of GIFI any information or documents for AML purposes, keeping the relevant documents for a period of five years, introducing internal AML procedures, including internal procedures of anonymous reporting of real or potential infringements of the AML provisions, ensuring confidentiality of the fact of submitting reports on transactions which might be related to money laundering to the GIFI or other competent authorities, ensuring the participation of employees in AML training programmes.

Some categories of obligated institutions are required to notify the competent prosecutor
of reasonable suspicion that the specific assets originate from a crime other than money laundering (or terrorist financing or a fiscal crime).

- cooperating units (government and local government authorities and other state organisational units as well as the National Bank of Poland, the Polish Financial Supervision Authority and the Supreme Audit Office).

The cooperating units are obliged to elaborate the instructions concerning the procedure in case
of suspected committing of money laundering. They are also obliged to immediately inform the GIFI of the suspicion and provide any information or documents held on request of the GIFI.

The PFIU verifies the reported suspected cases of money laundering on the grounds of information gathered from obligated institutions, cooperating units, as well as foreign partners. In case
of justified suspicion of money laundering it forwards it to the Prosecutor's Office which in cooperation with the law enforcement authorities undertakes actions aiming at completing the indictment against the suspects.

The Prosecutors' Offices advise the GIFI on all cases of issuing a decision concerning the account blockage or suspension of transaction, institution of proceedings, presentation of charges and bringing an indictment in cases related to money laundering (also when the proceedings were initiated on information from other resources than the GIFI).

In the event of acquiring a justified suspicion of committing an offence other than money laundering (or terrorist financing), the GIFI shall provide information justifying such suspicion to the competent bodies for the purpose of undertaking activities resulting from their statutory duties.

The effectiveness of the AML system is reinforced by the control of the performance of tasks resulting from the Act. The control is exercised by the PFIU and other authorities supervising the obligated institutions.

By reason of the transnational dimension of money laundering and the financing of terrorism crimes the Polish FIU exchanges information with foreign financial intelligence units. The exchange so far was effected either on the basis of bilateral agreements concluded between the GIFI and its forppeign counterparts or on the basis of the Council Decision 2000/642/JHA concerning arrangements for cooperation between financial intelligence units in respect of exchanging information.

Additionally, in order to improve the quality of the system and aiming to deliver new solutions, the Polish Financial Intelligence Unit actively participates in the works of international institutions and organizations, focused on combating money laundering and financing of terrorism.

SAR (Suspicious Activity Reports) are the descriptive notifications of suspicious activities and transactions, which are included in analytical proceedings conducted by the GIFI. The notifications contain a description of a few, several or even several hundred transactions (related to each other through parties to transactions, circumstances of conducting a transaction, similar execution period and/or involvement of the same asset values) and accompanying circumstances which in the opinion of the notifying authority/unit may be related to money laundering or terrorist financing. Common components of these notifications often include additional data and documents justifying the suspicion and aiming at facilitating the proceedings (e.g., account records, copies of documents related to the transactions, etc.).

STR (Suspicious Transaction Reports) are pieces of information from the obligated institutions, concerning single transactions where circumstances may indicate association with money laundering.

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

Table no. 1 - Number of SARs received in the period of 2014-2017.

Period	Obligated institutions	Cooperating units	Other sources	Total
2014	2,739	823	75	3,637
2015	2,863	604	53	3,520
2016	3,290	853	55	4,198
2017	3,272	796	47	4,115

SAR (Suspicious Activity Reports) are the descriptive notifications of suspicious activities and transactions, which are included in analytical proceedings conducted by the GIFI. The notifications contain a description of a few, several or even several hundred transactions (related to each other through parties to transactions,

circumstances of conducting a transaction, similar execution period and/or involvement of the same asset values) and accompanying circumstances which in the opinion of the notifying authority/unit may be related to money laundering or terrorist financing. Common components of these notifications often include additional data and documents justifying the suspicion and aiming at facilitating the proceedings (e.g., account records, copies of documents related to the transactions, etc.).

Table no. 2 - Number of STRs received in the period of 2014-2017.

Period	Numer of transactions
2014	24868
2015	40331
2016	36,756
2017	62,103

STR (Suspicious Transaction Reports) are pieces of information from the obligated institutions, concerning single transactions where circumstances may indicate association with money laundering.

Table no. 3 - Number of reports on transactions above threshold received in the period of 2014-2017.

Period	Numer of transactions
	in milions
2014	28,0
2015	29,0
2016	31,9
2017	34,6

The reports on above threshold transactions cover all transactions with the value exceeding EUR 15,000 (or EUR 1,000 in the case of certain types of obligated institutions), regardless if it is conducted by more than one operation.

Table no. 4 - Number of controls of obligated institutions conducted by the supervisory authorities in the period of 2014-2017.

Period	The GIFI	National Bank	National cooperative Financial	Presidents	Heads	Treasury	Customs	
		of	savings	Supervision	of Appellate	of Customs	Control	
		Poland	and Credit Union	Authority	Courts	Offices	Offices	
2014	12	1285	13	47	96	58	53	
2015	10	1232	20	43	142	34	66	
2016	15	895	13	44	165	36	78	
2017	25	656	9	39	171	2	4	

The procedures for the imposition of fines on the obligated institutions for irregularities
in performing the obligations are conducted based on the provisions of the Code of Administrative Procedure. The imposition of fines lies within the competence of the GIFI. While determining the amount of a fine, the GIFI takes into consideration the type and extent of the violation, the previous activity of the institution, and the financial capability thereof.

Some offences provided for in the AML legislation are sanctioned by criminal penalties of fines or imprisonment. In 2016 the GIFI submitted 8 notifications to the prosecutor’s office concerning committing offences referred to in the AML

legislation. In 2017 there were 18 such notifications.

The below tables present the results of the analytical proceedings conducted by the GIFI based on the information acquired:

Table no. 5 - Number of notifications submitted by the GIFI to prosecutor's offices in the period of 2015-2017.

Period	Number of main notifications	Number of supplementary notifications
2015	184	214
2016	202	200
2017	171	169

Table no. 6 - Number of accounts blocked by the GIFI in the period of 2015-2017.

Period	Number of main notifications
2015	339
2016	325
2017	351

Table no. 7 - Number of suspended transactions in the period of 2015-2017.

Period	Number of main notifications
2015	40
2016	22
2017	21

Classification of asset values deposited on blocked accounts or being subject to suspended transactions shows that in 2017 it was PLN 4.1 million out of total PLN 143,6 million related to the predicate offence of corruption.

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41. Subparagraph 1 (b) of article 14

1. Each State Party shall:

...

(b) Without prejudice to article 46 of this Convention, ensure that administrative, regulatory, law enforcement and other authorities dedicated to combating money-laundering (including, where appropriate under domestic law, judicial authorities) have the ability to cooperate and exchange information at the national and international levels within the conditions prescribed by its domestic law and, to that end, shall consider the establishment of a financial intelligence unit to serve as a national centre for the collection, analysis and dissemination of information regarding potential money-laundering.

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

The possibility for the authorities dedicated to combating money laundering to cooperate and exchange information at the national and international level is provided for in the Act.

According to its provisions on request of the GIFI, cooperating units within the scope of their statutory competence provide any information or documents held. The cooperating units are also obliged to immediately inform the GIFI of any suspected committing of money laundering. The GIFI may conclude agreements with cooperating units, defining technical conditions of providing information or documents.

On the other hand the GIFI is obliged to make available the possessed information on written and justified request of agencies enumerated in the Act. In the event of acquiring a justified suspicion of committing an offence other than money laundering (or terrorist financing), the GIFI provides information justifying such suspicion to the competent bodies.

The system of counteracting money laundering and financing of terrorism in Poland is created by:

- ⇒ GIIF - the Polish FIU;
- ⇒ obligated institutions (ie entities from both the financial and non-financial sectors that offer services or products that may be used against their purpose for money laundering or terrorist financing: banks, insurance and life insurance companies, investment funds, factoring and leasing companies, payment institutions; Legal professions - notaries, lawyers, auditors and tax advisers, real estate agents, etc.).
- ⇒ cooperating units (government administration bodies, local government bodies and other state organizational units, as well as The National Bank of Poland, the Polish Financial Supervision Authority and The Supreme Audit Office.
- ⇒ Polish Law Enforcement Authorities (Prosecutor, National Fiscal

Administration (previous Customs Service, Tax Administration and Fiscal Control), Central Anticorruption Bureau, National Internal Agency, Polish Border Guards, Police (included Police Central Bureau of Investigation - PCBI).

⇒ FIU in other countries.

The PFIU is the member of the Egmont Group and exchanges information with foreign FIUs through the Egmont Secure Web. Another channel used for the exchange of information with EU FIUs is the FIU.Net. Information and documents in the possession of the PFIU are made available to foreign FIUs on reciprocity basis. The PFIU may also exchange information related to money laundering with the Europol. The GIFI may also acquire and make information available to other competent authorities of foreign countries, foreign institutions and international organisations dealing with counteracting money laundering (and terrorist financing) as well as with the European supervision authorities.

In order to implement the cooperation, the GIFI can enter into agreements with foreign counterparts defining the procedure and the technical terms of acquiring and making information available.

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

Representative of Police Central Bureau of Investigation (PCBI) is an appropriate expert of the EMPACT Criminal Finances project, established as part of the EU Security Policy Cycle for 2018-2021.

For more information on the PFIU, please refer to information delivered under Article 14 subparagraph 1a and under Article 58.

42. Paragraph 2 of article 14

2. States Parties shall consider implementing feasible measures to detect and monitor the movement of cash and appropriate negotiable instruments across their borders, subject to safeguards to ensure proper use of information and without impeding in any way the movement of legitimate capital. Such measures may include a requirement that individuals and businesses report the cross-border transfer of substantial quantities of cash and appropriate negotiable instruments.

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

The Polish cross-border cash declaration system bases on the Regulation (EC) No 1889/2005
of the European Parliament and the Council of 26 October 2005 on controls of cash entering
or leaving the Community. According to the Act the Border Guard bodies and the heads of customs and tax control offices provide the GIFI with the information arising from declarations of cross-border cash transportation across the EU border.

The Polish Act of 10 September 1999 Penal Fiscal Code states that failing to report to customs
or Border Guard authorities incoming or outgoing cross-border transportation of foreign exchange values or national means of payment or providing false information in the report, is subject
to a fine for fiscal offenses (up to 20 times of the minimum wage).

In the case of incoming and outgoing cross-border transportation of currency in the amount equal to or exceeding 10,000 euro in cash, this fact must be reported when crossing the border to customs or Border Guard authorities. For this purpose, a cash claim form should be completed in duplicate, which should be stamped and signed by a customs and tax officer or Border Guard.
The declaration should include: Polish and foreign means of payment, i.e. currency (banknotes and coins) that are legal payment means in a country (also those withdrawn from circulation but subject to exchange); payment and transferable instruments, such as: checks, travelers' checks, bills of exchange and money orders; foreign exchange gold and platinum, coins minted after 1850, and also semi-finished products, except those used in dental technology and gold and platinum items usually not produced from these metals.
In Poland, the obligation to report funds also applies to travelers with the status of residents and non-residents crossing the border between the Poland and other EU Member States (internal borders - within the Community), with the exception of travelers crossing internal borders with other EU Member States, which also belong to the Schengen area.
Failure to notify the import of payment means to Poland or provide false data in the declaration, and also if it is not presented to the customs authorities or Border Guard authorities for inspection, shall be subject to a fine for fiscal offense.

