



ARGENTINA: FOLLOW-UP TO THE PHASE 3bis REPORT & RECOMMENDATIONS

July 2019

This report, submitted by Argentina, provides information on the progress made by Argentina in implementing the recommendations of its Phase 3bis report. The OECD Working Group on Bribery's summary of and conclusions to the report were adopted on 26 June 2019.

The Phase 3bis report evaluated and made recommendations on Argentina's implementation of the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and the 2009 Recommendation of the Council for Further Combating Bribery of Foreign Public Officials in International Business Transactions.

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TABLE OF CONTENTS

Summary and Conclusions of the Working Group.....	4
Phase 3bis Evaluation of Argentina: Two-Year Written Follow-Up Report.....	15

SUMMARY AND CONCLUSIONS OF THE WORKING GROUP

Summary of Findings

1. In June 2019, Argentina presented a written follow-up report on its implementation of the recommendations from the 2017 [Phase 3bis evaluation](#) by the OECD Working Group on Bribery in International Business Transactions (WGB). The WGB considers that Argentina has fully implemented 15 recommendations, partially implemented 23, and not implemented 7.
2. The WGB commends Argentina for implementing longstanding recommendations to introduce corporate liability for foreign bribery, provide nationality jurisdiction to prosecute this crime, and rectify several shortcomings in its foreign bribery offence. These legislative deficiencies were among the principal reasons behind the WGB's decision to conduct the Phase 3bis evaluation of Argentina. In response, Argentina mobilised significant resources to enact the Corporate Liability Law 27 401 (CLL) which entered into force in March 2018. The WGB's Phase 1bis Report analyses the CLL and identifies areas for improvement. Nevertheless, the enactment of this major piece of legislation in a relatively short period of time is a significant and exemplary achievement.
3. The situation with foreign bribery enforcement is less positive. Major domestic corruption cases are in the media spotlight, but most foreign bribery enforcement actions continue to face lengthy delays. One foreign bribery case is at trial, which is a positive development. But none of the eight foreign bribery cases that were on-going at the time of the Phase 3bis Report has reached trial or even indictment. Investigation into ten new foreign bribery allegations have been slow. Argentina states that it has initiated a greater number of investigations. This is encouraging, but the WGB expects Argentina to strengthen its ability to successfully conclude these investigations.
4. Case #6 – Tax Collection may also have been terminated before all sources of evidence were exhausted. An Argentine company had reportedly paid for 12 Guatemalan public officials' expenses at a luxurious Argentine hotel before winning a Guatemalan procurement contract. Argentine authorities conducted searches and obtained mutual legal assistance (MLA). They have since closed the investigation for reasons that are not entirely satisfactory. The authorities say that bidding did not take place in Guatemala, but a contract that was awarded without tender should be a red flag for corruption, not a reason for closing the case. They also say that the hotel was paid so that Guatemalan officials could participate in an internship in Argentina, and that a cash flow of bribes was not detected. However, the hotel expenses, if it was paid for by the Argentine company, could have constituted a bribe.
5. This under-enforcement partly stems from Argentina's slow progress in addressing concerns about its justice system which were also principal reasons for the Phase 3bis evaluation. Updated information on resources has not been provided. There is no evidence that the heavy workloads of judges and prosecutors have been lessened. The pace of judicial appointments has quickened, the situation of surrogate judges has been dealt with by a new law, but vacancies have not been reduced due to departures. After repeated delays, the implementation of a new Criminal Procedure Code has begun but will not be completed in Buenos Aires until 2025. The reform of the Judicial Council is still pending and may in any event be insufficient to strengthen the Council's independence.

Regarding the foreign bribery offence:

- ◆ *Recommendations 1(a) and (b) – fully implemented:* As noted in Section 1.2 of the Phase 1bis Report, the Corporate Liability Law (CLL) enacted a new definition of a foreign public official in Art. 258bis of the Penal Code (PC). The new definition seeks to address WGB concerns about a non-autonomous definition, officials of organised foreign areas or entities, and officials of state-owned or state-controlled enterprises. Future Working Group evaluations will follow up the interpretation of this provision.
- ◆ *Recommendation 1(c) – fully implemented:* As explained in Section 1.1 of the Phase 1bis Report, the CLL added the word “unduly” to the foreign bribery offence in Art. 258bis PC. The word modifies the phrase “offers, promises or gives”, and not the advantage provided to or received by the briber as in the Convention. The different placement of the word should be discussed with Argentine practitioners in future evaluations.

Regarding jurisdiction:

- ◆ *Recommendation 2 – fully implemented:* The CLL also added a new Art. 1(3) PC which provides jurisdiction over all Argentine nationals for extraterritorial foreign bribery (see Phase 1bis Report Section 4).

Regarding the liability of legal persons:

- ◆ *Recommendation 3(a) – fully implemented:* With the CLL’s entry into force in March 2018, Argentina can now impose criminal liability for “private legal persons” for foreign bribery. The Working Group’s Phase 1bis Report analyses the CLL and makes recommendations for improving the legislation. The Working Group will also follow up several aspects of the CLL in future evaluations.
- ◆ *Recommendation 3(b) – fully implemented:* The Working Group recommended that Argentina consider harmonising legislative provisions on corporate liability for foreign bribery and related offences such as money laundering and false accounting. Argentina considered this issue when it developed the CLL. In the end, it decided that the CLL would apply to foreign bribery and false accounting but Art. 304 PC would apply to money laundering. The Working Group will follow up this issue in future evaluations.

Regarding sanctions and confiscation:

- ◆ *Recommendations 4(a) and 4(b) – fully implemented:* As noted in the Phase 1bis Report (Section 3.1.1), the CLL introduced a new Art. 259bis PC. Foreign bribery is now punishable by a fine of two to five times the value of the bribe. The fine is available even if the gain obtained by a briber is not pecuniary or does not go to the briber but his/her company, unlike Art. 22 PC which previously applied. The Working Group will follow up cases in which the monetary value of the bribe cannot be determined.
- ◆ *Recommendation 4(c) – partially implemented:* This recommendation asked Argentina to maintain detailed statistics of sanctions (including confiscation) imposed in cases of bribery and other economic crimes. Argentina’s follow-up report did not provide such statistics. Argentina considers that the provided statistics were “exhaustive for cases of complex economic crimes”. In fact, its report only included partial data from some law enforcement bodies, but much of the information concerned seizure – not confiscation – and covered all offences, not bribery and economic crimes. Argentina also describes some new efforts to improve the gathering of statistics in the Public Prosecutor’s Office (PPO). Whether these efforts will produce the needed statistics remains to be seen.

- ◆ *Recommendation 4(d) – not implemented:* Argentina refers to Decree 62/2019 which concerns unjust enrichment, not value confiscation. The Decree allows the confiscation of assets that a defendant acquires after the crime under investigation. But there must be proof that the assets do not reasonably correspond to the defendant's income or represent an unjustified increase in his/her assets, in order to raise a presumption that these assets are proceeds of crime. Hence, if the proceeds of foreign bribery cannot be confiscated because they have been consumed or destroyed, then the Decree cannot be used to confiscate property of equivalent value that is clearly not proceeds of crime, such as income earned from legitimate sources, or income earned before the offence was committed.

As mentioned in the Phase 1bis Report (Section 3.2.2), Art. 10 CLL applies the Penal Code and hence value confiscation is also not available against legal persons.

- ◆ *Recommendation 4(e) – partially implemented:* Support on asset recovery is provided to prosecutors through the PPO's General Directorate of Asset Recovery and Confiscation (DRADB) in the Public Prosecutor's Office and General Directorate for Economic and Financial Advice in Investigations (DAFI). This should help ensure that confiscation is routinely ordered in foreign bribery cases.

That said, Argentina did not provide data to show that confiscation is routinely applied in practice. As with Recommendation 4(c), much of the data provided by Argentina were on seizures and not confiscation, and on cases that did not involve corruption. There was no information on efforts to ensure that the amount of confiscation represents the full benefits of the offence, and that confiscation orders are executed without unreasonable delay. Argentina refers to Decree 62/2019. But as mentioned in Recommendation 4(d), this law concerns unjust enrichment and whether it will address the issues under Recommendation 4(e) remains to be seen.

- ◆ *Recommendation 4(f) – partially implemented:* Argentina has extended debarment against legal persons for foreign bribery. A new Decree 1169/2018 essentially replicates debarment in Decree 1030/2016 for public works contracts. More importantly, the new CLL provides for debarment for a maximum of ten years (see Phase 1bis Report Section 3.3). Under Decrees 1030/2016 and 1169/2018, debarment by a multilateral development bank is also grounds for debarment. Procuring authorities are thus required to check the debarment lists of these institutions.

However, some of the deficiencies identified in the Phase 3bis Report (paras. 214 and 216) remain. Decrees 436/2000 and 1023/2001 cover some but not all forms of foreign bribery. Debarment under Decrees 1030/2016 and 1169/2018 applies only if a legal person is convicted not in Argentina but abroad, and has been subject to another time-based sanction. As noted in the Phase 1bis Report (Section 3.3), Argentina should also streamline the provisions to deal with debarment. Argentina also argues that Decree 1023/2001 imposes debarment in all cases of conviction for foreign bribery. However, the WGB has rejected this argument since Phase 2 (Report para. 232).

Regarding investigations and prosecutions:

- ◆ *Recommendation 5(a) – fully implemented:* PROCELAC added information on its website to encourage anonymous reporting. More importantly, 43 of the 122 cases initiated by PROCELAC in 2018 originated from reports made anonymously or by people whose identity was not corroborated.
- ◆ *Recommendation 5(b) – fully implemented:* PROCELAC has created a system to search different world news websites and detected two foreign bribery cases since Phase 3bis. In

2018, it opened numerous non-foreign bribery cases based on information provided by the Financial Intelligence Unit, Central Bank, Customs Administration and Interpol. Closer co-operation with Argentine embassies overseas would be beneficial since they are an important source of foreign bribery allegations.

- ◆ *Recommendation 5(c) – partially implemented:* This Recommendation asks Argentina to take steps to ensure that prosecutors and judges in economic crime cases act promptly and proactively without delay. A Judicial Council audit of corruption cases in 1996-2016 generated statistics. Argentina argues that the audit showed much lower average delay than the NGO data considered in the Phase 3 and Phase 3bis Reports. But this argument overlooks the fact that the audit took into account over 7 000 corruption cases, many of which involved low-level corruption and were not complex. One of the NGO studies, on the other hand, considered 63 complex corruption cases with an average duration of 14 years. Furthermore, even the Judicial Council audit itself found 363 corruption cases that lasted over a decade. These findings of extreme delay were corroborated by the statements of prosecutors, judges, lawyers, academics, parliamentarians, and civil society representatives at the on-site visits in Phase 2 (2008), Phase 3 (2015) and Phase 3bis (2017).