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

In 2017 the GIFI received information on 11.8 thousand cash transportation declarations (in 2016 - 8.7 thousand, in 2015 - 6,6 thousand cash transportation declarations), contained in 7.1 thousand of cash declaration forms (in 2016 - 6 thousand cash declaration forms, in 2015 - 6,2 thousand cash declaration forms).

According to the data submitted in 2017 - 10,221 (in 2016 - 7,572, in 2015 - 5,587) notifications referred to cash import declarations to the territory of the EU and 801 (in 2016 - 698, in 2015 - 630) notifications were related to cash export declarations from the territory of the EU. The GIFI also received information concerning 476 (in 2016 - 414, in 2015 - 374) notifications arising from declarations of cash transfer between the EU Member States and 281 (in 2016 - 65, in 2015 - 54) declarations of cash transfer between non-EU countries. The total value of amounts declared are presented below:

1) The total amount in PLN calculated based on the annual average exchange rate of a given currency for the funds declared as entering the EU:

- PLN 545,8 million in 2015,
- PLN 830,9 million in 2016,
- PLN 1,154 million in 2017,

2) The total amount in PLN calculated based on the annual average exchange rate of a given currency for the funds declared as leaving the EU:

- PLN 96,4 million in 2015,
- PLN 120,2 million in 2016,
- PLN 155,3 million in 2017.

43. Paragraph 3 of article 14

3. States Parties shall consider implementing appropriate and feasible measures to require financial institutions, including money remitters:

(a) To include on forms for the electronic transfer of funds and related messages accurate and meaningful information on the originator;

(b) To maintain such information throughout the payment chain; and

(c) To apply enhanced scrutiny to transfers of funds that do not contain complete information on the originator.

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

In Poland the rules defined in Regulation (EU) 2015/847 of 20 May 2015 on information accompanying transfers of funds apply. They lay down the rules on the information accompanying transfers of funds with relation to the payer and the payee (thereby implementing FATF Recommendation 16 on wire transfers and ensuring the traceability of payment transactions).

The general rules provide that the payment service provider of the payer shall ensure that transfers of funds are accompanied by the following information: (a) the name of the payer and payee; (b) the payer's and payee's payment account number; and (c) the payer's address, official personal document number, customer identification number or date and place of birth.

The payment service provider of the payee (as well as the intermediary payment service provider) is obliged to detect whether information on the payer and the payee is missing and whether they have been filled in using admissible characters or inputs. The payment service provider of the payee is also obliged to implement effective risk-based procedures for determining whether to execute, reject or suspend a transfer of funds lacking the required complete payer and payee information and for taking the appropriate follow-up action.

The records of information on the payer and the payee may be kept by the payment service providers for a period of 5 years and may be extended for a further period of 5 years where the necessity and proportionality of such further retention has been established for the prevention, detection, investigation or prosecution of suspected money laundering (or terrorist financing).

The provisions of Regulation 2015/847 are not applicable to transfers of funds for the supply of goods or services, if the payee's provider of payment services can monitor, by means of a unique transaction identifier, the transfer of funds or the amount of the transfer of funds due to payment of the supply of goods or services does not exceed the equivalent of EUR 1000.

Any obligated institution which fails to fulfil the obligation to ensure that the transfer of funds is accompanied by information on the payer or the payee or implement the procedures to detect the absence of information on the payer or the payee referred to in the Regulation 2015/847 shall be subject to administrative penalty.

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

No example available.

44. Paragraph 4 of article 14

4. In establishing a domestic regulatory regime and supervisory regime under the terms of this article, and without prejudice to any other article of this Convention, States Parties are called upon to use as a guideline the relevant initiatives of regional, interregional and multilateral organizations against money-laundering.

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

The Act adapts Polish legal framework to revised FATF recommendations (as well as to the provisions of EU Directive 2015/849 - 4th AMLD). The Act also takes into account recommendations addressed to the national system of counteracting money laundering and terrorism financing by MONEYVAL, included in the 2013 report from the evaluation of the Polish system of counteracting money laundering and the financing of terrorism. The current guidelines provided by the FATF as well as guidance issued by European supervisory authorities (ESAs) (the European Banking Authority - EBA, the European Securities and Markets Authority - ESMA, the European Insurance and Occupational Pensions Authority - EIOPA) are constantly applied and were considered when drafting the new AML legislation.

Poland was evaluated in the 4th Round of Evaluations of MONEYVAL in May 2012. The 4th Round Evaluation Report was adopted at the 41st MONEYVAL plenary meeting (in April 2013), which placed Poland into regular follow-up. Due to the delays in adopting new AML legislation the first step of Compliance Enhancing Procedure was applied against Poland in 2017. Progress made on most of the core and key FATF recommendations allowed Poland in 2018 to step out the Compliance Enhancing Procedure. Since July 2018 Poland is obliged to report to MONEYVAL on progress in implementing the FATF recommendations according to regular follow up rules.

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

case examples available in other reports in this regard

45. Paragraph 5 of article 14

5. States Parties shall endeavour to develop and promote global, regional, subregional and bilateral cooperation among judicial, law enforcement and financial regulatory authorities in order to combat money-laundering.

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

The GIFI actively participates in the works of numerous international fora devoted to combating money laundering.

In 2017 it actively participated in the meetings of the EU bodies - Expert Group on Money Laundering and Terrorism Financing, EU-FIU Platform meetings (including FIU.NET Advisory Group and newly established Working Group for the Development of the FIU.NET network) getting involved in the matters discussed by that groups. A GIFI representative is the chairman of the project group for the promotion and development of the technology for anonymous data matching, by financial intelligence units (so-called ma3tch) consisting of representatives of European FIUs, Europol and the European Commission.

Poland actively participates in the works on the MONEYVAL Committee. The permanent Polish delegation consisting of representatives of the GIFI, the Financial Supervision Authority and the National Prosecutor's Office. The representative of the GIFI is one of the Vice-Chairpersons of the MONEYVAL Committee. Three representatives of Poland took part as evaluators in the evaluation missions conducted by MONEYVAL Committee under the 5th round of mutual evaluations. Poland also actively participates in the works of another FATF-style regional body, which is the Eurasian Group on combating money laundering and financing of terrorism (EAG).

Over the recent years, the Polish FIU has been actively involved in the works of the EGMONT Group. Last year, a representative of the GIFI participated in the project team which prepared a new version of the Egmont Group questionnaire (Egmont Biennial Census). The PFIU cooperated under other projects related to, inter alia, virtual currencies or problems related to identification of a beneficial owner.

The GIFI also cooperates with the FATF by involvement in the actions promoted and arranged by the FATF in cooperation with the MONEYVAL Committee and the European Commission including its subordinated bodies. GIFI representatives, as members of the MONEYVAL delegation, participated in meetings of working groups and plenary FATF meetings held three times last year. This enabled the participation in the works concerning evaluation reports of FATF member states, created a possibility to issue opinions on the amendments to individual Recommendation

and the FATF Methodology and allowed the GIFI to engage in projects and initiatives implemented by this organisation. GIFI representatives also participate in a number of thematic events organised by the FATF,among others, in the meeting of experts and a workshop concerning the national risk assessment, the consultative forum with the private sector and the forum of FinTech and RegTech industries.

The GIFI continuously works within the other international fora, including the Conference of the States Parties to the Warsaw Convention (COP) created to monitor implementation of the provisions of the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism of 16 May 2005 (CETS 198). The Polish AML system was evaluated as far as its compliance with the provisions of the Convention is concerned and Poland reports on adjustments of its AML system to the provisions of the Convention, including the COP recommendations.

Representative of Police Central Bureau of Investigation (PCBI) is an appropriate expert of the EMPACT Criminal Finances project, established as part of the EU Security Policy Cycle for 2018-2021.

In addition representative of Police Central Bureau of Investigation (PCBI) are an appropriate coordinator of AWF-SOC SUSTRANS at the national level.

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

On 04-08 June 2018 a training "Money laundering" No. 35/2018 was organized by Police Central Bureau of Investigatin at the Mercure Warszawa Centrum Hotel in Warsaw (Poland).
The training was organised in a cooperation and support of Judiciary Police (PT),Guardia di Finanza (IT), EUROPOL, EMPACT Financial Crimes Driver, Ministry of Finance (PL), National Public Prosecutor’s Office (PL), Internal Security Agency (PL), Central Anticorruption Bureau (PL), National Police Headquarter (PL), Border Guard Headquarter (PL),private financial sector representatives, academic experts.
Target group were 30 representatives of law enforcement agencies and other authority involved in economic and financial crime investigationas well as criminal investigation team leaders from 19 EU countries (Belgium, Bulgaria, Croatia, Czech Republic, Estonia, Finland, France, Germany, Greece,, Hungary, Ireland, Italy, Lithuania, Poland, Portugal, Romania, Sweden, Slovakia, Spain), from Georgia and from Europol.

The aim of the activity was to enhance knowledge and competences in preventing money laundering and conducting transnational financial investigation techniques

and cooperation by presenting following issues:
1. Money Laundering - legal and criminal aspects.
2. International Money Laundering investigation - presentation and exercise led by Europol, Eurojust.
3. EU Policy Cycle 2018-2021 and EMPACT conclusions.
4. Present Financial Investigation Units dealing with economic and financial crimes in Poland and other countries.
5. System of counteracting ML - responsibilities and good practice from perspective of different countries and authorities.
6. Identify and name new trends of money laundering and possibilities to counteract.
7. Informal Value Transfer System (Havala, underground banking).
8. Bitcoin - presentation and exercise.
9.Methods of money laundering risk assessment. Modelling an offender's profile.
10. ML from finance private sector and facilitators' perspective (Ernst&Young, MoneyGram International, Compliance Polska Association, Coinfirm Ltd, Bank PEKAO SA)
11. The role and tasks of ARO in Poland, international cooperation, use of CARIN network, methods of determining and valuing property subject to confiscation practical experience, exercises.
12. Diminishing Criminal Assets and extended seizure.
13. Anti-money laundering and terrorist financing strategies from Internal Security Agency perspective.
14. Money Laundering in aspect of corruption offences presented by Anti-Corruption Bureau.

Diversified learning methods were used to make the training and certain topics more comprehensive, understandable and easier to assimilate. Content of the course activities and methods delivered as well as experts knowledge and personal participants engagement allowed to obtain aim of improving professional skills in the fight against ML phenomena.
"Money laundering" activity allowed to improve the understanding of money laundering schemes, enhance competencies in transnational financial investigation techniques, to assess the phenomenon, to appraise its complexity, promote knowledge of the powers and legal basis of the law enforcement authority fight against financial offences. The course also summarised information on investigative tools, possible solution for effective international cooperation, best practice as well as showed the picture of the new scientific findings, discoveries like profiling perpetrator of money laundering and the risk assessment methods of money laundering.
The training took place in connection with obtaining a financial grant for the implementation of a training project from the CEPOL training catalog for 2018.