In addition, Argentina states that PROCELAC has increased the quality and quantity of its support of prosecutors in economic crime cases. Argentine authorities also listed legislative and institutional reforms to reduce delays but did not provide data to indicate their impact. In the absence of such data, Argentina's actual foreign bribery enforcement actions provide some indication. One foreign bribery case is in trial before the courts, which is a positive development. But the other cases are less promising. Of the eight on-going foreign bribery cases described in the Phase 3bis Report, one has been closed, and none of the remaining seven has reached indictment or trial. Nine new foreign bribery allegations have surfaced since the Phase 3bis Report. For four allegations, the investigations are still in a preliminary stage.

- ◆ *Recommendation 5(d) – partially implemented:* Argentina originally enacted a new Criminal Procedure Code (CPC) (Law 27 063) in 2014 and expected the law to enter into force in phases, beginning in Buenos Aires City in March 2016. In December 2015, it changed the timetable, and entry into force would begin in Salta province in 2017. Since then, Argentina has amended the CPC (Law 27 482). After further delays, the CPC entered into force in the provinces of Salta and Jujuy on 10 June 2019. The progress is encouraging, but the new CPC will be in force in Buenos Aires City – the jurisdiction with the most cases of corruption and foreign bribery – at the end of 2025 under the current schedule.
- ◆ *Recommendation 5(e) – partially implemented:* To reduce systemic delay in the justice system, Argentina has introduced some measures such as transferring drug cases in Buenos Aires and other provinces from federal to city courts, and reducing the number of judges required to hear certain interlocutory and trial proceedings. Argentina also described measures that pre-date the Phase 3bis Report. These measures have been applied in practice. However, actual foreign bribery cases remain protracted, as mentioned under Recommendation 5(c). Up to date statistics showing whether and by how much delay has decreased since the 2017 Phase 3bis Report are not available.
- ◆ *Recommendation 5(f) – partially implemented:* PROCELAC has created a new unit dedicated to foreign bribery cases, which increases the specialisation and resources for fighting this crime. The PPO described other specialised units that support prosecutors but their effectiveness has yet to be tested. The PPO's COIRON project deals with case management, not investigative expertise. Investigative judges remain unspecialised. No

information was provided on the financial budgets, staffing levels or caseloads in the PPO or judiciary. Reorganisation of the security forces does not concern investigative judges and prosecutors, which is the focus of this Recommendation. As mentioned under Recommendation 5(c), actual foreign bribery cases continue to see significant delay, which is partly due to insufficient resources.

- ◆ *Recommendation 5(g) – fully implemented:* Argentina described a range of training activities since 2017 that largely covered foreign bribery, the Anti-Bribery Convention, the seeking of mutual legal assistance and the recently enacted Corporate Liability Law.
- ◆ *Recommendation 5(h) – fully implemented:* Law 26 047 was amended in 2018 to allow the Ministry of Justice take over the National Company Registry. The Registry became available [online](#) in May 2019.

Regarding judicial and prosecutorial independence:

- ◆ *Recommendation 6(a) – not implemented:* This Recommendation asks Argentina to adjust the composition of the Judicial Council, and ensure that the Council effectively protects the independence of judges. The composition of the Judicial Council remains unchanged. The Phase 3bis Report (para. 108) criticised a Bill that limited the judiciary’s representation to just one-third of the Council. A second Bill currently before Congress would result in even less judicial representation, with only 4 judges out of 16 Council members. The political branches would have 7 representatives (6 legislators and 1 government representative), which would be more than enough to block key decisions (such as judicial appointments and impeachments) that require a qualified majority. The remaining members (4 lawyers and 1 academic) would not be sufficiently independent and invulnerable to political interference.
- ◆ *Recommendations 6(b) – partially implemented:* This Recommendation asks Argentina to take urgent steps to ensure the independence of the Offices of the federal Attorney General (AG) and Public Prosecutors, including by protecting the appointment, transfer and dismissal of the Attorney General and prosecutors from political influence. Since Phase 3bis, a new procedure to appoint prosecutors is more transparent and objective. The public now has an opportunity to provide submissions on candidates for AG. Other rules on the appointment, supervision, transfer, discipline and dismissal of the AG and prosecutors are unchanged.
- ◆ *Recommendation 6(c) – not implemented:* This Recommendation asks Argentina to ensure that prosecutors who conduct foreign bribery cases are not subjected to political or other undue interference. However, as mentioned under Recommendation 6(b), the rules on the appointment, supervision, transfer, discipline and dismissal of prosecutors are unchanged. Argentina states that the rules that allow the AG to supervise prosecutors have been abolished, but this is not sufficient to implement the Recommendation.
- ◆ *Recommendation 6(d) – partially implemented:* Judicial training for the implementation of the CPC 2019 covered the Convention, including Article 5. However, this training has been provided only to judges in Salta, not in Buenos Aires where most foreign bribery cases take place. One or more of the PPO’s 118 training courses in 2018 covered Article 5, but there is no information on who or how many individuals took these courses.
- ◆ *Recommendation 6(e) – partially implemented:* This Recommendation asks Argentina to substantially reduce the number of judicial vacancies. The pace of judicial appointments has improved but the number of vacancies is essentially unchanged. Presently 25.4% (248 out of 977) of federal judgeships are vacant, compared to 25.6% at the time of the

Phase 3bis Report. In 2018, the number of judicial appointments exceeded the number of departures by 13. While this is an improvement, at this rate it would take 19 years to eliminate all vacancies. Argentina states that the number of judicial retirements recently increased. It has also enacted new rules for appointing and removing surrogate judges that increase their independence, but this does not help reduce judicial vacancies, which is the gist of this Recommendation. Argentina also reports that many judicial appointments have reached the Senate and are nearing completion. This is encouraging. But until judicial vacancies are substantially reduced, Recommendation 6(e) remains partially implemented.

Regarding mutual legal assistance (MLA):

- ◆ *Recommendation 7(a) – partially implemented:* This Recommendation asks investigative judges and prosecutors in foreign bribery cases use all available means to secure MLA. Argentina’s follow-up report states that its central authority follows up outstanding MLA requests with foreign authorities, which is a positive development. There were also some forms of informal cooperation in certain cases. However, there is no information that requests have been pursued through other channels, *e.g.* informal law enforcement-level contact, IberRed, Interpol, law enforcement meetings of the WGB or other bodies, contact with foreign embassies in Argentina *etc.*

Argentina’s follow-up report also does not describe efforts in foreign bribery cases. The report lists 83 outstanding outgoing MLA requests in corruption cases. At least five foreign bribery investigations were opened in 2016 or earlier but still currently have outstanding MLA requests. However, the report does not describe any steps taken to pursue these outstanding requests. Argentina describes at great lengths its MLA central authorities, including their practices, procedures and training courses. But much of this information pre-dates the 2017 Phase 3bis Report. It also provides statistics on reduced execution times on MLA requests to and from the US. But the central authority for US requests is the Ministry of Justice, while the Ministry of Foreign Affairs and Worship is responsible for all other countries. Hence, better response times for US requests does not necessarily imply the same for other countries.

- ◆ *Recommendation 7(b) – partially implemented:* This Recommendation asks the Ministry of Foreign Affairs and Worship (MFA) to work more closely with prosecutors and judges to pursue MLA requests in specific foreign bribery cases, including by engaging Argentine embassies overseas to facilitate the execution of requests. Argentina states that its embassies “regularly have consultations with local authorities on the development of the execution of the MLA request”. Argentina also states that several embassies have transmitted letters rogatory or provided “courtesy translations”.

As with Recommendation 7(a), Argentina does not provide information relating to specific foreign bribery cases. At least five foreign bribery investigations were opened in 2016 or earlier but still currently have outstanding MLA requests. Argentina’s follow-up report does not describe any efforts by Argentine embassies to pursue these requests. The Ministry of Foreign Affairs and Worship (MFA) provided a list of officials in its central authority to embassies, and trained future diplomats on the Anti-Bribery Convention. These efforts are commendable but are not directly relevant to the implementation of this Recommendation.

Regarding money laundering:

Recommendation 8(a) – not implemented: This Recommendation originates from Phase 2 and asks Argentina to extend anti-money laundering (AML) measures to lawyers and legal professionals, including those who are *síndicos*. No action has been taken since Phase 3bis.

Art. 20 of the AML Law 25 246, which deals with this issue, has not been amended in this respect. Argentina's follow-up report states that certain "competencies" of the legal profession are subject to reporting, e.g. persons acting as trustees, administrators or receivers. But much of the profession's work is still not covered. AML rules apply to *síndicos* who are accountants but not those who are lawyers.

- ◆ *Recommendation 8(b) – partially implemented:* Resolution 134/2018 of the *Unidad de Información Financiera* (UIF) resolved concerns about the definition of "politically exposed persons" (PEPs). The new definition includes important officials of political parties. A risk-based approach is used to determine whether a PEP retains such a status two years after terminating his/her public functions. Financial institutions and other regulated entities must apply enhanced due diligence when dealing with PEPs (Law 25 246 Art. 21bis(a)). However, Argentina has not issued guidelines on what these enhanced due diligence measures entail. Nevertheless, Argentina states that Art. 6 of UIF Resolution 134/2018 establishes specifically that reporting entities have to implement rules of control of transactions and automatised warnings to monitor in a continuous and intensified manner the transaction of PEP clients.
- ◆ *Recommendation 8(c) – fully implemented:* The UIF and other regulatory agencies invited entities that filed the most suspicious transaction reports to three sessions of "feedback exercises". Additional events were held with AML/CFT stakeholders to clarify regulatory expectations. Argentina is encouraged to repeat these efforts regularly in the future.
- ◆ *Recommendation 8(d) – partially implemented:* This Recommendation asks Argentina to raise awareness and prepare typologies on foreign bribery-related money laundering. Argentina commendably made substantial efforts to raise awareness, including seminars in 2017 that covered money laundering predicated on foreign bribery. A second seminar covered more generally typologies and red flags for preventing serious offences. The UIF shared a document on the "Indicators of Corruption" prepared by of the Egmont Group and FATF to reporting entities. One typology on foreign bribery-related money laundering has been prepared and disseminated to all reporting entities as well as some regional and foreign financial intelligence units. Argentina issued warnings to reporting entities regarding PEPs in Venezuela, but these apply to a specific situation in a single country and do not constitute general foreign bribery-related money laundering typologies.
- ◆ *Recommendation 8(e) – fully implemented:* In 2018, UIF provided slightly more intelligence reports than the previous year. Information requests and voluntary disclosures to foreign counterparts were also up. UIF actively participated in judicial investigations and concluded co-operation agreements with the Supreme Court, Anti-Corruption Office (OA) and other government agencies. Legislative amendments allowed information to be provided directly to investigative judges in on-going investigations.

Regarding accounting and auditing, corporate compliance, internal control and ethics:

- ◆ *Recommendation 9(a) – partially implemented:* Through [General Resolution 4/2018](#), the *Inspección General de Justicia* (IGJ) in the City of Buenos Aires authorised all companies under its supervision to submit their financial statements in accordance with the International Financial Reporting Standards (IFRS). This is a positive development. However, Argentina did not provide information on the application of IFRS by state-owned enterprises (SOEs). Nor is there information on small-and medium-sized enterprises (SMEs) outside the jurisdiction of the IGJ or *Comisión Nacional de Valores* (CNV). Insurance companies will fully adopt IFRS by July 2022.