46. Technical Assistance

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

Please outline actions required to ensure or improve the implementation of the article under review and describe any specific challenges you might be facing in this respect.

Do you require technical assistance for the implementation of this article? If so, please specify the forms of technical assistance that would be required. For example:

(NO) No assistance would be required

Is any technical assistance already being provided to you? If so, please provide a general description of the nature of the assistance, including donor information.

V. Asset recovery

51. General provision

225. Article 51

1. The return of assets pursuant to this chapter is a fundamental principle of this Convention, and States Parties shall afford one another the widest measure of cooperation and assistance in this regard.

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention, including identifying both any legal authorities/procedures for accepting requests for asset recovery and assessing that these requests are reasonably substantiated and supplemented as well as any time frame established under domestic laws and procedures for their execution, taking into account requests received from countries with similar or different legal systems and any challenges faced in this context.

Poland perceives the recovery of assets and depriving the perpetrators of benefits of crime as well as forfeiture of crime-related tools and objects as a one of the most important elements of the fight against corruption.
Poland applies the following provisions of EU law:

- Joint Action 98/699/JHA, adopted by the Council on the basis of Article K.3 of the Treaty on European Union on money laundering, the identification, tracing, freezing, seizing and confiscation of instrumentalities and the proceeds of crime;
- Council Framework Decision 2001/500/JHA of 26 June 2001 on money laundering, the identification, tracing, freezing, seizing and confiscation of instrumentalities and the proceeds of crime (OJ L 182, 5.7.2001, p. 1.);
- Council Framework Decision 2003/577/JHA of 22 July 2003 on the execution in the European Union of orders freezing property or evidence (OJ L 196, 2.8.2003, p. 45);
- Council Framework Decision 2005/212/JH)of 24 February 2005 on confiscation of crime related proceeds, instrumentalities and property (OJ L 68, 15.3.2005, p.49);
- Council Framework Decision 2006/783/JHA of 6 October 2006 on the application of the principle of mutual recognition to confiscation orders (OJ L 328, 24.11.2006, p.59);
- DIRECTIVE 2014/42/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 3 April 2014 on the freezing and confiscation of instrumentalities and proceeds of crime in the European Union; and
- Council Decision 2007/845/JHA of 6 December 2007 concerning cooperation between Asset Recovery Offices of the Member States in the field of tracing and identification of proceeds from, or other property related to, crime.

These provisions have been properly implemented into Polish criminal law by the addition of sections 62a and 62b to the Code of Criminal Procedure as regards the mutual execution of orders, including orders on the freezing of assets at the request of EU Member States. The Code of Criminal Procedure contains legal mechanisms for the freezing of assets for the purpose of enforcing criminal provisions on the recovery of property. Furthermore, the Polish Criminal Code offers several legal mechanisms for the application of criminal penalties of an economic nature, compensatory measures to recover lost assets, as well as the forfeiture of instrumentalities, items and proceeds of crime. As regards the identification of funds held in bank accounts where it is suspected that the funds are the proceeds of crime or come from undisclosed sources, Poland has a national Financial Intelligence Unit (FIU) that is part of the Supreme Government Administration, namely the General Inspector of Financial Information. The FIU was established under the Act of 1 March 2018 on the Prevention of Money Laundering and Terrorist Financing (Journal of Laws of 2018, item 723).

The provisions of Polish law on the recovery and forfeiture of property are contained in the Polish Criminal Code, i.e. Article 32 (the criminal penalty of fine) to Article 39 (the criminal penalty of 'payment' [świadczenie pieniężne]), as well as compensatory measures (Article 46: compensation for damage or injury, the award of punitive damages to the injured party or an appropriate institution). Furthermore, Polish criminal law contains provisions for the forfeiture of instrumentalities, items and proceeds of crime, whether direct or indirect, including those transferred to another person through any legally ostensible act. As regards the seizure of the proceeds of crime, Polish law contains provisions under which certain assets can be presumed to have been obtained through criminal activities and, as such, are subject to forfeiture, although these provisions can only be enforced if several conditions are met. Article 291 of the Polish Criminal Code provides for the freezing of the offender's property during the criminal proceedings in case the criminal court orders the penalty of fine, forfeiture, compensation or a criminal penalty of an economic nature. Additionally, Article 295 of the Polish Criminal Code contains provisions under which the movable assets of a person suspected of a criminal offence can be frozen temporarily on the basis of an order issued by a criminal court or a public prosecutor in the course of criminal proceedings, if the statutory condition for such an order is satisfied, i.e. if there is a reason to believe that the assets in respect of which a subsequent court order may be issued could be removed.

Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.

During the first six months of 2018, the value of criminal offenders' assets frozen as a result of police activities in case of future forfeiture orders was PLN 452,149,249. A total of PLN 367,003,214 was frozen through compensatory measures in case of future court orders awarding compensation for property damage or personal injuries.

226. Technical Assistance

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

Please outline actions required to ensure or improve the implementation of the article under review and describe any specific challenges you might be facing in this respect.

In the area of asset recovery, Poland implemented EU law:

• Joint Action 98/699 / JHA, adopted by the Council on the basis of art. K.3 of the Treaty
on European Union, on money laundering, identification, detection, freezing, seizure and confiscation of crime-related tools and proceeds
• Council Framework Decision 2001/500 / JHA of 26 June 2001 on money laundering and the identification, detection, freezing, seizure and confiscation of crime-related tools and proceeds (OJ L 182, 5.7.2001, p. 1).
• Council Framework Decision 2003/577 / JHA of 22 July 2003 on the execution in the European Union of orders freezing property or evidence (Official Journal L 196 from 2.8.2003, p. 45).
• Council Framework Decision 2005/212 / JHA of 24 February 2005 on the confiscation of crime proceeds, instrumentalities and assets (OJ L 68, 15.3.2005, p. 49).
• Council Framework Decision 2006/783 / JHA of 6 October 2006 on the application of the principle of mutual recognition to confiscation orders (OJ L 328, 24.11.2006, p. 59).
• DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL 2014/42 / EU of 3 April 2014 on the protection and confiscation of tools used to commit crime and crime proceeds in the European Union
• Council Decision 2007/845 / WSISW of 6 December 2007.
concerning cooperation between Asset Recovery Offices in the Member States in the field of detection and identification of benefits derived
from crime or other property related to crime.

Do you require technical assistance for the implementation of this article? If so, please specify the forms of technical assistance that would be required. For example:

(NO) No assistance would be required

Is any technical assistance already being provided to you? If so, please provide a general description of the nature of the assistance, including donor information.

52. Prevention and detection of transfers of proceeds of crime

227. Paragraph 1 of article 52

1. Without prejudice to article 14 of this Convention, each State Party shall take such measures as may be necessary, in accordance with its domestic law, to require financial institutions within its jurisdiction to verify the identity of customers, to take reasonable steps to determine the identity of beneficial owners of funds deposited into high-value accounts and to conduct enhanced scrutiny of accounts sought or maintained by or on behalf of individuals who are, or have been, entrusted with prominent public functions and their family members and close associates. Such enhanced scrutiny shall be reasonably designed to detect suspicious transactions for the purpose of reporting to competent authorities and should not be so construed as to discourage or prohibit financial institutions from doing business with any legitimate customer.

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

According to Anti-Money Laundering and Counter-Terrorism Financing Act of March 1, 2018, obligated institutions recognize and assess the risk of money laundering and terrorist financing related to economic relations with clients or occasional transactions carried out by them. On the basis of this risk and its assessment, they apply financial security measures whose main task is to obtain information about their clients and the purpose for which they use the services and products offered by obligated institutions.

The Act requires all obligated institutions to identify the risk of money laundering associated with the specific business relationship or an occasional transaction, assess the level of the risk identified and document the identified risk, taking into account, in particular, factors related to type of client, geographical area, purpose of account, type of products, services and methods of their distribution, level of assets deposited by the customer or value of transactions performed, objective, regularity or duration of business relationship.

The obligated institutions are required to apply customer due diligence measures to the extent and with an intensity taking into account the identified risk related to business relationships or an occasional transaction as well as its assessment. In case of a higher risk of money laundering the obligated institutions shall apply enhanced customer due diligence measures. The obligated institutions are also obliged to carry out ongoing analysis of transactions performed.

Under defined conditions the obligated institutions may use services of other entity while applying the customer due diligence measures or entrust the application of the customer due diligence measures to an entity. Using of third party services as well as entrusting of the application of the customer due diligence measures shall not exempt the obligated institution from its liability for the application of the customer due diligence measures.

Customer due diligence measures comprise also identification of a beneficial

owner and undertaking justified measures in order to verify its identity and - in the case of a customer being a legal person or an organisational unit without legal personality - define the ownership and control structure.

In the case of disclosure of unusual or excessively complex transactions for high amounts which seem legally or economically unjustified, the obligated institutions undertake measures in order to clarify circumstances under which such transactions were carried out and intensify the application of ongoing monitoring of customer's business relationship.

In order to determine whether a customer or a beneficial owner is a politically exposed person the obligated institutions are required to implement procedures based on risk assessment, including a possibility to accept a declaration from the customer in written form or a document form confirming that the customer is or is not a person holding such position. The declaration is submitted subject to criminal liability for the submission of false declaration.

In the case of business relationships with a politically exposed person, the obligated institutions is obliged to apply the following customer due diligence measures and undertake the following activities in relation to such persons:

1) obtain the permission of the senior management for establishing or continuation of business relationship with a politically exposed person,
2) apply adequate measures in order to establish the source of the customer's assets and sources of assets available to the client under the business relationship or the occasional transaction,
3) intensify the ongoing monitoring of customer's business relationship.

According to the Act politically exposed persons are natural persons holding significant positions or fulfilling significant public functions, regardless if he or she is a national or foreigner.

Advisories to obligated institutions are issued by the PFIU inter alia within a free e-learning course on counteracting money laundering and terrorist financing. The aim of the course is to provide better knowledge on counteracting the said offences, in particular as regards the domestic law in force. The course was successfully completed by 21,918 persons in 2015; 16,800 interested parties in 2016 and 4,331 persons from 1 January to 18 April 2017. As the new AML legislation has recently entered into force the new version of the course is currently under preparation.

The guidance of the PFIU on the proper application of legal provisions are also posted on the website of GIFI.

The PFIU also regularly meets the obligated institutions with the aim to present the most important and current problems in the area of combating money laundering. In the past years GIFI carried out a series of meetings with the obligated institutions, cooperating units, scientific and academic communities as

well as social partners. In 2016 19 such meetings were held, jointly attended by 845 persons. In 2017 there were 5 meetings held, jointly attended by approx. 200 persons representing private sector and public administration bodies.

Moreover representatives of the PFIU regularly take active part as speakers or participants
in numerous training events/workshops and conferences devoted to the issues covered under the Act.

Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.