- ◆ *Recommendation 9(b) – partially implemented:* As noted in the Phase 1bis Report (Section 8), the Corporate Liability Law (CLL) raised the maximum penalty for foreign bribery-related false accounting under Art. 300(2) PC against natural persons. Companies are subject to the same maximum penalties as those for foreign bribery. Confiscation and additional administrative sanctions are also available.

However, Argentina did not describe any measures to enforce offence in Art. 300(2) PC, or provide any data on actual enforcement. Its Follow-up Report described at length the efforts of the IGJ and in the banking, insurance and co-operative sectors. But as noted in the Phase 3bis Report (paras. 153-154), the administrative offences enforced by these agencies do not fully meet the requirements of the Convention.

- ◆ *Recommendation 9(c) – fully implemented:* On 11 April 2019, 69 representatives of the accounting profession attended a course that addressed Argentina’s foreign bribery and false accounting offences, the Corporate Liability Law, Anti-Bribery Convention, and WGB’s Phase 3bis recommendations, among other things. This is a very positive development and Argentina is encouraged to continue such efforts in the future.
- ◆ *Recommendation 9(d) – partially implemented:* The Phase 3bis Report stated that it was unclear whether there was a strict legal obligation for all unlisted commercial companies to be externally audited. Argentina’s Written Follow-Up Report does not address this issue. It also does not explain whether the International Standards on Auditing apply to external audits of companies that have not adopted IFRS.

Regarding audit quality standards, CNV Resolution 762/2018 requires external auditors to maintain a quality control system and to provide a report on various matters to an audited company’s audit committee. This is a step in the right direction. However, the FACPCE Technical Resolution 34 continues to import the International Standards of Quality Control and Rules on Independence (ISQCs) without adaptation to the Argentine context. The CNV Resolution also requires an auditor to provide documentary proof of experience.

- ◆ *Recommendation 9(e) – not implemented:* Argentina has not directly urged external auditors to take foreign bribery into account during audits, or issued guidance to auditors on red flags of foreign bribery. It stated that the Corporate Liability Law led to awareness-raising activities but did not refer to efforts specifically directed at external auditors. Two new guidelines do not specifically address foreign bribery and apply only to financial institutions and companies in which the Argentine state is a majority shareholder.
- ◆ *Recommendation 9(f) – not implemented:* Argentina states that Art. 237 of the CPC 2019 requires auditors to report crimes of which they become aware during their professional practice. However, the provision refers explicitly to accountants, not auditors. It requires reporting of “fraud, tax evasion, money laundering, human trafficking and exploitation of individuals”; foreign bribery is not mentioned.

Furthermore, Art. 237 states that there is no obligation to report facts acquired “by reason of professional secrecy”. In Phase 3bis, auditors stated that an identical provision in the CPC 2014 prevented them from reporting foreign bribery. In its follow-up report, the Argentine authorities disagreed, stating that under Argentine law and professional codes of ethics, professional secrecy cannot be used to conceal a crime. This position, while commendable, has not been widely communicated to external auditors. External auditors are therefore unlikely to report foreign bribery in practice. In any event, CPC 2019 is not yet in force in most of Argentina (see above).

- ◆ *Recommendation 9(g) – partially implemented:* The CLL promotes corporate integrity programmes by making them mandatory for companies seeking public procurement contracts, non-trial resolutions, and sentence reductions. Integrity Guidelines were published to help companies implement integrity programmes. As mentioned under Recommendation 11, meetings were held with over 100 large Argentine companies to promote a culture of integrity and compliance. However, efforts targeting SMEs were limited, with just one webinar in November 2017 with 25 attendees. Argentina states that the CNV held a meeting in November 2018 that was attended by 100 representatives of “the private sector”. But it is not clear whether these individuals represented SMEs, and if so, how many. Other efforts were not relevant as they concern the training of public officials and in most cases addressed corporate liability, not corporate compliance. Some measures applied to narrow sectors, such as SOEs, insurance, and co-operatives.

Regarding tax measures:

- ◆ *Recommendation 10(a) – partially implemented:* This Recommendation asked Argentina to train tax officials on detecting foreign bribery. In 2018, the *Administración Federal de Ingresos Públicos* (AFIP) organised a course that covered foreign bribery detection. 4 285 officials passed the course. Argentina hosts the OECD Latin America Academy for Tax and Financial Crime Investigation. The Academy’s Foundation Programme covers the practical aspects of financial and tax crime investigations and includes a module on foreign bribery. Only nine Argentine tax officials took part in the Programme, however.

Recommendation 10(a) also asked Argentina to remind tax officials of their obligations to report suspected crime. Argentina did not describe any efforts in this respect. It referred to General Instruction 1001/2016, which predates the Phase 3bis evaluation. A five-year training programme for AFIP officials was launched in January 2019, but this addresses corruption committed by AFIP officials, not the reporting of foreign bribery committed by taxpayers.

- ◆ *Recommendation 10(b) – partially implemented:* This Recommendation asked Argentina to ensure that tax information can be provided to foreign authorities for use in foreign bribery investigations. Law 27 467 repealed Point 3 in Art. 101(6)(d) of the Tax Procedure Law (TPL). This would allow AFIP to share tax information with foreign tax authorities; whether foreign tax authorities further share the information with foreign criminal law enforcement authorities would depend on the legislation of the foreign state, according to Argentina.

However, this amendment does not fully address the WGB’s concerns because it left in place Point 2 of Art. 101(6)(d) TPL, which limits the disclosure of information only to foreign tax authorities.¹ Indeed, Argentina admits that “the reform enables foreign *tax*

¹ The amended Article 101(6)(d) TPL states that tax secrecy shall not apply:

(d) For the cases of remittance of information abroad in the framework of the International Cooperation Agreements signed by the Federal Administration of Public Revenues with other Tax Administrations from abroad, provided that the respective Administration from abroad undertakes to:

1. Treat the information provided as secret, under the same conditions as the information obtained on the basis of its internal legislation;

administrations to use the information to prevent transnational bribery.” Hence, there remains no provisions in Argentine law for sharing tax information directly with foreign criminal law enforcement authorities.

The amendment by Law 27 467 also left in place a requirement in Art. 101(6)(d) TPL that tax information be provided under agreements signed by AFIP. This would exclude requests under MLA treaties, tax treaties, and the Multilateral Convention on Mutual Administrative Assistance in Tax Matters (Phase 3bis Report paras. 173-174). Argentina states that, “in the case of MLA treaties and the consequent requests for co-operation, these are channelled by the central authority through judges and prosecutors, for which they are the ones who authorise the lifting of secrecy.” The issue, however, is that there are no provisions under the TPL or any Argentine law that would allow judges or prosecutors to lift secrecy and allow Argentine tax information to be used by *criminal* law enforcement authorities in a *foreign country*. Argentina does not agree with this assessment.

Regarding awareness-raising:

- ◆ *Recommendation 11 – partially implemented:* The OA and CNV met over 100 leaders and managers of large Argentine companies and SMEs that covered the Anti-Bribery Convention. However, other activities did not specifically address foreign bribery, but instead focused on the Corporate Liability Law (CLL). Argentina states that the CLL is mainly focused on foreign bribery and corruption. Nevertheless, awareness-raising efforts need to cover not just corporate liability but matters such as specific countries, sectors and activities that are foreign bribery risks. Substantial efforts were also devoted to public sector integrity, which is relevant to domestic but not foreign bribery. Just one meeting in November 2017 was devoted to SMEs, which is not sufficient considering the number of such enterprises.

Regarding reporting and whistleblower protection:

- ◆ *Recommendation 12(a) – partially implemented:* The OA raised awareness of the duty to report crimes among Argentine public officials. MFA and AFIP made additional efforts *viz.* their officials. However, Argentina has not changed the legal framework for the threshold and channel for reporting, or sanctions for failure to report.
- ◆ *Recommendation 12(b) – not implemented:* Argentina still does not have whistleblower protection legislation. Its follow-up report describes at length the whistleblowing systems in 11 government bodies and state-owned enterprises. Another five agencies have committed to develop their own systems. The private sector is subject to the Corporate Liability Law, which states that corporate integrity programmes may – not must – have a policy to protect whistleblowers. Separate guidelines apply to state-owned enterprises. Overall, the status quo is extremely fragmented and incomplete. There is a very urgent need for a comprehensive whistleblower protection law. Argentina took some preliminary steps to streamline the reporting channels in the public sector.

2. Deliver the information provided only to personnel or authorities (including courts and administrative bodies), responsible for the management or collection of taxes, declaratory or executive procedures relating to taxes or, the resolution of remedies in relation to the same; and

[para. 3 repealed by Law 27 467, Art. 73.]

Regarding export credits:

- ◆ *Recommendation 13 – partially implemented:* Since Phase 2 in 2008, the WGB has recommended that Argentina consider adhering to the 2006 Recommendation of the Council on Bribery and Officially Supported Export Credits (2006 Export Credits Recommendation). In March 2019, OECD Council adopted a new Recommendation that replaced the 2006 version. On 14 May 2019, Argentina requested adhesion to the 2019 Recommendation. Argentina will be informed that it must now satisfactorily complete a review by the OECD Working Party on Export Credits and Guarantees before it joins the 2019 Recommendation.

Conclusions of the Working Group on Bribery

6. Based on these findings, the WGB concludes that Argentina has fully implemented Phase 3bis Recommendations 1(a)-(c), 2, 3(a)-(b), 4(a)-(b), 5(a), 5(b), 5(g), 5(h), 8(c), 8(e) and 9(c); partially implemented Recommendations 4(c), 4(e), 4(f), 5(c), 5(d), 5(e), 5(f), 6(b), 6(d), 6(e), 7(a), 7(b), 8(b), 8(d), 9(a), 9(b), 9(d), 9(g), 10(a), 10(b), 11, 12(a) and 13; and not implemented Recommendations 4(d), 6(a), 6(c), 8(a), 9(e), 9(f) and 12(b). The WGB will continue to monitor Follow-Up Issues 14(a)-(k). The WGB further invites Argentina to report back in writing in two years (*i.e.* June 2021) on its implementation of Recommendations 5(c), 5(d), 5(e), 5(f), and 6(e) and all foreign bribery enforcement actions.

**PHASE 3BIS EVALUATION OF ARGENTINA:
TWO-YEAR WRITTEN FOLLOW-UP REPORT**

Name of country: **Argentina**
 Date of approval of Phase 3bis evaluation report: **16 March 2017**
 Date of information: **14 May 2019**

1. Recommendations for ensuring effective investigation, prosecution and sanctioning of foreign bribery

Text of recommendation 1(a):

1. Regarding the **foreign bribery offence**, the Working Group recommends that Argentina:
 (a) introduce an autonomous definition of foreign public officials(Convention Article 1(4); 2009 Recommendations III.ii and V);

Action taken since the date of the follow-up report to implement this recommendation:

Since Phase 3bis Argentina has made important efforts to implement the recommendations of the Working Group on Bribery in International Business Transactions (WGB) focusing on strengthening the legal framework on liability of legal persons. On November 8th, 2017, the Argentine Congress passed the Law No. 27.401 (CLL) which establishes the Corporate Criminal Liability Regime for Crimes against Public Administration and for International Bribery (Annex 1). Regarding foreign bribery offence, article 30 of the CLL introduces an autonomous definition of foreign public officials:

Art. 30°.- ARTICLE 258 bis of the Argentine Penal Code (PC) is hereby replaced as follows:

“ARTICLE 258 bis.- It shall be punished with a prison term from one to six years and perpetual special debarment for the exercise of public functions the person who, directly or indirectly, offers, promise or gives, unduly, to a public official of a foreign State or of a public international organization, whether in their own benefit or that of a third party, a monetary sum or any other object of monetary value or other compensations such as gratuities, favours, promises or advantages, in exchange for the public official to do or abstain from doing an act related to the exercise of their public functions, or to assert the influence derived from their position, in a matter related to a transaction of an economic, financial or commercial nature.

A public official of a foreign State, or of any territorial entity recognized by the Argentine Republic, shall be defined as any person who has been designated or elected to exercise public functions, at any level or territorial division of the Government, or within any kind of body, agency or state-owned enterprise where that State exerts a direct or indirect influence”.

The standards of the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (Convention) and related instruments, as well as, the recommendations made by the WGB in the Phase 3bis Report, were taken into account during the drafting of the CLL.

If no action has been taken to implement this recommendation, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 1(b):

1. Regarding the **foreign bribery offence**, the Working Group recommends that Argentina:

(b) ensure that the definition of foreign public officials covers, in a manner consistent with the Convention, officials of foreign public enterprises and public officials of organised foreign areas or entities that do not qualify or are not recognised as States (Convention Article 1(4) and Commentaries 12-18; 2009 Recommendations III.ii and V);

Action taken since the date of the follow-up report to implement this recommendation:

On Phase 3 bis the WGB noticed that article 258 bis of the Argentine Penal Code (PC) did not criminalize bribery from officials of foreign public enterprises and public officials of organised foreign areas or entities that do not qualify or are not recognised as States.

In accord with the standards of the Convention and the recommendations of the WGB, Article 30 of the Law 27.401 (CLL) established a new definition of foreign public official.

Art. 30°.- ARTICLE 258 bis of the Argentine Penal Code is hereby replaced as follows:

(...) A public official of a foreign State, or of any territorial entity recognized by the Argentine Republic, shall be defined as any person who has been designated or elected to exercise public functions, at any level or territorial division of the Government, or within any kind of body, agency or state-owned enterprise where that State exerts a direct or indirect influence”.

As defined in the law, the definition of foreign public officials covers employees of foreign state owned or state-controlled enterprises (SOEs), international organization, and territorial entities recognised by the Argentine Republic.

As for the other part of the recommendation, and as it was explained in the Phase 1 bis evaluation, the reference to public functions on areas recognized as foreign States, while not following the Convention’s wording, it does not imply weakening the definition of the passive subjects of the offense. It only points the sovereign boundary so officials from territories that do not recognize themselves as foreigners can be prosecuted for acts of domestic corruption.

We refer to what was explained in the answers to the phase 1 bis questionnaire and to the evaluators’ following comments.²

If no action has been taken to implement this recommendation, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

² Argentina – Phase 1bis Questionnaire Responses March 2019 SQ 1161 y 1162; and Argentina Phase 1bis Report April 2019 chapter 1.2 pages 3 y 4.

Text of recommendation 1(c):

1. Regarding the **foreign bribery offence**, the Working Group recommends that Argentina:

(c) eliminate the vagueness in the offence resulting from the absence of a requirement that the advantage provided to an official be “undue”, or that the advantage obtained by the briber be “improper” (Convention Article 1; 2009 Recommendations III.ii and V).

Action taken since the date of the follow-up report to implement this recommendation:

In previous evaluations, the WGB noted that Article 258 bis differs from the Convention by not requiring that the advantage offered to the official be “undue”, or that the advantage obtained by the briber be “improper”. With the new Law 27.401 (CLL) steps have been taken to pursue this request.

In this respect, articles 30 and 31 of the CLL aims to comply with the aforementioned recommendation.

Art. 30°.- ARTICLE 258 bis of the Argentine Penal Code (PC) is hereby replaced as follows:

“ARTICLE 258 bis.- It shall be punished with a prison term from one to six years and perpetual special debarment for the exercise of public functions the person who, directly or indirectly, offers, promise or gives, unduly, to a public official of a foreign State or of a public international organization, whether in their own benefit or that of a third party, a monetary sum or any other object of monetary value or other compensations such as gratuities, favours, promises or advantages, in exchange for the public official to do or abstain from doing an act related to the exercise of their public functions, or to assert the influence derived from their position, in a matter related to a transaction of an economic, financial or commercial nature.

A public official of a foreign State, or of any territorial entity recognized by the Argentine Republic, shall be defined as any person who has been designated or elected to exercise public functions, at any level or territorial division of the Government, or within any kind of body, agency or state-owned enterprise where that State exerts a direct or indirect influence”.

Art. 31°.- It is hereby incorporated as ARTICLE 259 bis of the PC the following:

“ARTICLE 259 bis. – With respect to the offences provided in this chapter, a fine shall be imposed jointly, from two (2) to ten (10) times the amount or value of the money, gratuity, benefit or monetary advantage offered or given”.

It should be noted that in the preliminary phase 1 bis questionnaire, the WGB asked about two observations. The first one was that the term "unduly" seemed to modify exclusively the action of "offer" and not the remaining verbs "promise" and "give". The second, the penal type characterizes the offer, promise or payment as improper, but does not indicate that the advantage to be obtained must be improper.

The first issue, as noted in Argentina's comments to the Phase 1 bis report, deals with a matter of translation to English of article 258 bis as revised by the CLL. Both in the Spanish version and in the first official translation sent to the group in the March 2018 report, it is sufficiently clear that the adverb "unduly" is separated from the three verbs ("offer, promise or give") by a comma indicating that it modifies all three.

The official Spanish version stands:

“ARTICULO 258 bis — Será reprimido con prisión de un (1) a seis (6) años e inhabilitación especial perpetua para ejercer la función pública el que, directa o indirectamente, ofreciere, prometiére u otorgare, indebidamente, a un funcionario público de otro Estado o de una organización pública internacional, ya sea en su beneficio o de un tercero, sumas de dinero o cualquier otro objeto de valor pecuniario u otras compensaciones tales como dádivas, favores, promesas o ventajas, a cambio de que dicho funcionario realice u omita realizar un acto relacionado con el ejercicio de sus funciones públicas, o para que haga valer la influencia derivada de su cargo en un asunto vinculado a una transacción de naturaleza económica, financiera o comercial.”³

The official translation send in March 2018 (DAF/WGB(2018)6):

“Art. 30.- ARTICLE 258 bis of the Argentine Penal Code (PC) is hereby replaced as follows:

“ARTICLE 258 bis.- It shall be punished with a prison term from one to six years and perpetual special debarment for the exercise of public functions the person who, directly or indirectly, offers, promise or gives, unduly, to a public official of a foreign State or of a public international organization, whether in their own benefit or that of a third party, a monetary sum or any other object of monetary value or other compensations such as gratuities, favours, promises or advantages, in exchange for the public official to do or abstain from doing an act related to the exercise of their public functions, or to assert the influence derived from their position, in a matter related to a transaction of an economic, financial or commercial nature.”

Regarding the other observation, Argentina considers that in accordance with the Comments of 1997, paragraph 1.4 and 1.5, the wording of article 258 bis PC complies with the requirements of article 1 of the Convention.

According to the indicated comments:

“4. It is an offence within the meaning of paragraph 1 to bribe to obtain or retain business or other improper advantage whether or not the company concerned was the best qualified bidder or was otherwise a company which could properly have been awarded the business.

5. “Other improper advantage” refers to something to which the company concerned was not clearly entitled, for example, an operating permit for a factory which fails to meet the statutory requirements”

In the same vein, the WGB produced this recommendation in the phase 3 bis report (reiterating comments from the phase 3 paragraph 35 report), indicating that

“41. In previous evaluations, the Working Group noted that Article 258bis differs from the Convention by not requiring that the advantage offered to the official be “undue”, or that the advantage obtained by the briber be “improper”. This raises concerns that the offence may criminalise legitimate payments seeking proper official action” (Phase 3 bis para 41).

In compliance with both statements, the legislator understood that it was enough that the advantage offered, promised or paid to the public official was undue, for the payment to be punished regardless of the nature of the benefit obtained by the natural or legal person who did it. This includes, of course, improper and illegal advantages as well as cases where *“the company concerned was the best qualified bidder or was otherwise a company which could properly have been awarded the business”*.

³ <http://servicios.infoleg.gob.ar/infolegInternet/anexos/15000-19999/16546/texact.htm>

If no action has been taken to implement this recommendation, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 2:

2. With regards to **jurisdiction over foreign bribery cases**, the Working group recommends that Argentina adopt nationality jurisdiction to prosecute foreign bribery cases on a priority basis (Convention Article 4(2); 2009 Recommendation V).

Action taken since the date of the follow-up report to implement this recommendation:

As it was mentioned in the peer evaluation of Phase 3bis, one of the first strategic decisions of the newly appointed authorities in the Ministry of Justice and Human Rights (MOJ) and the Anti-Corruption Office (AO) was to draft a bill aimed to legally establish criminal liability of legal persons in our country for both foreign and domestic bribery, as well as nationality jurisdiction in relation to foreign bribery and a clear definition of a foreign public official.

The new Law N° 27.401 (CLL) modified article 1° of the PC in the following way:

Art. 29°.- ARTICLE 1° of the Argentine Penal Code is hereby replaced as follows:

“ARTICLE 1.- This Code shall apply to:

1.- Offences committed or whose consequences take place in the territory of the ARGENTINE REPUBLIC, or in places under its jurisdiction;

2.- Offences committed abroad by representatives or employees of Argentine authorities in the exercise of their duties.

3.- The offence provided in ARTICLE 258 bis that is committed abroad by Argentine citizens residing or legal entities with registered offices in the ARGENTINE REPUBLIC, including both the address established in their Articles of Incorporation and that of their establishments or branches in the Argentine territory.”

This modification of the PC embodies jurisdiction by nationality for both physical and legal entities, setting the basis in Argentina to prosecute cases of transnational bribery committed by its citizens or companies anywhere in the world.

If no action has been taken to implement this recommendation, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 3(a):

3. With respect to **liability of legal persons**, the Working Group recommends that Argentina:

(a) urgently adopt legislation on a priority basis to ensure that legal persons can be held liable for foreign bribery (Convention Articles 2 and 3; 2009 Recommendation Annex I.B);

Action taken since the date of the follow-up report to implement this recommendation:

On November 8th, 2017, the Argentine Congress passed Law N° 27.401 (CLL), the new statute on criminal liability of legal persons for corruption offences.

The main objective of this Law, which entered into force in March 2018, is to provide more effective prevention and anti-corruption policies by generating incentives for legal persons to prevent the commission of crimes against the public administration. The CLL focuses on meeting the recommendations adopted by the WGB, and the efforts made to adopt this Law are a clear signal of Argentina's commitment to comply with the Anti-Bribery Convention.