Anti-Money Laundering and Counter-Terrorism Financing Act of March 1, 2018

228. Subparagraph 2 (a) of article 52

2. In order to facilitate implementation of the measures provided for in paragraph 1 of this article, each State Party, in accordance with its domestic law and inspired by relevant initiatives of regional, interregional and multilateral organizations against money-laundering, shall:

(a) Issue advisories regarding the types of natural or legal person to whose accounts financial institutions within its jurisdiction will be expected to apply enhanced scrutiny, the types of accounts and transactions to which to pay particular attention and appropriate account-opening, maintenance and record-keeping measures to take concerning such accounts; and

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

The obligated institutions shall apply enhanced customer due diligence measures in cases of a higher risk of money laundering or terrorist financing (the obligated institutions are responsible for assessing risk). The Act provides for certain conditions which may substantiate an increased money laundering and terrorist financing risk (including certain circumstances related to customers).

The PFIU has no additional system in place to notify financial institutions of the identity of high-risk persons.

Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.

No case example available.

229. Subparagraph 2 (b) of article 52

2. In order to facilitate implementation of the measures provided for in paragraph 1 of this article, each State Party, in accordance with its domestic law and inspired by relevant initiatives of regional, interregional and multilateral organizations against money-laundering, shall:

...

(b) Where appropriate, notify financial institutions within its jurisdiction, at the request of another State Party or on its own initiative, of the identity of particular natural or legal persons to whose accounts such institutions will be expected to apply enhanced scrutiny, in addition to those whom the financial institutions may otherwise identify.

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

see preceding article

Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.

see the respponse to preceding paragraph

230. Paragraph 3 of article 52

3. In the context of paragraph 2 (a) of this article, each State Party shall implement measures to ensure that its financial institutions maintain adequate records, over an appropriate period of time, of accounts and transactions involving the persons mentioned in paragraph 1 of this article, which should, as a minimum, contain information relating to the identity of the customer as well as, as far as possible, of the beneficial owner.

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

The obligated institutions are required by the Act to keep the following documents for a period of five years:

- copies of documents and information obtained as a result of the application of the customer due diligence measures,
- evidence confirming conducted transactions and transaction records comprising original documents or copies of documents required to identify the transaction,
- results of the ongoing monitoring of customer's business relationship.

The PFIU may require keeping the above documentation over an additional period of maximum 5 years, if this is required for the purpose of counteracting money laundering or terrorist financing. Detailed rules related to keeping documents should be defined in an internal procedure on counteracting money laundering and terrorist financing of the obligated institution. In the event of liquidation, merger, demerger or transformation of an obligated institution, the provisions of the Accounting Act of 29 September 1994 shall be applied in relation to documentation keeping (documents of companies which discontinued their operations due to a merger with another company or due to transformation are kept by a company which remains in operations, and documents of companies which were wound up are kept by a specially appointed person or entity, who is obliged to report on the storage location to a relevant court or another body which maintains the register or business activities records, as well as to the relevant tax office).

Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.

No such example availble

231. Paragraph 4 of article 52

4. With the aim of preventing and detecting transfers of proceeds of offences established in accordance with this Convention, each State Party shall implement appropriate and effective measures to prevent, with the help of its regulatory and oversight bodies, the establishment of banks that have no physical presence and that are not affiliated with a regulated financial group. Moreover, States Parties may consider requiring their financial institutions to refuse to enter into or continue a correspondent banking relationship with such institutions and to guard against establishing relations with foreign financial institutions that permit their accounts to be used by banks that have no physical presence and that are not affiliated with a regulated financial group.

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

The financial obligated institutions are prohibited by provisions of the Act to establish and maintain correspondent relationships with a credit, financial institution and an entity, which is not a part of the group, which does not have a registered office and is not actually managed and governed on the territory of the state under the law of which it was established - shell banks.

The Act prohibits also establishing or maintaining correspondent relationships with credit and financial institutions which are known as institutions concluding contracts for operating accounts with a shell bank.

Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.

no such example available

232. Paragraph 5 of article 52

5. Each State Party shall consider establishing, in accordance with its domestic law, effective financial disclosure systems for appropriate public officials and shall provide for appropriate sanctions for non-compliance. Each State Party shall also consider taking such measures as may be necessary to permit its competent authorities to share that information with the competent authorities in other States Parties when necessary to investigate, claim and recover proceeds of offences established in accordance with this Convention.

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

According to the adopted model, obligated institutions notify the Polish FIU about circumstances that may indicate a suspicion of money laundering or terrorist financing, as well as cases where there is a reasonable suspicion that a specific transaction or certain property values may be related to one or other of the money laundering or terrorist financing crimes.
Obligated institutions also provide the Polish FIU information on the transactions, those whose equivalent exceeds 15,000 EUR
As well as obligated institutions, cooperating units immediately notify the Polish FIU about suspected money laundering or terrorist financing. In addition, at the request of the Polish FIU, they provide or make available, within the limits of their statutory competences, information or documents held. The Border Guard and customs authorities provide the Polish FIU with information on the declaration of carriage of cash via the EU border.
The Polish FIU verifies the suspicion of money laundering or terrorist financing included in notifications on the basis of information obtained from obligated institutions, cooperating units as well as foreign financial intelligence units (foreign FIUs). In the case of justified suspicion of money laundering or terrorist financing, the Polish FIU informs the competent prosecutor who, in cooperation with law enforcement agencies, takes action to start an investigation/proceedeing.
After receiving of such notification, the prosecutor is obliged to inform the Polish FIU of:

- ⇒ issuing a decision regarding the blocking of an account or the suspension of a transaction;
- ⇒ suspension of proceedings;
- ⇒ taking suspended proceedings;
- ⇒ issuing a decision on presenting a charge of committing a crime.

In addition, prosecutors are obliged to submit to the Polish FIU information on the issuance of a decision on:

- ⇒ blocking an account or suspending a transaction,
- ⇒ initiation of proceedings,
- ⇒ presenting a charge,

⇒ bringing an indictment to the court,
⇒ in other cases for money laundering or terrorist financing.

On the other hand, the Polish FIU provides courts and prosecutors, upon written request, with collected information or documents for the purposes of criminal proceedings. In addition, the Polish FIU makes information available at a written and reasoned request of other cooperating entities indicated in the Anti-Money Laundering and Counter-Terrorism Financing Act of March 1, 2018 (in particular law enforcement agencies) in the scope of their statutory tasks.

In the case of a suspicion of committing a crime or fiscal offense, other than a money laundering or terrorist financing offense, the Polish FIU provides information justifying this suspicion to the competent authorities (ie law enforcement agencies, special services or customs), in order to take actions compatible with their statutory tasks. Additionally, if there is a justified suspicion of a violation of the regulations related to the functioning of the financial market, the Polish FIU provides information justifying this suspicion to The Polish Financial Supervision Authority.

According to the Anti-Money Laundering and Counter-Terrorism Financing Act of March 1, 2018: who, acting on behalf of or for the benefit of an obligated institution:
1) fails to report to the Polish FIU about circumstances that may indicate a suspicion of money laundering or terrorist financing
2) does not fulfill the obligation to convey to the Polish FIU a notification of reasonable suspicion that a specific transaction or property values may be related to money laundering or terrorist financing,
3) provides the Polish FIU with untrue or concealment of real data on transactions, accounts or persons,
is subject to imprisonment from 3 months to 5 years.
The same penalty is imposed on anyone who, aginst to the provisions of the Anti-Money Laundering and Counter-Terrorism Financing Act of March 1, 2018, discloses to unauthorized persons, account holders or persons affected by the transaction, information gathered in accordance with the Act or uses such information in a manner inconsistent with the provisions of the Act.

The rules of financial disclosure system for public officials are set in the Act of August 21, 1997 on the restriction of business activity by persons performing public functions.

According to its provisions public officials are obliged to submit a statement about their financial status.

The statement contains in particular information about their cash resources, real estates, shares in commercial law companies, as well as about acquiring by this person or his/her spouse from the Treasury, another state legal entity etc., of property, which was subject to sale by way of a tender.

The statement should also contain data on business activity and functions

performed in commercial law companies.

The statement is submitted to the head of the agency before taking a position, then annually and also on the day of leaving the position. The head of the agency analyzes the data contained in the statement, being entitled to compare the content of the analyzed statement with the content of previously submitted statements. The statements are also verified by the Central Anticorruption Bureau in line with the rules set out in Chapter 4 of the Act of 9 June 2006 on The Central Anticorruption Bureau.

The Act of August 21, 1997 on the restriction of business activity by persons performing public functions provides also for establishing the Registry of Benefits. The Registry is public and discloses the benefits obtained by public officials or their spouses, including inter alia information about:

1) all positions and activities carried out both in public administration authorities, as well as private institutions, for which remuneration is received, as well as professional activities conducted on his/her own account;

2) cases of providing material support for public activities;

3) donations received from domestic or foreign entities if its value exceeds determined threshold;

4) domestic or foreign trips not related to the performed public function if their cost has not been covered by the person submitting the information to the registry or his/her spouse or institutions employing them or political party, association or foundation of which they are members;

5) other obtained benefits, which value exceeds the determined threshold and which are not related to the professional activity.

6) information about participation in the bodies of foundations, commercial law companies or cooperatives, even if financial benefits from this are not obtained.

According to the provisions of the Act of August 21, 1997 on the restriction of business activity by persons performing public functions failure to submit the above statements or providing false information in the statements is subject to imprisonment of up to 5 years. In the case of lesser importance, the perpetrator is subject to a fine, restriction of freedom or imprisonment up to 1 year.

Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.

no such example available

233. Paragraph 6 of article 52

6. Each State Party shall consider taking such measures as may be necessary, in accordance with its domestic law, to require appropriate public officials having an interest in or signature or other authority over a financial account in a foreign country to report that relationship to appropriate authorities and to maintain appropriate records related to such accounts. Such measures shall also provide for appropriate sanctions for non-compliance.

Is your country in compliance with this provision?

(Y) Yes

Information about the authority of a public official over a financial account in a foreign country should be disclosed in line with the rules mentioned under Article 52, paragraph 5.

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

Information about the authority of a public official over a financial account in a foreign country should be disclosed in line with the rules mentioned under Article 52, paragraph 5.

Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.

Information about the authority of a public official over a financial account in a foreign country should be disclosed in line with the rules mentioned under Article 52, paragraph 5.

234. Technical Assistance

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

Please outline actions required to ensure or improve the implementation of the article under review and describe any specific challenges you might be facing in this respect.

Do you require technical assistance for the implementation of this article? If so, please specify the forms of technical assistance that would be required. For example:

(NO) No assistance would be required

Is any technical assistance already being provided to you? If so, please provide a general description of the nature of the assistance, including donor information.

53. Measures for direct recovery of property

235. Subparagraph (a) of article 53

Each State Party shall, in accordance with its domestic law:

(a) Take such measures as may be necessary to permit another State Party to initiate civil action in its courts to establish title to or ownership of property acquired through the commission of an offence established in accordance with this Convention;

Is your country in compliance with this provision?

(Y) Yes

237. Subparagraph (c) of article 53

Each State Party shall, in accordance with its domestic law:

...

(c) Take such measures as may be necessary to permit its courts or competent authorities, when having to decide on confiscation, to recognize another State Party's claim as a legitimate owner of property acquired through the commission of an offence established in accordance with this Convention.

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

The Polish Criminal Procedure Code does not provide for any specific action to be taken by the State Party to urge the court deciding on confiscation to recognize its claim as a legitimate owner of property. The State Party to the Convention is not a party to the criminal proceedings. Therefore no procedural action can be undertaken by the Country as such.