The CLL establishes criminal liability for "private legal persons," defined in the Argentine Civil Code, which are the following:

- Companies incorporated under any legal form (LLCs, PLCs, partnerships, etc.) whether of national or foreign capital and including state-owned enterprises
- Civil associations, foundations, mutual associations, cooperatives
- Churches, confessions, religious communities or entities, and
- Horizontal property regimes.

Article 1 of the statute establishes the liability of the aforementioned legal persons for the following offenses:

- Active domestic bribery (article 258 of the Criminal Code)
- Transnational bribery (article 258-bis of the Criminal Code)
- Trading in influence (Article 258 of the Criminal Code)
- Participating in the offense of "concusión" - the act of incorporating the proceeds of an illegal exaction into the patrimony of the public official or of a third party (art. 268 of the Criminal Code)
- Participating in the offense of illicit enrichment of public officials (art. 268 (1) and (2) of the Criminal Code), and
- An aggravated form of misrepresentation in books and records specifically directed at concealing the commission of bribery or trading in influence offenses (art. 300 bis of the Criminal Code)

Law formulation:

Article 1°.- Purpose and scope. The present law establishes the criminal liability regime applicable to private legal persons, whether of national or foreign capital, with or without State ownership, for the following offenses:

- a) Bribery and peddling in influence, national or transnational, established in articles 258 and 258 bis of the Penal Code;
- b) Negotiations incompatible with public office, as established in Section 265 of the Argentine Penal Code;
- c) Illegal exactions established in article 268 of the Penal Code;
- d) Illicit enrichment of public officials and employees, established in articles 268 (1) and (2) of the Penal Code;

- e) Aggravated false account balance sheets and reports, established in article 300 bis of the Penal Code.

Art. 2°. - Responsibility of the legal person. Legal persons are liable for the offenses established in the preceding article which have been directly or indirectly committed with its intervention or in its behalf, interest or benefit.

They are also responsible if the person acting in the benefit or interest of the legal person is a third party lacking attributions to act on behalf of it, provided that the legal entity had ratified the act, even if the ratification was tacit.

The legal person will be exempt from liability only if the physical person who committed the offense was acting in its own benefit and its act did not generate any advantage to the legal person.

Art. 37°. - It is hereby incorporated as ARTICLE 300 bis of the Criminal Code the following:

"ARTICLE 300 bis.- When the criminal acts provided for in subsection 2 of article 300 have been carried out in order to conceal the commission of the offenses set forth in articles 258 and 258 bis, a prison sentence of one (1) shall be imposed to four (4) years and a fine of two (2) to five (5) times the value falsified in the documents and acts referred to in the aforementioned clause ".

In line with the standards set by the Convention and the Recommendations 2009 (Good Practice Guidance on Implementing Specific Articles of the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions - Annex I), liability includes the direct or indirect conduct in favour or in benefit of the entity (art. 2°), prevails in case of fusion or transformation (art. 3°), and it does not rely upon the identification, nor the sanction of the physical persons involved (art. 6° "independence of actions").

This regime seeks to increase the efficiency of prevention policies throughout the generation of the right set of incentives, encouraging the implementation of integrity programmes, and cooperation with authorities.

To this end, the CLL establishes effective, proportioned and deterrent criminal sanctions, in relation to the benefit pursued; a clear and direct indictment mode, and incentives for a proper internal preventive organization (compliance programmes developed on the basis of a risk assessment) and for cooperation with authorities.

This last point is encouraged by two instruments:

An instance of an effective cooperation agreement with a substantial reduction of sentences (art. 16); and the possibility of full exemption of them if there is a verification, all at once, of (1) a self report of the crime committed by the legal entity; (2) the existence of an adequate integrity programme and (3) the total loss of all benefits obtained by the criminal act (art. 9).

Furthermore, following the guidelines of Recommendation 2009 X paragraphs (b) and (c), this law promotes the implementation of integrity, control and compliance programmes appropriated to risk on behalf of companies, indicates some of its core components, drawing a distinction between required and optional elements, and finds them mandatory for several public procurement processes -including all three branches of the State (art. 24 CLL).

If no action has been taken to implement this recommendation, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 3(b):

3. With respect to **liability of legal persons**, the Working Group recommends that Argentina:

(b) consider harmonising its corporate liability provisions so that a single regime of liability covers foreign bribery and related offences such as money laundering and false accounting (Convention Articles 2 and 3; 2009 Recommendation Annex I.B).

Action taken since the date of the follow-up report to implement this recommendation:

Consistent with the current regime for other crimes, the Law N° 27.401 (CLL) creates a standard of strict liability: legal persons are liable for the aforementioned crimes committed, directly or indirectly, with their intervention or on their behalf, interest or benefit. (Art. 2). This approach is consistent with the corporate responsibility standard already in force for other crimes, as customs offences, tax crimes, money laundering, insider trading and securities fraud, among many others.

The individual offenders may be employees or third parties, even unauthorized third parties, provided that the legal person ratified the act, even tacitly. Therefore, the statute creates a need for robust due diligence, monitoring, and management programmes over business partners and other third parties.

The statute also establishes successor liability in cases of merger, acquisition or other forms of corporate transformation. Therefore, integrity and due diligence will also become an important part of any M&A transaction.

The corporate liability bill presented by the National Executive Branch that was submitted for consideration of the Group during the Phase 3bis evaluation of March 2017, proposed the liability of legal entities for failure to perform the obligatory supervision. For this reason it was noted by the Group that the regime was different from the one established for the responsibility of legal entities on other crimes (ex. Money laundering, in which responsibility is strict).

That motivated the recommendation 3b.

The enacted CLL established the attribution of responsibility to legal entities in a strict manner which, on a substantial level, is consistent with the other regimes. It is the same for sanctions, as the procedure to establish fines consists in calculating a multiple in relation to the undue benefit obtained by the offence. In this case, the law is in accordance with the system established by the money laundering law and is congruent with it.

Art. 7°. - Sanctions. The sanctions applicable to the legal persons are the following:

1. Fine of two (2) to five (5) times the amount of the undue benefit obtained or that could have been obtained; (...)

When comparing said provision with the money laundering regime, its similarity is verified:

Penal Code

“Article 303. 1) A prison term of three (3) to ten (10) years and a fine equal to two (2) to ten (10) times the amount of the relevant transaction will be imposed on any persons who transform, transfer, manage, sell, tax, conceal or in any other way circulate goods originating from criminal offences, with the possible consequence of having the origin of the original or surrogate goods appear lawful, and as long as they have a value equal to or over three hundred thousand Argentine pesos (ARS 300.000), whether the crime constitutes a single act or repeated and related different actions (...)

Article 304. Where the crimes punishable by the above Article are committed in the name, with the participation, or for the benefit of a legal entity, the entity will be punishable by the following sanctions, either jointly or alternatively: 1. A fine equal to two (2) to 10 (ten) times the value of the goods involved in the crime (...)

In Argentine Republic’s view, both corporate responsibility regimes are harmonious. This, as they are based on the same system of attribution of responsibility and have similar threats of penalties with the same characteristics. CLL includes a procedural section, which did not exist previously for the money laundering corporate liability regime. It includes two resolutions without sentence that consist of an exemption from penalty in case of self-reporting and the possibility of an effective collaboration agreement with the Prosecutor, subject to judicial homologation. There is no reason to deny the application to money laundering cases the procedural rules or the agreed resolutions of CLL. But to date there are no cases that can be presented with any interpretation by the judges.

Furthermore, to be precise, the President of the Nation issued Decree 103/17⁴ (published in the Official State Gazette on February 2017), creating the Argentine Penal Code Reform Commission for its general update.

As a result of this initiative, in March 2019 the Executive Branch sent to the National Congress the draft Reform of the Argentine Penal Code⁵.

The above-mentioned Commission has written a proposal that includes, in its revision of the General Part of the Penal Code, a unified regime of penal liability for legal persons .

In general terms, the Penal Code Reform comprises, up until now, all of the main characteristics of the CLL, including the provisions related to effective cooperation agreements and the incentives for self reporting. Thus, the alignment would be fulfilled even on the procedural and instrumental norms.

“Article 38. Legal persons of any kind will be held liable, in the cases expressly contemplated in this Code, for the crimes committed, by the persons indicated in article 37, directly or indirectly, with their intervention or on their behalf, interest or benefit.

They will also be held liable if the persons who acted in the interest or benefit of the legal person were third parties that lacked the power to act in its representation, provided that the legal person ratified the act, even tacitly. The legal person will only be exempt from responsibility if the physical person that committed the crime had only acted in own exclusive benefit and without generating any benefits for the

⁴ <http://servicios.infoleg.gob.ar/infolegInternet/anexos/270000-274999/271799/norma.htm>

⁵ https://www.argentina.gob.ar/sites/default/files/proyecto_de_ley_-_reforma_del_codigo_penal.pdf

legal person. In case of conversion, merger, acquisition, split or any other corporate transformation, the liability of the legal person shall be transferred to the resulting or absorbent legal person.

The legal person remains liable also when, in a concealed or merely apparent manner, it continues its economic activity and maintains the substantial identity of its customers, suppliers and employees, or of the most relevant part of all of them.

The legal person may be sentenced even when it is not possible to identify or prosecute the individuals involved, provided that the circumstances of the case allow for the establishment that the offense could not be committed without the tolerance of the bodies of the legal person.

The legal persons can be held liable for the crimes stipulated in article 145 and Titles XI, XIII, XIV, XV, XVI, XVII, XVIII, XXII, XXIII, XXIV, XXV y XXVII of the Second Book of this Code.”

“Article 39. The sanctions that can be imposed to legal persons, be it alternatively or jointly, will be the following:

1° Fine of two (2) to five (5) times the amount of the undue benefit obtained or that could have been obtained;

2° Total or partial suspension of activities, which in no case may exceed ten (10) years;

3° Suspension to participate in public tenders or bids for public works or services or in any other activity related to the State, which in no case may exceed ten (10) years;

4° Dissolution and liquidation of the legal identity, when it was created for the sole purpose of committing the crime, or those acts constitute the main activity of the entity;

5° Loss or suspension of the state benefits that it may have;

6° Publication of an extract of the condemnatory sentence, at the expense of the legal person.

“Article 41. 1. Sanctions applicable to legal persons, and their severity, will be determined while taking into account the following:

1° The failure to comply with internal rules and procedures.

2° The number and hierarchy of officials, employees and collaborators involved in the commission of the crime.

3° The omission of vigilance over the activity of the authors and participants.

4° The extent of the damage caused, the amount of money involved in the commission of the offense.

5° The size, nature and economic capacity of the legal person.

6° The self-reporting to the authorities by the legal person as a result of activities of internal detection or investigation.

7° The subsequent behavior of the legal person, the willingness to mitigate or repair the damage and recidivism. If it were necessary to maintain the continued operations of the person, a work or a service in particular, the sanctions contemplated in sections 2° and 4° of article 39 of this Code will not be applicable.

The judge can allow for the payment of a fine to be fractionated for a period of up to five (5) years if its amount and its fulfillment in one payment would endanger the continuation of the legal person or the continuance of jobs.

Article 64 of this Code will not be applicable to legal persons.

2. The legal person will be exempt from sanctions and administrative responsibility when the following circumstances are met simultaneously:

1°) Spontaneously has reported an offence provided for in article 38 of this Code, as a result of an internal detection and investigation activity.

2°) Had implemented adequate control and supervision systems, prior to the fact of the process, the violation of which would have required an effort from the parties involved in the commission of the offence.

3°) Would have returned the undue benefit obtained.

3. The legal person and the Public Prosecutor's Office can celebrate an effective collaboration agreement, up until the citation to trial, whereby the legal person undertakes to cooperate through the disclosure of information or accurate, useful and verifiable data for the elucidation of the facts, the identification of its authors or participants or the recovery of the product or the benefit of the crime, as well as the fulfillment of the conditions established in the agreement.

The negotiations between the legal person and the Public Prosecutor's Office, as well as the information exchanged throughout them until the approval of the agreement, will be strictly confidential, with their revelation being liable of the application of article 157.

The agreement will identify the type of information, data to disclose or proof to provide that the legal person will provide to the Public Prosecutor's Office, under the following conditions:

1°) Paying a fine equivalent to half of the minimum established as a type of sanction.

2°) Restituting the things or profits that were the product or benefit of the crime.

3°) Forfeiting the goods that would presumably be confiscated in favor of the State, in the case that a conviction were to be passed.

Likewise, the following conditions can be established, without prejudice of others that could be agreed upon according to the circumstances of the case: carrying out the necessary actions to repair the damage caused; providing a particular service in favor of the community; taking disciplinary measures against those who would have participated in the crime; implementing an integrity programme or improving or modifying a preexisting programme.

If no action has been taken to implement this recommendation, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 4(a):

4. With regard to **sanctions and confiscation**, the Working Group recommends that Argentina:
 (a) substantially increase the maximum fine available for foreign bribery (Convention Article 3(1));

Action taken since the date of the follow-up report to implement this recommendation:

Argentina's Phase 3 Report considered that the financial sanctions against natural persons for crimes of foreign bribery were insufficient, especially when taking into account that those type of cases often involved exchanges of money of significant amounts. This concern was also stated in the Phase 3bis Report, which recommended the maximum fines available for foreign bribery cases to be increased.

At the time of the said reports, the crime of foreign bribery (contemplated in Article 258 bis of the Argentine Penal Code) did not have a specific financial sanction. Therefore, the provisions of Article 22 of the Penal Code (PC) -which states that any offence that was committed "with the aim of monetary gain" is punishable not only by the specific sanctions it states, but also by a fine of up to ARS 90 000 (USD 5 800)- were applicable to it.

In order to directly address the aforementioned recommendations, the Law N° 27.401 (CLL) introduced article 259 bis to the PC. This article establishes that natural persons involved in the commission of foreign bribery -as well as a particular subset of related crimes such as domestic bribery and trading in influences- will be subject to a fine ranging from two to five times the amount of the bribe given.

It should be noted that article 259 bis does not establish an upper limit to the amount of the fine. In fact, it directly ties the fine to the amount of money involved in the commission of the crime. This assures that an adequate fine can be established for every possible foreign corruption case and thus, fulfills the requisites of the recommendations made through the Reports.

Additionally, the CLL also incorporated Article 300 bis to the PC. Through the said article, natural persons involved in the commission of the crime of false balance (article 300, section 2° of the PC) that was carried out in order to conceal the commission of crimes of foreign bribery, are liable to fines ranging from two to five times the value falsified in the documents and acts.

In strict terms, the mentioned articles read as follows:

Art. 31°.- The following is hereby incorporated as ARTICLE 259 bis of the Penal Code:

"ARTICLE 259 bis. – With respect to the offences provided in this chapter, a fine shall be imposed jointly, from two (2) to ten (10) times the amount or value of the money, gratuity, benefit or monetary advantage offered or given".

Art. 37°.- The following is hereby incorporated as ARTICLE 300 bis of the Penal Code:

"ARTICLE 300 bis.- When the criminal acts provided for in subsection 2 of article 300 have been carried out in order to conceal the commission of the offenses set forth in articles 258 and 258 bis, a prison sentence of one (1) shall be imposed to four (4) years and a fine of two (2) to five (5) times the value falsified in the documents and acts referred to in the aforementioned clause".

These forecasts are being evaluated in chapter 3 of Phase 1 bis.

If no action has been taken to implement this recommendation, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 4(b):

4. With regard to **sanctions and confiscation**, the Working Group recommends that Argentina:

(b) ensure that fines are available where the gain obtained by a briber is not pecuniary or does not go to the briber but his/her company (Convention Article 3(1) and Commentary 7);

Action taken since the date of the follow-up report to implement this recommendation:

Regarding sanctions and confiscation, the WGB recommended Argentina to ensure that fines would be available in cases of foreign bribery even if the gain obtained by the briber was not pecuniary or did not go to him/her, but to his/her company.

As previously stated, at the time of the reports, fines were only available in cases of foreign bribery through a general clause contained in Article 22 bis of the PC which allowed for fines to be imposed as an accessory sanction against persons who committed any crime that was punishable with jail, provided the offence that was committed “with the aim of monetary gain”. However, since Law N° 27.401 (CLL) came into effect, specific fines were incorporated for bribery-related crimes in the newly added Article 259 bis.

This said, to expressly address the recommendation at hand, the provisions contained in Article 22 bis of the PC are only applicable to crimes that do not have a specific fine explicitly contemplated for them. As it stands, the norm that currently dictates the fine applicable to the offense of foreign bribery is Article 259 bis, which does not require that the gain obtained be pecuniary and is still fully applicable if the monetary gain does not go to the briber but to his/her company.

Art. 31°.- The following is hereby incorporated as ARTICLE 259 bis of the Penal Code:

“ARTICLE 259 bis. – With respect to the offences provided in this chapter, a fine shall be imposed jointly, from two (2) to ten (10) times the amount or value of the money, gratuity, benefit or monetary advantage offered or given”.

The reform introduced by CLL for fines for both natural and moral persons, by nullifying the application of Article 22 bis PC at the same time modifies the maximum penalty and the condition that an end to profit must be proven. For this reason, we forward the transcript made on the occasion of the previous recommendation (4a).

Particularly in relation to this recommendation, the natural or legal person who is convicted for the payment of a bribe shall be liable to a fine and the accessory penalty of confiscation, regardless of who was the natural or legal person who was directly or indirectly benefited by the offence.

On the contrary, article 23 of the PC authorizes the confiscation of assets against a legal person even if the person is not the one convicted as responsible for the crime, if it was benefited by a third party's action.:

“ARTICLE 23.- “In all cases where a sentence is given for crimes foreseen in this Code or in special penal laws, such sentence shall order the seizure of the things that have served to commit the crime and the things or profits that are the product or the benefit of the crime, in favor of the national State, the provinces or the municipalities, except for the rights of restitution or compensation of the victim and of third parties. When the author or the participants have acted as someone’s agent or representative, members or administrators of a legal person, and the proceeds or the benefit of the crime have benefited the principal or the legal person, the seizure shall be pronounced against these. When a third party has benefited from the proceeds or the benefit of the crime free of charge, the seizure shall be pronounced against it. (...).The judge may adopt, from the beginning of the judicial proceedings, sufficient precautionary measures to ensure the confiscation of the property or assets, goodwills, deposits, transportation, computer, technical and communication elements, and any other assets or ownership rights over the property that, because they are instruments or effects related to the crime(s) being investigated, the confiscation presumably may fall. The precautionary measures designed to stop the commission of the crime or its effects, or to prevent consolidation of its advantage or to hinder the impunity of its participants may have the same scope. In all cases, the rights of restitution or compensation of the injured party and third parties must be safeguarded.”

If no action has been taken to implement this recommendation, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 4(c):

4. With regard to **sanctions and confiscation**, the Working Group recommends that Argentina:

(c) maintain detailed statistics of sanctions (including confiscation) imposed in cases of bribery and other economic crimes (Convention Articles 3(1)-(3));

In previous evaluations, the Working Group on Bribery (WGB) noted that there was no available information of sanctions and delays in cases of bribery and other economic crimes.

In Phase 3 the WGB asked Argentina to maintain statistics of sanctions imposed in cases of bribery and other crimes, in order to offered some guidance about the adequacy of sanctions in practice. Additionally, the Phase 3 Report stated that “Argentina should actively assess the effectiveness of its measures to reduce delay by maintaining and analysing statistics on delay and economic crime cases that have been time-barred”.

In Phase 3bis evaluation noted that comprehensive statistics on sanctions and delays in corruption cases continued to be unavailable. Furthermore, the statistics used to report delays regarding complex economic crimes cases were from unofficial sources (paragraph 82).

In this respect, on June 30, 2016, the Judicial Council of the Nation (through Res. 342/16 and cc) ordered the first official Audit of corruption cases⁶ on the whole Federal Criminal Justice system of the country, in continuous and permanent character (please see answer to Recommendation 5.c).

⁶ Crimes under Title XI (Chapters VI, VII, VIII, IX, IX bis and XIII) and XIII of the Criminal Code, where a national public official has been charged and there is a request for a preliminary investigation. In addition, through Resolution

For this reason, Argentina has a statistical system for corruption cases that will be explained in recommendation 5.c which includes the possibility of qualitative and quantitative analysis as it is an annual audit work.

At the same time, the National Registry of Criminal Records of the Ministry of Justice of the Nation, a body to which judges and courts throughout the country communicate important decisions in proceedings (arrest warrants, dismissals, convictions, probation, etc.), has developed statistics on penalties in criminal cases for all crimes, with partial and special reports for corruption offenses throughout the country and by jurisdictions.

The data is available at <https://www.dnrec.jus.gov.ar/estadisticas.aspx>.