Nevertheless, under articles 44 § 5 and 45 § 1 of the Criminal Code, forfeiture of items directly derived from the crime or items which served or were designed for committing the crime, as well as benefits from the crime cannot be forfeited if they are subject to return to the victims or other legitimate entity e.g. a State Party to the Convention. In this context, it is suffice to merely inform law enforcement authorities, prosecution office or the court in charge of the case, that given assets are legal property of the State Party to avoid confiscation thereof.

As regards the application of the freezing of assets (known as confiscation in EU law and the criminal laws of many EU countries) located in EU countries, the provisions specified in the first part of the questionnaire, i.e. Article 51, Article 54(a)-(c) and Article 54(2)(a)-9c) apply.
In this regard, Poland has the following provisions in place: Part XIII of the Code of Criminal Procedure, headed "Procedure in Criminal Cases in International Relations", Article 578 and subsequent articles, which lay down principles and recommendations implemented into Polish law on the basis of the EU framework decisions on the mutual execution of orders regarding assets obtained through criminal activities or assets subject to forfeiture.

Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.

There is no such example available.

238. Technical Assistance

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

Please outline actions required to ensure or improve the implementation of the article under review and describe any specific challenges you might be facing in this respect.

Do you require technical assistance for the implementation of this article? If so, please specify the forms of technical assistance that would be required. For example:

(NO) No assistance would be required

Is any technical assistance already being provided to you? If so, please provide a general description of the nature of the assistance, including donor information.

54. Mechanisms for recovery of property through international cooperation in confiscation

239. Subparagraph 1 (a) of article 54

1. Each State Party, in order to provide mutual legal assistance pursuant to article 55 of this Convention with respect to property acquired through or involved in the commission of an offence established in accordance with this Convention, shall, in accordance with its domestic law:

(a) Take such measures as may be necessary to permit its competent authorities to give effect to an order of confiscation issued by a court of another State Party;

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

Under the Polish legislation, confiscation of property (forfeiture of property) may be imposed only as a result of a binding, final judgment. Until then, the property may be only seized with a view of future confiscation.

a) In relations with other EU countries:

It is possible to enforce decision on confiscation rendered in other Member States (except Ireland and Luxembourg) on thebasis of Council Framework Decision 2006/783 / JHA. Chapter 66d of the Polish Code of Criminal Procedure applies accordingly. The decisions on forfeiture are enforced by the competent district court.

It is also possible to enforce a decision aimed at securing property under Council Framework Decision 2003/577 / JHA (excluding Luxembourg) chapter 62b of the Code of Criminal Procedure.

a) In relations to other countries

Under the Polish legislation (articles 608 § 2 and 609 § 2 of the Code of Criminal Procedure) it is possible to take over the enforcement of a valid decision on forfeiture rendered in other non-EU countries. The decision in this respect is made by the Minister of Justice, after the court approves the admissibility of taking over the decision to be executed. This course of action also applies in relation to international cooperation for the purpose of confiscation as defined in art. 13 of the United Nations Convention against Transnational Organized Crime.

Assistance in the matter of forfeiture is also provided under article 17 of the Agreement between the Government of the Republic of Poland and the Government of the Hong Kong Special Administrative Region of the People's Republic of China

In respect of seizure of property , the requests of non-EU countries to apply the seizure may be enforced on the basis of bilateral or multilateral treaties as well as

on the basis of a reciprocity rule. When enforcing the requests the Polish law is applied.

Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.

Chapter 62b

Request of a European Union Member State to execute a decision on retention of evidence or to secure the property

Article 589l. § 1. A regional court having competent jurisdiction or state prosecutor shall immediately carry an order issued by a competent judicial authority of another European Union Member State on retention of items, correspondence, parcels, lists of telephone calls or other transmissions of information or data stored in an information technology system or on a data carrier, including correspondence sent by electronic mail, or an order on seizure of property to secure execution of an order on forfeiture that might be evidence in the case, if such items, correspondence, parcels, lists, data, or property are located or stored in the territory of the Republic of Poland.

§ 2. If the court or the state prosecutor to whom the decision has been directed is not competent for initiating the proceedings, it shall transmit it to the competent agency and notify about it the competent judicial authority of a European Union Member State that has issued an order.

§ 3. Regulations of Polish law shall be applied while executing decisions referred to in § 1, unless the provisions hereof provide otherwise.

Article 589m. § 1. Execution of a decision on retention of evidence may be refused referred to in Article 589l § 1, if:

1) an act further to which the decision has been issued is not an offence under Polish law, unless, under law of the decision issuing state, it is an offence enumerated in Article 607w subsections 1-33 subject to the penalty of deprivation of liberty of a minimum 3 years at least, or another measure involving deprivation of liberty of the similar sentence at least,

2) evidence the decision concerns may not be seize due to factual reasons, in particular, due to their loss, destruction, or impossibility to recover,

3) the decision on retention of evidence has not been appended with the certificate containing all the material information allowing its proper execution, or the certificate is incomplete or evidently contrary to the contents of the decision,

4) from the contents of the certificate referred to in sub-section 3 it is obviously

seen that the decision transmitted for execution concerns the same act of the same person in case of which the criminal proceedings have been legally completed,

5) execution of the decision is not possible due to refusal to surrender correspondence and documents in accordance with Article 582 § 2.

§ 2. Execution of the decision to secure the property referred to in Article 589l § 1 may be refused:

1) if, under Polish law, in the case of an offence, further to which such decision has been issued, securing of the execution of forfeiture would be inadmissible, unless, under law of the decision issuing state, it is an offence enumerated in Article 607w subsection 1-33 subject to the penalty of deprivation of liberty of a miniumum 3 years at least, or another measure involving deprivation of liberty of the similar sentence at least,

2) in cases stipulated in § 1 subsections 2 through 4.

§ 3. The provisions of § 1 subsection 1 and § 2 subsection 1 shall not be applied, if the act is not an offence due to lack of or different regulations under Polish law governing fees, taxes, customs duties, or rules applicable to foreign exchange.

§ 4. In case specified in § 1 subsection 2, before issuing an order on execution of the decision on retention of evidence or to secure the property, the competent court or state prosecutor shall consult with the agency that has issued it to obtain all the material information allowing recovery of such evidence or property. If the obtained information has not contributed to the recovery of such evidence or property, the court or state prosecutor shall immediately inform a relevant judicial authority of the decision issuing state about impossibility of executing the decision.

§ 5. In case referred to in § 1 subsection 3, the competent court or state prosecutor may designate a time-limit for the agency that has issued the decision for transmitting the certificate specified in § 1 subsection 3, for its supplement or correction.

§ 6. In the event of failure to comply with the time-limit referred to in § 5, the decision on execution of the decision shall be issued on the basis of information that has been transmitted before.

Article 589n. § 1. The competent court or state prosecutor shall issue an order on execution of the decision on retention of evidence or to secure the property referred to in Article 589l § 1 without delay, if possible, within 24 hours as from receiving the decision.

§ 2. The order referred to in § 1 shall be delivered together with the instructions on rights under regulations of the decision issuing state referred to in Article 589l § 1.

§ 3. Persons whose rights have been violated shall be entitled to an interlocutory appeal against the order referred to in § 1. Such persons shall also be entitled to an interlocutory appeal against action relating to retention of evidence or securing the property, which does not violate rights of the plaintiff arising under regulations of the decision issuing state. In the interlocutory appeal against the action the plaintiff

may demand examination of its correctness only.

§ 4. A relevant judicial authority of the decision issuing state shall be immediately informed about submission of the interlocutory appeal, as well as the determination made as result of its hearing.

§ 5. The provision of Article 589g § 6 shall be applied accordingly.

Article 589o. By issuing an order on execution of the decision to retain evidence or to secure the property, the competent court or state prosecutor may, at the same time, suspend its execution, if:

1) execution of the decision would obstruct other pending criminal proceedings - for the period necessary to secure the proper course of such proceedings,

2) evidence or property that the decision concerns have been retained or seized before for the purposes of another pending criminal proceedings - until their release from retention or seizure.

Article 589p. § 1. The competent judicial authority of the decision issuing state shall be immediately notify about the contents of the order on execution of the decision on retention of evidence or securing the property, if possible within 24 hours from receiving the decision. Such notification may also be transmitted with the use of equipment used for automatic data transmission, in a manner that allows authentication of such documents.

§ 2. In cases referred to in Article 589o, reasons for suspension of the execution of the decision shall also be given, and, if possible, its envisaged period.

§ 3. The provision of § 1 shall be accordingly applied in the event of removal of reasons for suspension of execution of the order referred to in Article 589o. In such event, the relevant judicial authority of the decision issuing state shall be informed about retention or securing evidence or property for the purposes of other proceedings, or undertaken actions aimed at execution of the decision.

Article 589r. § 1. By executing the decision on retention of evidence or securing the property, wishes of the agency that has issued such decision should be honoured by applying a special way of conduct or special form while executing such action, if that is not contrary to the rules of legal order of the Republic of Poland.

§ 2. A report on the retention of evidence or seizing the property shall be immediately transmitted to the relevant judicial authority of the decision issuing state. The provision of Article 589p § 1 second sentence shall be applied accordingly.

Article 589s. § 1. Retention of evidence and seizure of property to secure execution of the decision on forfeiture shall continue until determination on the request of the relevant judicial authority of the decision issuing state for release of evidence or execution of the request to execute the valid and final decision on forfeiture, respectively.

§ 2. Having regard to the circumstances of the case, the competent court or state

prosecutor, after consultations with the competent judicial authority of the decision issuing state, may, however determine for such body a strict time-limit for delivering the demand specified in § 1, after the expiry of which release from retention or seizure may be effected.

§ 3. Before expiry of the time limit referred to in § 2, the competent court or state prosecutor shall inform the competent judicial authority of the decision issuing state about an intent to release from retention or seizure thus allowing it to present an opinion in writing. If such body does not present arguments sufficiently justifying further retention or seizure, the competent court or state prosecutor shall issue an order on release from retention or seizure. A copy of the order shall be delivered to interested persons.

§ 4. An order on release of retention or seizure shall also be issued when the competent judicial authority of the decision issuing state has notified about its reversal. The provision of § 3 third sentence shall be applied.

Article 589t. § 1. The request to release the evidence or execution of the motion for execution of forfeiture by the Polish court shall be carried pursuant to the regulations in Chapters 62 and 66 and international agreements relating to judicial assistance in criminal cases that the Republic of Poland is bound by.

§ 2. Execution of the motion referred to in § 1 cannot be refused, however, by referring to circumstances that the act such motion concerns is not an offence under Polish law, if, under law of the decision issuing state, it is an offence enumerated in Article 607w subsection 1-33, subject to the penalty of deprivation of liberty of a minimum 3 years at least, or another measure involving deprivation of liberty of the similar sentence at least.

Article 589u. § 1. If the State Treasury is held liable for damage inflicted in connection with the execution of the decision on retention of evidence or securing the property issued by a judicial authority of the European Union Member State, the State Treasury shall request the competent agency of such state to reimburse the amount of money being an equivalent of the compensation that has been paid.

§ 2. The provision of § 1 shall not be applied, if the damage is a consequence of action or omission only by a Polish agency.