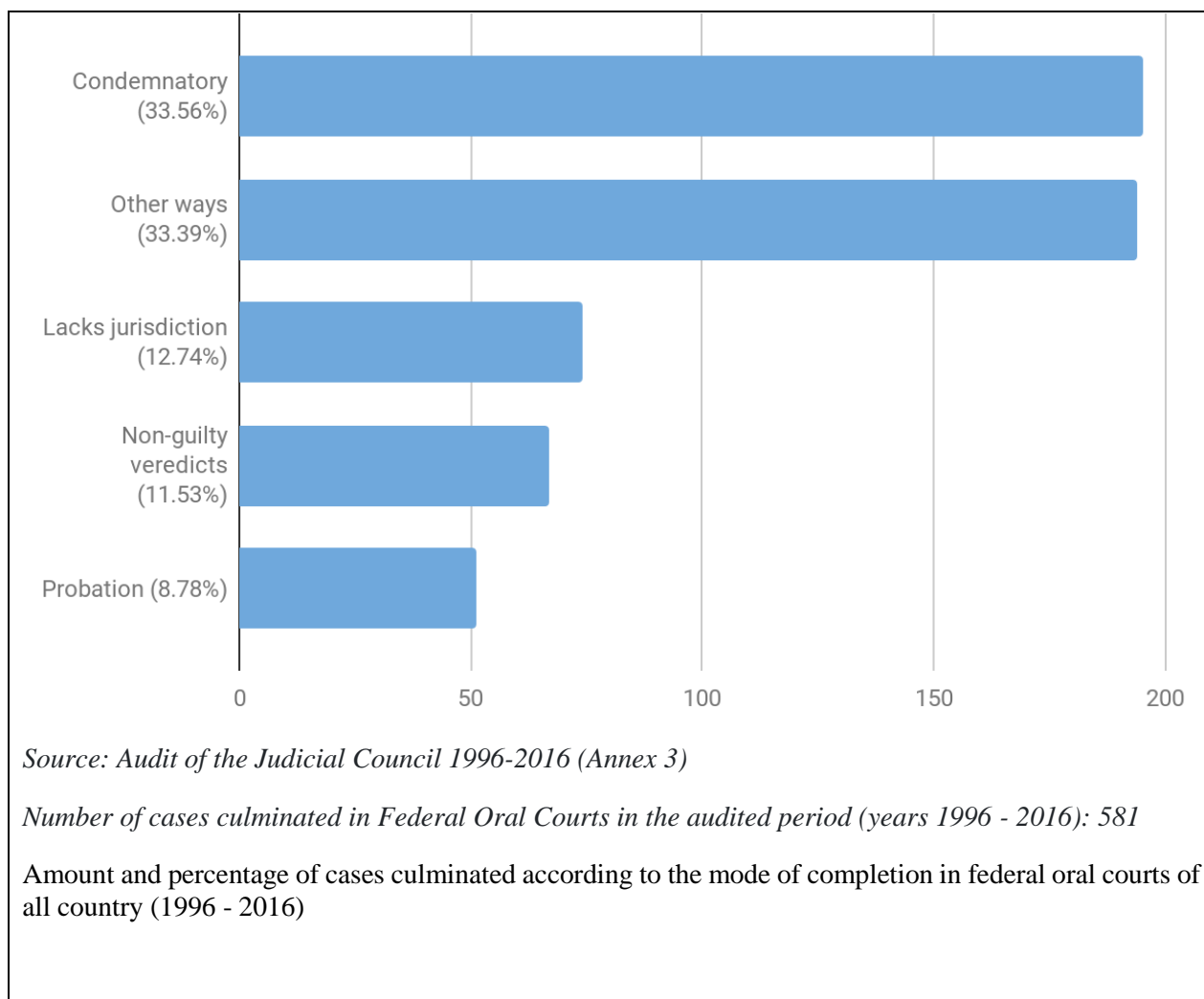
For its part, the Public Prosecutor's Office (PPO) is establishing throughout the country its own comprehensive management and statistical system, including statistics on confiscation of its specialized units (see recommendation 4.e).

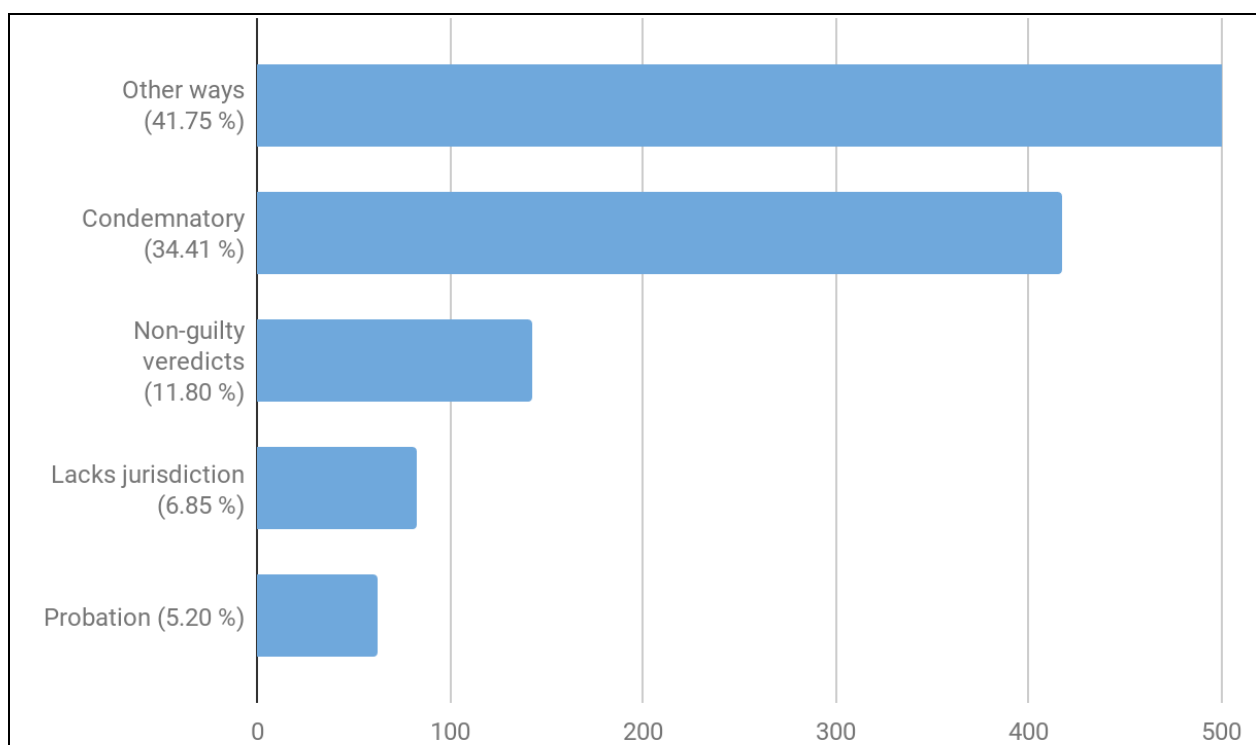
For a better order of the answers, in this recommendation we will develop the PPO records and the data extracted from the first Audit of the Judicial Council linked to sanctions. The integral development of this last statistic will be done in the response to recommendation 5.c.

- Completion of cases brought to trial

Amount and percentage of cases culminated according to the mode of completion in federal oral courts of CABA (1996 - 2016).

348/16 of the Judicial Council, the scope of the audit was extended to include crimes under section 174, subsection 5 of the Criminal Code. Moreover, through Resolution 414/2018 of the Judicial Council, dated September 27, 2018, the crimes criminalized under section 258 bis of the Criminal Code are also included.





Source: Audit of the Judicial Council 1996-2016

Number of cases culminated in Federal Oral Courts in the audited period (years 1996 - 2016): 1212

- Guilty verdicts (1996 - 2017)

GUILTY VERDICTS			
JURISDICTION	AMOUNT OF GUILTY VERDICTS PERIOD 1996-2016	AMOUNT OF GUILTY VERDICTS 2017	TOTAL 1996/2017
CÁMARA CRIMINAL Y CORRECCIONAL FEDERAL	195	7	202
JUSTICIA FEDERAL DE BAHIA BLANCA	36	0	36
JUSTICIA FEDERAL DE COMODORO RIVADAVIA	38	0	38
JUSTICIA FEDERAL DE CORDOBA	17	0	17
JUSTICIA FEDERAL DE CORRIENTES	5	0	5
JUSTICIA FEDERAL	25	0	25

DE GENERAL ROCA			
JUSTICIA FEDERAL DE LA PLATA	16	0	16
JUSTICIA FEDERAL DE MAR DEL PLATA	7	1	8
JUSTICIA FEDERAL DE MENDOZA	11	0	11
JUSTICIA FEDERAL DE PARANA	7	0	7
JUSTICIA FEDERAL DE POSADAS	14	1	15
JUSTICIA FEDERAL DE RESISTENCIA	0	0	0
JUSTICIA FEDERAL DE ROSARIO	16	6	22
JUSTICIA FEDERAL DE SALTA	1	0	1
JUSTICIA FEDERAL DE SAN MARTIN	24	0	24
JUSTICIA FEDERAL DE TUCUMAN	5	0	5
TOTAL COUNTRY	417	15	432

Source: Audit of the Judicial Council 1996-2016

Public Prosecutors' Office

The Public Prosecutor's Office (PPO) had two management information systems.

On the one hand the FISCALNET (Resolution PGN No. 23/2009⁷) that replaced the physical records in book format and began to be used in 2009, and the "N2", (Resolution PGN No. 29/2008)⁸ which is related to crimes where the perpetrator's identity is ignored.

Since the creation of the Criminal Analysis and Criminal Prosecution Planning Directorate (DAC), within the Attorney General's Office (AG's Office), some modifications to the FISCALNET were made allowing the DAC to identify some relevant aspects of certain criminal modalities.

The FISCALNET has limited benefits that have made it difficult to obtain comprehensive statistics and has been outdated as a management support for prosecutors.

In addition, facing the challenges that the process of gradual implementation of the new Federal Criminal Procedural Code (Law 27.482)⁹ (CPC 2019) brings, a necessity to adapt and improve the PPO's information management systems arose.

⁷ <https://www.mpf.gov.ar/resoluciones/pgn/2009/pgn-0023-2009-001.pdf>

⁸ <https://www.mpf.gov.ar/resoluciones/pgn/2008/pgn-0029-2008-001.pdf>

⁹ <http://servicios.infoleg.gov.ar/infolegInternet/anexos/315000-319999/319681/norma.htm>

For this reason, after signing an agreement with the PPO of the province of Chubut, the National PPO has been working on the adaptation and implementation of the COIRON system, which had been developed for that jurisdiction.

Since that agreement, and through Resolution PGN N° 320/2017¹⁰, COIRON was constituted as the main information management system for criminal cases in all prosecutor's offices and special units within the AG's Office. It was also determined that all information registered in COIRON will be the official base for every decision regarding with the determination of the workload and resource allocation, as well as the elaboration of official statistics on the PPO's performance and drafting of annual reports.

Gradually, and as long as COIRON is being implemented in all the PPO's dependencies, the previous systems should come together into COIRON as the unique PPO's case management and statistics system.

The COIRON system has two relevant features for the PPO. This is designed to support criminal investigations and litigation, allows to manage criminal and procedural information as a basis for decision making. Because of its architecture it can be used as a proceedings administrator, giving support to daily tasks and also facilitating the planning of cases. At the same time, COIRON is a research tool, through the interweaving of data of all registered cases.

COIRON also has integrated statistics and performance evaluation modules. In that sense, once COIRON is fully implemented in all the prosecutor's offices and special units of the AG's Office, and this has absorbed the functionalities of the FISCALNET and N2 systems, the PPO will be able to count with more adequate and accurate statistics of its own.

The gradual implementation of COIRON began on March 1, 2017, at the prosecutor's offices located in the provinces of Salta, Jujuy, Chubut, Santa Cruz and Tierra del Fuego (expected to be the first in which the new CPC 2019 will be implemented). In turn, within the central structure of the AG's Office, it was launched in the Specialized Cybercrime Prosecutor's Unit and in the Procurator Office against Drug Trafficking (PROCUNAR).