Chapter 66d

Request of a European Union Member State to execute a decision on forfeiture

Article 611fu. § 1. In the event a European Union Member State, hereinafter referred to as a “decision issuing state” requests execution of a final decision on forfeiture, such decision shall be carried by a regional court in the district of which the perpetrator has property or derives income, or has permanent or temporary residence.

§ 2. The order referred to in § 1, or its copy certified as true to the original shall be appended with a certificate containing all the material information allowing its proper execution.

§ 3. The court shall proceed to execute a decision of the decision issuing state

without delay.

§ 4. If the court, to which the decision has been directed, is not competent for initiating the proceedings, it shall transmit it to the competent court and notify about it the competent court or other agency of the decision issuing state.

§ 5. Unless the provisions hereof provide otherwise, regulations of Polish law shall be applied while executing decisions referred to in § 1. The provision of Article 611c § 3 shall be applied accordingly.

Article 611fw. § 1. Execution of a decision on forfeiture of the material benefit or its equivalent shall be refused in part in which it has been issued on the basis of a presumption that such benefit has been derived from an offence, other than the presumption that:

1) the material benefit has been derived from an offence other than the one for which the perpetrator has been sentenced, committed before issuance of a non-final judgement,

2) the material benefit has been derived from another offence similar to the offence, for which the perpetrator has been sentenced, committed before issuance of a non-final judgement,

3) the property not covered in the disclosed sources of the perpetrator's income has been derived from an offence.

§ 2. Execution of a decision on forfeiture of the material benefit or its equivalent that has been issued on presumptions referred to in § 1 may be refused in part in which the decision on forfeiture would be excluded under Polish law.

§ 3. Execution of the decision referred to in Article 611fu § 1 may be refused, if:

1) an act further to which the decision has been issued is not an offence under Polish law or forfeiture cannot be decided under Polish law for the offence used as the basis for issuance of the decision, unless, under law of the decision issuing state, it is an offence enumerated in Article 607w; the provision of Article 607r § 2 shall be applied accordingly,

2) the decision has not been appended with the certificate referred to in Article 611fu § 2, or the certificate is incomplete or evidently contrary to the contents of the decision,

3) the decision transmitted for execution concerns the same act of the same person in whose case the criminal proceedings have been validly completed in a Member State, and a decision relating to forfeiture has been executed,

4) there has been limitation in execution of the penalty under Polish law, and offences it concerns have been subject to jurisdiction of Polish courts,

5) the decision concerns offences that under Polish law have been committed, in whole or in part, in the territory of the Republic of Poland, and also on board of a Polish vessel or aircraft,

6) the decision concerns offences committed outside the territory of the decision

issuing state, and Polish law does not admit prosecuting such types of offences, if they have been committed outside the territory of the Republic of Poland,

7) the perpetrator is not subject to jurisdiction of Polish criminal courts or there is no required permission to prosecute him,

8) from the contents of the certificate referred to in Article 611fu § 2 it is seen that the decision has been issued by default, unless the person the decision concerns, has been summoned to participate in the proceedings or has been otherwise notified about the date and place of the trial or session, or that she has made a statement on not challenging the decision,

9) the offence the decision relates to, in case of jurisdiction of Polish criminal courts, shall be subject to remission under amnesty,

10) there is a justified concern that execution of the decision may violate rights of third person.

§ 4. If information transmitted by the decision issuing state is not sufficient to take a decision on the execution of the forfeiture decision, the court shall call on the competent court or other agency of the decision issuing state to supplement it at the prescribed time.

§ 5. In the event of failure to comply with the prescribed time referred to in § 4, an order on the execution of the decision shall be issued on the basis of the information that has been transmitted before.

§ 6. If execution of the decision is not possible due to factual or legal reasons, the court shall inform the competent court or other agency of the decision issuing state without delay.

Article 611fx. § 1. The court shall hear the case of execution of the forfeiture decision in a session which the state prosecutor, the perpetrator, if he is staying in the territory of Poland and his defence counsel, if he appears there, and a third person whose rights might be violated by execution of the decision have the right to attend. If the perpetrator, who is not staying in the territory of the Republic of Poland, does not retain a defence counsel, the president of the court competent to hear the case may appoint for him a defence counsel ex officio.

§ 2. An order of the court on the execution of the decision on forfeiture shall be subject to an interlocutory appeal by the parties and a third person referred to § 1. The court that has issued the order shall notify the competent court or other agency of the decision issuing state about making the interlocutory order.

§ 3. A valid and final decision on forfeiture together with an appended certificate shall be an execution clause and be subject to execution in the Republic of Poland following issuance of an order of its execution.

Article 611fy. § 1. The court may suspend the proceedings in the execution of the decision referred to in Article 611fu § 1, if:

1) a request concerning an amount of money has been made to more than one Member State, and there is a probability that as a result of execution of the

decision in several Member States a forfeited amount will be higher than the one specified in the decision,

2) execution of the decision could obstacle the pending criminal proceedings,

3) the property may be subject to forfeiture under the proceedings pending in Poland,

4) it has recognised to translate the decision into Polish as necessary.

§ 2. An order on suspension of the proceedings shall be subject to an interlocutory appeal by the parties and a third person referred to in Article 611fx § 1. The court that has issued the order shall notify the competent court or other agency of the decision issuing state about suspension of the proceedings and reasons therefor.

§ 3. In the event of suspension of the proceedings, the court may, ex officio, secure execution of the decision. Regulations of security on property of the accused shall be applied accordingly.

Article 611fz. If the property that is subject to execution is not sufficient for carrying two or more decisions referred to in Article 611fu § 1, issued against the same person and concerning an amount of money, or if two or more decisions concern a specified item of the property, the court shall decide jointly on the execution of the decisions in whole or in part.

Article 611fza. § 1. If the perpetrator or another person has presented evidence of execution of the decision referred to in Article 611fu § 1, in whole or in part, before issuing an order on the execution of such decision, the court shall call on the competent court or another agency of the decision issuing state to confirm payment.

§ 2. Amounts that have been previously obtained from forfeiture in the decision issuing state or the decision executing state shall be counted towards the amount that is subject to execution.

Article 611fzb. § 1. The amount received form execution of the decision referred to in Article 611fu § 1 that does not exceed the equivalent of EUR 10,000 shall constitute income of the state budget. In other cases, the decision issuing state shall receive half of the received amount into a bank account indicated by the competent court or another agency of such state.

§ 2. Property other than money obtained under execution of the decision referred to in § 1 shall be turned into cash in accordance with regulations governing execution of financial benefits in the execution proceedings in administration. The provision of § 1 shall be accordingly applied to the amount obtained from execution.

§ 3. In justified cases the court may waive turning into cash the property referred to in § 2 and transfer it to the competent court or another agency of the decision issuing state. If the waiver includes forfeiture of an amount of money, the transfer may be effected only upon consent of such court or agency.

§ 4. The court shall refuse to release to the decision issuing state cultural heritage

items that constitute part of the national cultural heritage.

§ 5. The Minister of Justice may conclude an agreement with a relevant agency of the decision issuing state on the manner of execution of the forfeiture decision, in particular providing therein a different division of the amounts obtained from execution of the decision than the one specified in § 1.

§ 6. In the event of conclusion of the agreement referred to in § 5, the court, being called upon by the competent court or another agency of the decision issuing state, shall transfer the executed amount of money or property other than money obtained under execution of the decision, in whole or in part, in accordance with the agreement.

Article 611fzc. In the event of receiving information from the competent court or another agency of the decision issuing state that the decision transmitted for execution is not subject to further execution, the court shall issue an order on discontinuance of the execution proceedings without delay.

Article 611fzd. The competent court or another agency of the decision issuing state shall be immediately notified about the contents of the order on execution of forfeiture, and also about completion of the execution proceedings. Such notification may also be transmitted with the use of equipment used for automatic data transmission, in a manner that allows authentication of such documents.

Article 611fze. § 1. The State Treasury shall bear the costs related to the execution of the decision referred to in Article 611fu § 1. In justified cases, the court may request the competent court or another agency of the decision issuing state to reimburse part of the expenses incurred. The request shall be appended with a detailed list of the expenses incurred together with a proposal of their division.

§ 2. If the State Treasury is held liable for damage inflicted in connection with the execution of the forfeiture decision issued by a judicial authority of the decision issuing state, the State Treasury shall request the competent agency of such state to reimburse the amount of money being an equivalent of the compensation that has been paid.

§ 3. The provision of § 2 shall not be applied, if the damage is the only consequence of action or omission by a Polish agency.

240. Subparagraph 1 (b) of article 54

1. Each State Party, in order to provide mutual legal assistance pursuant to article 55 of this Convention with respect to property acquired through or involved in the commission of an offence established in accordance with this Convention, shall, in accordance with its domestic law:

...

(b) Take such measures as may be necessary to permit its competent authorities, where they have jurisdiction, to order the confiscation of such property of foreign origin by adjudication of an offence of money-laundering or such other offence as may be within its jurisdiction or by other procedures authorized under its domestic law; and

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

Money laundering offence has been addressed by the provision of article 299 of the Criminal Code which reads as follows:

Art. 299. § 1. Anyone who accepts, possesses, uses, remits or takes abroad, conceals, transfers, converts or helps to transfer the ownership or possessions of the means of payment, securities, foreign currency, property rights or other movable or immovable property derived from the benefits relating to the commission of a prohibited act or undertakes other actions that may obstruct or considerably hinder the assertion of criminal origin or place of depositing or detection or seizure or adjudication of the forfeiture

shall be subject to the penalty of the deprivation of liberty for a term of between 6 months and 8 years.

§ 2. The penalty specified in § 1 applies to anyone who, being an employee or acting on behalf of or for the benefit of a bank, financial or credit institution or other entity which under the law is required to register transactions and persons making transactions, accepts, contrary to provisions, means of payment, financial instruments, securities, foreign exchange values, transfers or converts them, or accepts them in other circumstances which give rise to reasonable suspicion that they constitute the subject of the act specified in § 1, or who provides services aimed at concealing its criminal origin or in securing it against forfeiture, is liable to the penalty specified in § 1.

§ 3. (repealed).

§ 4. (repealed).

§ 5. If the offender commits the act specified in §§ 1 or 2 acting in complicity with other people, he or she is subject to the penalty of the deprivation of liberty of between one and 10 years.

§ 6. If, by committing the act specified in § § 1 or 2, an offender gains significant material benefit, he or she is subject to the penalty specified in § 5.

§ 6a. Anyone who makes preparations to commit ofences specified in § 1 or 2, is subject to the penalty of the deprivation of liberty of up to 3 years

§ 7. When imposing a sentence for the offence specified in §§ 1 or 2, the court will order the forfeiture of items derived either directly or indirectly from the offence, or the gains of the offence, or an equivalent value, even if they are not the property of the offender. Forfeiture is not ordered if all or part of the gains, or their equivalent, are returned to the aggrieved party or another entity.

Paragraph 7 of Article 299 CC explicitly provides for the possibility to adjudicate confiscation (forfeiture) of property and benefits (or the equivalent thereof) that originate directly or indirectly from crime, even though they do not belong to perpetrators.

Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.

The statistics as to the number of judgments including orders on confiscation and value of confiscated assets in money laundering cases.

2017

Number of judgments- 68

Value of confiscated property - 104 006 635,95 PLN (approximately 28 417 113,64 USD)

2016

Number of judgments- 48

Value of confiscated property - 72 248 078,80 PLN (approximately 19 739 912,24 USD)

2015

Number of judgments- 33

Value of confiscated property -41 973 798,67 PLN (approximately 11 468 251 USD)

So far , the Polish prosecutor's office has not investigated foreign corruption based money laundering.

241. Subparagraph 1 (c) of article 54

1. Each State Party, in order to provide mutual legal assistance pursuant to article 55 of this Convention with respect to property acquired through or involved in the commission of an offence established in accordance with this Convention, shall, in accordance with its domestic law:

...

(c) Consider taking such measures as may be necessary to allow confiscation of such property without a criminal conviction in cases in which the offender cannot be prosecuted by reason of death, flight or absence or in other appropriate cases.

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

The relevant provision (article 45a of the Criminal Code) concerning non-conviction based confiscation was introduced into Polish legal system in 2015.

It reads as follows:

Art. 45a. § 1. The court may order forfeiture if the social harmfulness of the act is negligible, as well as in the event of conditional discontinuance of the proceedings or finding that the perpetrator has committed a criminal act in the state of insanity, referred to in art. 31 § 1, or if there is a circumstance excluding the punishment of the perpetrator of a prohibited act.

"§ 2. If the evidence gathered on a case indicates that forfeiture would be adjudicated in the event of conviction, the court can rule on forfeiture also in the event the proceedings are discontinued for reason of the perpetrator not having been identified or having died, as well as in the event of suspension of proceeding on a case in which the accused cannot be apprehended, or cannot partake in the proceeding for reason of mental illness or any other serious illness.";

In years 2015 - 2017 Polish prosecutors applied for the forfeiture of property under article 45a CC in 38 cases.

Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.

Examples of cases

1. The investigation ref. no. PR 4 Ds. 291.2017 conducted Nysa, concerning forgery of documents was terminated due to expiration of the status of limitation. Consequently, the prosecutor in charge of the case filed the court with the motion to forfeit forged documents indicating that a circumstance excluding the punishment of the perpetrator occurred. The court approved the motion of the prosecutor and decided to forfeit forged documents.

2. The investigation ref. no. PR 2 Ds. 111.2016 conducted by the District Prosecution Office in Bolesławiec concerning illegal ownership of a few pieces of ammunition was terminated due to negligible social harmfulness of the offence. The prosecutor in charge of the case filed the court with the motion to forfeit ammunition indicating article 45a CC as a legal grounds for forfeiture. The court approved the motion of the prosecutor and decided on forfeiture of the ammunition.

242. Subparagraph 2 (a) of article 54

2. Each State Party, in order to provide mutual legal assistance upon a request made pursuant to paragraph 2 of article 55 of this Convention, shall, in accordance with its domestic law:

(a) Take such measures as may be necessary to permit its competent authorities to freeze or seize property upon a freezing or seizure order issued by a court or competent authority of a requesting State Party that provides a reasonable basis for the requested State Party to believe that there are sufficient grounds for taking such actions and that the property would eventually be subject to an order of confiscation for purposes of paragraph 1 (a) of this article;

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

Seizure of property upon a seizure order issued by a court or competent authority of a requesting State Party with a view of further confiscation has been addressed by the provisions of Chapter 62a of the Criminal Procedure Code which applies to the EU countries.

It reads as follows:

Chapter 62a CPC

Article 589g. § 1. In the event of establishing that items, correspondence, parcels, lists of telephone calls or other transmissions of information or data stored in an information technology system or on a data carrier, including correspondence sent by electronic mail, or property that is subject to seizure to secure execution of an order on forfeiture that might be evidence in the case are located in the territory of another European Union member state, the court competent to hear the case or the state prosecutor may request execution of an order on their retention or securing directly to a competent judicial authority of such state.

§ 2. By transmitting an order on the retention of evidence for execution, the competent court or state prosecutor shall at the same time request the competent judicial authority of the order executing state with a motion to release such evidence.

§ 3. Immediately after an order on forfeiture of the secured property referred to in § 1 has become valid and final, the competent court shall request the competent judicial authority of the order executing state with a motion to execute such forfeiture.

§ 4. The request to release the evidence and execution of forfeiture that are referred to in § 2 and 3, respectively, shall be carried pursuant to the regulations in Chapters 62 and 66 and international agreements relating to judicial assistance in criminal cases that the Republic of Poland is bound by.

§ 5. The order referred to in § 1 shall be appended with a certificate confirming all

material information that shall facilitate its proper execution.

§ 6. Transmitted documents shall be translated into an official language of the order executing state or into any other language that has been indicated by such state.

§ 7. Transmission of the order or certificate referred to in § 5 may also be effected with the use of tools used for automatic data transmission, in a manner that allows authentication of such documents.

§ 8. In the event of difficulties in determining the competent agency of the order executing state, the competent court or the state prosecutor may also direct a request to competent organisational units of the European Judicial Network.

(…)

In case of non-EU countries property still can be seized in execution of the foreign MLA request. The legal basis to apply seizure in this case is article 585 subparagraph 3 of the Criminal Procedure Code.

Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.

no such example is available

243. Subparagraph 2 (b) of article 54

2. Each State Party, in order to provide mutual legal assistance upon a request made pursuant to paragraph 2 of article 55 of this Convention**,** shall, in accordance with its domestic law:

...

(b) Take such measures as may be necessary to permit its competent authorities to freeze or seize property upon a request that provides a reasonable basis for the requested State Party to believe that there are sufficient grounds for taking such actions and that the property would eventually be subject to an order of confiscation for purposes of paragraph 1 (a) of this article; and

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

See response to the preceding provision.

Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.

no such examples available

244. Subparagraph 2 (c) of article 54

2. Each State Party, in order to provide mutual legal assistance upon a request made pursuant to paragraph 2 of article 55 of this Convention, shall, in accordance with its domestic law:

...

(c) Consider taking additional measures to permit its competent authorities to preserve property for confiscation, such as on the basis of a foreign arrest or criminal charge related to the acquisition of such property.

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

Taking additional measures to permit the competent domestic authorities to preserve property for confiscation on the basis of a foreign arrest or criminal charge related to the acquisition of such property has been to some extent considered under article 607wa § 1 CPC concerning the execution of the European Arrest Warrant.

Article 607wa. § 1. The competent court or state prosecutor, on a motion from the judicial authority of the European Warrant issuing state, shall seize and transfer items directly from the offence, that have been used or have been intended for committing the offence, or those that might serve as evidence in the case of items, correspondence, parcels, lists of telecommunication connections or other transmissions of information or data stored in an information technology system or on a carrier, including correspondence sent by electronic mail.

§ 2. Seizure and extradition of evidence and items referred to in § 1 shall be carried also when execution of the European Warrant is not possible because of death or escape of the prosecuted person.

§ 3. At extradition of items referred to in § 1 their return may be warranted, in particular when they are subject to return to the injured person or another eligible entity staying in the territory of the Republic of Poland.

§ 4. The provisions of Chapter 62b shall be applied accordingly.

Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.

no such example available

245. Technical Assistance

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

Please outline actions required to ensure or improve the implementation of the article under review and describe any specific challenges you might be facing in this respect.

Do you require technical assistance for the implementation of this article? If so, please specify the forms of technical assistance that would be required. For example:

(NO) No assistance would be required

Is any technical assistance already being provided to you? If so, please provide a general description of the nature of the assistance, including donor information.

55. International cooperation for purposes of confiscation

246. Paragraph 1 of article 55

1. A State Party that has received a request from another State Party having jurisdiction over an offence established in accordance with this Convention for confiscation of proceeds of crime, property, equipment or other instrumentalities referred to in article 31, paragraph 1, of this Convention situated in its territory shall, to the greatest extent possible within its domestic legal system:

(a) Submit the request to its competent authorities for the purpose of obtaining an order of confiscation and, if such an order is granted, give effect to it; or

(b) Submit to its competent authorities, with a view to giving effect to it to the extent requested, an order of confiscation issued by a court in the territory of the requesting State Party in accordance with articles 31, paragraph 1, and 54, paragraph 1 (a), of this Convention insofar as it relates to proceeds of crime, property, equipment or other instrumentalities referred to in article 31, paragraph 1, situated in the territory of the requested State Party.

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

The Polish legal system provides for a number of instruments to seize the property with a view of possible subsequent forfeiture.

a) In relation to UE Member States:

It is possible to enforce a foreign decision on seizure of property under the Council Framework Decision 2003/577/ JHA which was implemented into the Polish legal order in Chapter 62b of the Code of Criminal Procedure.

a) In relation to non-UE states:

Seizure of property may be performed under article 585 pkt 3 CPC and article 607 CPC in execution of a foreign MLA request. The request might also be executed on the basis of bilateral or multilateral international agreement or the reciprocity rule. Polish authorities executing MLA request apply provisions of the Polish criminal law.

Article 585. The actions necessary in criminal proceedings may be conducted by way of judicial assistance, particularly the following:

(1) service of documents on persons staying abroad or on agencies having their principal offices abroad,

(2) taking depositions of persons in their capacities as accused persons, witnesses, or experts,

(3) inspection and searches of dwellings and other places and persons, confiscation of material objects and their delivery abroad,

(4) summoning of persons staying abroad to make a personal voluntary appearance

before the court or state prosecutor, in order to be examined as a witness or to be submitted to confrontation, and the bringing of persons under detention, for the same purposes, and

(5) giving access to records and documents, and information on the record of convictions of the accused.

(6) advising on the law.

Article 588. § 1. Courts and state prosecutors offices shall give judicial assistance when requested by letters rogatory, issued by the courts and the state prosecutors' offices of foreign states.

§ 2. The court and the state prosecutors' office shall refuse to give judicial assistance and convey their refusal to the appropriate agencies of the foreign state in question, if the requested action is in conflict with the legal order of the Republic of Poland or constitutes an infringement of its sovereignty.

§ 3. The court and the state prosecutor may refuse to give judicial assistance if:

(1) the performance of the requested action lies beyond the scope of activity of the court or state prosecutor under Polish law,

(2) the foreign state in which the letters rogatory have originated, does not guarantee reciprocity in such matters, or

(3) the request is concerned with an act which is not an offence under Polish law.

§ 4. Polish law shall be applied to the procedural actions performed pursuant to a request from a foreign court or state prosecutor. However, if these agencies require special proceedings or some special form of assistance, their wishes should be honoured, unless this is in conflict with the principles of the legal order of the Republic of Poland.

Article 607. § 1. Jurisdiction to resolve motions filed by a foreign State, seeking delivery of objects constituting material evidence or obtained by the offence, shall be vested in the state prosecutor or the court, depending on at whose disposal these objects have been deposited.

§ 2. The order on the delivery of objects should list the material objects subject to surrender to the foreign State, and indicate what objects shall be returned after the criminal proceedings conducted by the agencies of that foreign State have been concluded.

In years 2015-2017 units of the Polish prosecution office executed 10 MLA request for seizure of property.

Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.

Examples of cases:

1. In 2015, the Regional Prosecutor's Office in Białystok executed a MLA request made by the Voivodship Prosecutor's Office in Prague to seize mobile phones originating from the theft committed in the period of between 15 and 16 June 2014 in the Prague-East District. 800 pieces of iPhone S5 mobile phones of a total value of 500 000 EUR were stolen from a Fiat Ducato vehicle to the detriment of the RICO company based in Poland. Unfortunately only one mobile phone was seized and handed over to Voivodship Prosecutor's Office in Prague.

2. The Regional Prosecutor's Office in Jelenia Góra on the basis of art. 588 § 1 CPC executed the MLA request of the Public Prosecutor's Office in Frauenfeld (Switzerland) of August, 23, 2017, concerning blocking up to CHF 2,000 on the Łukasz Jurecki's banking account opened in Bank Zachodni WBK. Łukasz Jurecki was charged of stealing at least 30 smartphones worth PLN 38,000 between 14 and 15 August 2017 in Switzerland.

247. Paragraph 2 of article 55

2. Following a request made by another State Party having jurisdiction over an offence established in accordance with this Convention, the requested State Party shall take measures to identify, trace and freeze or seize proceeds of crime, property, equipment or other instrumentalities referred to in article 31, paragraph 1, of this Convention for the purpose of eventual confiscation to be ordered either by the requesting State Party or, pursuant to a request under paragraph 1 of this article, by the requested State Party.

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

See the response to preceding paragraph.

Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.

See the response to preceding paragraph.

248. Paragraph 3 of article 55

3. The provisions of article 46 of this Convention are applicable, mutatis mutandis, to this article. In addition to the information specified in article 46, paragraph 15, requests made pursuant to this article shall contain:

(a) In the case of a request pertaining to paragraph 1 (a) of this article, a description of the property to be confiscated, including, to the extent possible, the location and, where relevant, the estimated value of the property and a statement of the facts relied upon by the requesting State Party sufficient to enable the requested State Party to seek the order under its domestic law;

(b) In the case of a request pertaining to paragraph 1 (b) of this article, a legally admissible copy of an order of confiscation upon which the request is based issued by the requesting State Party, a statement of the facts and information as to the extent to which execution of the order is requested, a statement specifying the measures taken by the requesting State Party to provide adequate notification to bona fide third parties and to ensure due process and a statement that the confiscation order is final;

(c) In the case of a request pertaining to paragraph 2 of this article, a statement of the facts relied upon by the requesting State Party and a description of the actions requested and, where available, a legally admissible copy of an order on which the request is based.

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

See the response to preceding paragraph.

Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.

See the response to preceding paragraph.

249. Paragraph 4 of article 55

4. The decisions or actions provided for in paragraphs 1 and 2 of this article shall be taken by the requested State Party in accordance with and subject to the provisions of its domestic law and its procedural rules or any bilateral or multilateral agreement or arrangement to which it may be bound in relation to the requesting State Party.

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

See the response to preceding paragraph.

Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.

See the response to preceding paragraph.

56. Special cooperation

256. Article 56

Without prejudice to its domestic law, each State Party shall endeavour to take measures to permit it to forward, without prejudice to its own investigations, prosecutions or judicial proceedings, information on proceeds of offences established in accordance with this Convention to another State Party without prior request, when it considers that the disclosure of such information might assist the receiving State Party in initiating or carrying out investigations, prosecutions or judicial proceedings or might lead to a request by that State Party under this chapter of the Convention.

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

Transferring information regarding committed crimes to other states without prior request for mutual legal assistance, is possible on the basis of:

- art. 7 of the Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union of 29 May 2000 (transmission of information on country's own initiative)

- art. 21 of the European Convention on Legal Aid in Criminal Matters of 20 April 1959

- art. 11 of the Second Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters of November 8, 2001 (transmission of information on country's own initiative)

- art. 46 section 4 and 5 of the United Nations Convention against Corruption of 31 October 2003

- art. 18 sec. 4.5 of the United Nations Convention against Transnational Organized Crime of November 15, 2000

Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.

Due to the decentralized turnover of the MLA requests, the relevant statistical data on application of the legal tools listed above, is not available.

257. Technical Assistance

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

Please outline actions required to ensure or improve the implementation of the article under review and describe any specific challenges you might be facing in this respect.

Do you require technical assistance for the implementation of this article? If so, please specify the forms of technical assistance that would be required. For example:

(NO) No assistance would be required

Is any technical assistance already being provided to you? If so, please provide a general description of the nature of the assistance, including donor information.

57. Return and disposal of assets

258. Paragraph 1 of article 57

1. Property confiscated by a State Party pursuant to article 31 or 55 of this Convention shall be disposed of, including by return to its prior legitimate owners, pursuant to paragraph 3 of this article, by that State Party in accordance with the provisions of this Convention and its domestic law.

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

In response to the basic principles of criminal procedure, including the principle that criminal proceedings should use appropriate measures provided for in law in order to respect the legally protected interests of the injured party in the proceedings, Poland has implemented several legal institutions and solutions to ensure that this principle is actually respected.

The most recent amendments to criminal law and some other statutes, adopted in the Act of 23 March 2017 amending the Criminal Code and some other statutes (Journal of Laws of 2017, item 768) introduced some new provisions on the forfeiture of enterprises used in the perpetration of a criminal offence or to conceal proceeds of crime; provisions that extended the application of confiscation by modifying the provisions on the forfeiture of proceeds of crime, by extending the period of "presumed possession of assets obtained through criminal activities" and by adding a new measure to Article 291 of the Code of Criminal Procedure. The new measure is the return, to the injured party or any other authorised person or entity, the proceeds that the offender may have earned as a result of a criminal offence, or an amount equivalent to such proceeds (the forfeiture of proceeds of crime or an amount equivalent to such proceeds). Furthermore, Article 47(2a) was added to the Criminal Code, i.e. the measure of returning, to the injured party, the proceeds from an enterprise used in the perpetration of a criminal offence, if the measure of forfeiture is not applied. The Criminal Code provides that a court may award punitive damages of up to PLN 1,000,000 to the injured party or the Polish Crime Victims and Post-Penitentiary Aid Fund.

Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.

Under the provisions that allow for the forfeiture of an enterprise or the proceeds of crime, one order was issued on the forfeiture of an enterprise that was used in the perpetration of a criminal offence. Under the new provisions of Articles 45(2) and 45(3) of the Code of Criminal Procedure, 41 orders were issued to freeze the assets of criminal offenders where it was presumed that the assets had been obtained through criminal activities. The total value of the assets so frozen was PLN 66.850.970.

259. Paragraph 2 of article 57

2. Each State Party shall adopt such legislative and other measures, in accordance with the fundamental principles of its domestic law, as may be necessary to enable its competent authorities to return confiscated property, when acting on the request made by another State Party, in accordance with this Convention, taking into account the rights of bona fide third parties.

Is your country in compliance with this provision?

(Y) Yes

58. Financial intelligence unit

266. Article 58

States Parties shall cooperate with one another for the purpose of preventing and combating the transfer of proceeds of offences established in accordance with this Convention and of promoting ways and means of recovering such proceeds and, to that end, shall consider establishing a financial intelligence unit to be responsible for receiving, analysing and disseminating to the competent authorities reports of suspicious financial transactions.

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

The PFIU acts as the central, national agency is responsible for receiving analysing and disseminating to the competent authorities, disclosures of financial information.

According to the Act the duties of the PFIU cover:

1) analysing information related to assets, in relation to which the PFIU has become reasonably suspicious that it is associated with the crime of money laundering or terrorist financing;

2) carrying out of the procedure of transaction suspension or bank account blocking;

3) requesting submission of information on transactions and disclosure thereof;

4) submission of information and documentation justifying the suspicion concerning
the commitment for criminal offence to authorised bodies;

5) exchange of information with cooperating units;

6) preparing the national money laundering and terrorist financing risk assessment and strategies on counteracting such criminal offence, in cooperation with cooperating units and obligated institutions;

7) exercising control over the compliance with the regulations on counteracting money laundering and terrorist financing;

8) issuing decisions concerning entering into the list of persons and entities towards which special restrictive measures referred to in Article 117 are applied, or their deleting from the list as well as keeping this list;

9) cooperation with competent authorities of other countries as well as foreign institutions and international organisations dealing with combating money laundering or terrorist financing;

10) imposing administrative penalties referred to in the Act;

11) making knowledge and information in the scope of money laundering and

terrorist financing available in the Public Information Bulletin on the website of the office providing services to the minister competent for public finance;

12) information processing according to the procedure defined in the Act;

13) initiating other measures to counteract money laundering and terrorist financing.

As mentioned above the PFIU can cooperate with foreign counterparts exchanging information for the purpose of its use for the performance of tasks by the FIU. The PFIU on request or on an ex officio basis, makes available to foreign FIUs and acquire from them information related to money laundering or terrorist financing, including information on prohibited acts from which assets may originate.

The PFIU actively participates in international and regional institutions and organizations, focused on combating money laundering, including the Egmont Group of Financial Intelligence Units (The Egmont Group), Expert Group on Combating Money Laundering and Financing of Terrorism, the EU-FIU Platform (both European Union bodies), the Council of Europe's Committee of experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism - MONEYVAL and Eurasian Group on combating money laundering and financing of terrorism (Poland has observer status). The PFIU with a support from the Ministry of Foreign Affairs, continues the endeavours for the membership in the FATF.

Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.

See also information provided under Article 14 paragraph 5.

267. Technical Assistance

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

Please outline actions required to ensure or improve the implementation of the article under review and describe any specific challenges you might be facing in this respect.

Do you require technical assistance for the implementation of this article? If so, please specify the forms of technical assistance that would be required. For example:

(NO) No assistance would be required

Is any technical assistance already being provided to you? If so, please provide a general description of the nature of the assistance, including donor information.

59. Bilateral and multilateral agreements and arrangements

268. Article 59

States Parties shall consider concluding bilateral or multilateral agreements or arrangements to enhance the effectiveness of international cooperation undertaken pursuant to this chapter of the Convention.

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

The Polish prosecutor's office is not a party to agreements secificly in the field of combating corruption or disposing of property from forfeiture, however is a party to general cooperation agreements with the Dominican Republic (2015) Uzbekistan (2013), Russia (2010), Lithuania (2006) and Ukraine (1998) prosecutor's offices , Bulgaria (1985), Cuba (1987), Hungary (1988), China (1988) and Mongolia (1989).

Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.

See the precedning response.

269. Technical Assistance

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

Please outline actions required to ensure or improve the implementation of the article under review and describe any specific challenges you might be facing in this respect.

Do you require technical assistance for the implementation of this article? If so, please specify the forms of technical assistance that would be required. For example:

(NO) No assistance would be required

Is any technical assistance already being provided to you? If so, please provide a general description of the nature of the assistance, including donor information.

B. Other information

B. Other information

270. Other information

Please provide any other information you believe is important for the Conference of the States Parties to the United Nations Convention against Corruption to consider at this stage regarding aspects of, or difficulties in, implementing the Convention other than those mentioned above.

Please provide any other information you believe is important for the Conference of the States Parties to the United Nations Convention against Corruption to consider at this stage regarding aspects of or difficulties in implementing the Convention other than those mentioned above