Progressively, through Resolutions PGN No.1223/2017, 2469/2017, 3370/2017, 30/2018, 104/2018 and 130/2018, the implementation of COIRON was extended to various agencies of the organization. Each stage of implementation has also included a previous period of training on the use of the new computer system.

Finally, in addition to the training provided in the framework of its programme of gradual implementation (Resolution PGN N° 30/18¹¹), on October 10, 2018, the interim AG issued the Resolution PGN N° 104/18¹², aimed at reinforcing the commitment of all PPO agents, recalling the mandatory registration of all criminal cases, in accordance with Resolution PGN 320/2017, and recording the various procedural steps according to the terms of the previous resolutions PGN 94/2010 and 119/2011.

The process for the implementation of COIRON is carried out by the General Directorate of Institutional Performance, belonging to the Secretariat of Institutional Coordination of the AG's Office.

As a result of the work that has been carried out in the last two years, it can be highlighted that by March 2019 the nine programmed implementation stages (since March 2017) were completed, reaching about 92% (nearly 2200) of trained system operators. Nowadays COIRON is already implemented in all federal prosecutor's offices within the whole country, and in the City of Buenos Aires, it is implemented in all

¹⁰ <https://www.mpf.gov.ar/resoluciones/pgn/2017/PGN-0320-2017-001.pdf>

¹¹ <https://www.mpf.gov.ar/resoluciones/pgn/2018/PGN-0030-2018-001.pdf>

¹² <https://www.mpf.gov.ar/resoluciones/pgn/2018/PGN-0104-2018-001.pdf>

the prosecutor's offices in the economic crime jurisdiction and in 6 of the 12 prosecutor's offices of investigation in criminal federal matters. It is expected that the rest of the prosecutor's offices would implement COIRON by June 16th, 2019.

PROCELAC'S CONTRIBUTIONS

With regards to cases of foreign bribery and money laundering, the PPO also counts with the particular statistics that the Economic Crime and Money Laundering Prosecution's Office (PROCELAC) collects, for its performance.

As it will be described below (see specially Recommendation 5.f PROCELAC is the prosecutorial office within the central structure of the AG's Office, specialized in economic crimes. Among its 5 operational areas are those of money laundering and funding of terrorism and crimes against the public administration, which is in charge of carrying out investigations in cases of foreign bribery. As any Prosecutor's Office or special prosecutorial unit, PROCELAC has the power to initiate and carry out preliminary investigations, as well as collaborate with prosecutors throughout the country in cases of economic crime, and exercise the role of alternate prosecutor during the judicial process.

With regard to money laundering, PROCELAC keeps its own statistics of all convictions in the country. Thus, it can be highlighted that in Argentina there are currently 23 cases of money laundering completed, in which 70 people were convicted. Of those 23 convictions, 5 were issued in 2016, 6 in 2017, 2 in 2018 and 1 in 2019.

Regarding the specific work of PROCELAC, during 2017 it gave support or contributed to 88 cases in which the crime of money laundering was investigated. In turn, during that year, it carried out 68 preliminary investigations related to this crime, and made 76 reports. During 2018, the role of PROCELAC in money laundering cases increased: it intervened as collaborator or coadjutant in 139 cases of money laundering, carried out 56 preliminary investigations, and made 81 complaints.

It also carries the statistics about prosecutions of foreign bribery although, to date, it hasn't achieved any final conviction. There are currently 12 cases of transnational bribery¹³ that are processed before the Argentine justice system, of which 7 were initiated as a result of a complaint filed by PROCELAC. In turn, the Attorney's Office is currently involved in 7 of these cases (for more details, see recommendations 5c and 5f).

It should be noted that due to the deficiencies described above, about the PPO's statistics system (due to the different systems as to the need for an adaption of operators on the use of the new system), the statistics carried out by PROCELAC are a valuable complementary source of information.

The gradual confluence in a unique system will allow to have quality information that allows better inputs for the decision-making process, as well as in the evaluation and design of computer system

¹³ 18 cases are included in the matrix.

At the end of the report, 19 cases are listed.

12 investigations are on foreign bribery under the public prosecutor's request for trial (Techint, Transener, Telespazio, Bioart, Oil Fuels, Agribusiness, Interpampas, Contreras Hnos, Lab Esme, Tenaris, Unetel, Corporación America),

4 are preliminary inquiries in process (Electroingeniería, Camisea, Galileo, Isolux Bolivia)

2 were closed (Riovía, Kollector) (Riovía is not at the end of the report)

1 does not correspond to a investigation on foreign bribery (Pampa Energía)

1 does not have the minimum required information to start an investigation (IDB - Honduras)

improvements, work processes and institutional performance in general such as to support the constant improvement in the fulfillment of the PPO dependencies' functions.

Lastly, we must mention that the National Registry of Seized and Confiscated Property during Criminal Proceedings of the Ministry of Justice and Human Rights has implemented an open data policy; therefore, the information is available at (see follow up 14e):

<https://www.datos.gob.ar/dataset/justicia-bienes-secuestrados-decomisados-durante-proceso-penal>

If no action has been taken to implement this recommendation, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 4(d):

4. With regard to **sanctions and confiscation**, the Working Group recommends that Argentina:

(d) amend its legislation to provide for confiscation of property the value of which corresponds to that of the bribe and the proceeds of bribery, or monetary sanctions of comparable effect; (Convention Article 3(3));

Action taken since the date of the follow-up report to implement this recommendation:

On January 22nd, 2019, the Procedural Regime for the Civil Action of Expiration of Ownership was published as Annex I of Decree of necessity and urgency No. 62/2019 (DNU 62/19) (Annex 2). This regime intends to provide the Public Prosecutor's Office (PPO) with the legal instruments suitable to effectively obtain the expiration of ownership of assets that would have been obtained through the commission of a crime, as well as their profits and benefits.

Apart from establishing the possibility for non-conviction based confiscation, the coming into force of the Procedural Regime brought along modifications to what can and cannot be confiscated. While Article 23 of the PC allowed for the confiscation of the bribe and its direct proceeds, but nothing else, Article 5 of the Procedural Regime has a wider scope, allowing for the confiscation of the bribe, any asset in which the amount of the bribe was transformed or converted, partially or totally, and the income, rents, yields, profits and other benefits derived from the previously mentioned assets (whether they be derived from the original bribe or the assets into which they were converted or transformed).

"ARTICLE 5°.- Included assets. The assets subject to the present regime will be those incorporated to the defendant's patrimony after the date of the alleged commission of the crime under investigation that, due to not feasibly corresponding to the income of its holder, possessor or owner, or due to representing an unjustified financial gain, could be considered as coming, directly or indirectly, from the commission of one of the crimes listed in the following article.

The following will be encompassed within the regime:

a. All assets susceptible of economic valuation, movable or immovable, tangible or intangible, recordable or not, the documents or legal instruments that certify the property or other rights on the aforementioned goods, or any other asset susceptible of pecuniary appreciation;

b. The transformation or partial or total conversion, natural or legal, of the assets provided for in the preceding paragraph;

c. The income, rents, yields, profits and other benefits derived from the assets provided in any of the preceding paragraphs.”

“ARTICLE 6°.- Origin. The action of expiration of ownership proceeds with respect to the goods that allegedly come from the following crimes:

(...)

f) Those provided for in articles 256 to 261, 263 when the goods do not belong to individuals, 264 to 268 (2), 269, and 277 to 279 of the NATIONAL PENAL CODE;

g) Those provided for in articles 300 bis, 303, 304 and 306 of the NATIONAL PENAL CODE, provided that the preceding criminal offense was one of those listed in this article...”

At the time of the reports of the previous phases of evaluation, the scope of article 23 of the Penal Code was explained, which is applicable to legal persons in accordance with what is stated in article 10 of the Law 27.401 (CLL). As explained below, the confiscation of property with which a legal person benefited for crimes committed by a de facto representative (phase 3 bis report, paragraph 64 and phase 3 report, paragraph 59), is assured firstly by the corporation's liability; and secondly, in the event that it is not proven, by the scope of the second and third paragraphs of the mentioned Article 23.

ARTICLE 23.- “In all cases where a sentence is given for crimes foreseen in this Code or in special penal laws, such sentence shall order the seizure of the things that have served to commit the crime and the things or profits that are the product or the benefit of the crime, in favor of the national State, the provinces or the municipalities, except for the rights of restitution or compensation of the victim and of third parties.

When the author or the participants have acted as someone's agent or representative, members or administrators of a legal person, and the proceeds or the benefit of the crime have benefited the principal or the legal person, the seizure shall be pronounced against these.

When a third party has benefited from the proceeds or the benefit of the crime free of charge, the seizure shall be pronounced against it.

If the seized goods are of use or cultural value for an official establishment or public interest, the respective national, provincial or municipal authority may arrange its delivery to those entities. If this was not the case but the property has commercial value, it will dispose of its sale. If it has no legal value, it will be destroyed.

In the case of the offenses set forth in Article 213 ter and quater and in Title XIII of the Second Book of this Code, they will be definitively seized, without the need for a criminal conviction, when it could be proven that their origin or the material fact to which they were linked was unlawful, and the defendant could not be prosecuted due to death, escape, statute of limitations or any other reason for suspension or termination of the criminal action, or when the accused had acknowledged the origin or unlawful use of the property (Paragraph incorporated by Article 6 of Law N°26,683 Official Gazette 06/21/2011).

Any claim or litigation over the origin, nature or ownership of the property will be made through an administrative or civil restitution action. When the good has been auctioned, only its monetary value can be claimed (Paragraph incorporated by Article 6 of Law N°26,683 Official Gazette 06/21/2011).

The judge may adopt, from the beginning of the judicial proceedings, sufficient precautionary measures to ensure the confiscation of the property or assets, goodwills, deposits, transportation, computer,

technical and communication elements, and any other assets or ownership rights over the property that, because they are instruments or effects related to the crime(s) being investigated, the confiscation presumably may fall.

The precautionary measures designed to stop the commission of the crime or its effects, or to prevent consolidation of its advantage or to hinder the impunity of its participants may have the same scope. In all cases, the rights of restitution or compensation of the injured party and third parties must be safeguarded.

The proposed reform of the Penal Code referred to above (see response to recommendation 3b) -Decree 103/17¹⁴- meets the conventional requirement and the recommendation of the WGB.

If no action has been taken to implement this recommendation, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken

Text of recommendation 4(e):

4. With regard to **sanctions and confiscation**, the Working Group recommends that Argentina:

(e) take further steps to ensure that confiscation is routinely ordered in foreign bribery cases, that the amount of confiscation represents the full benefits of the offence, and that confiscation orders are executed without unreasonable delay (Convention Article 3(3));

Action taken since the date of the follow-up report to implement this recommendation:

The Public Prosecutor's Office (PPO) assumed that in the field of the fight against foreign bribery and organized crime it is essential, not only to address the actions against the perpetrators who took part in a criminal structure, but also against the assets that fund them, as well as the gains generated by crime. In order to ensure the confiscation of such gains it is necessary to take the pertinent measures to secure the assets from the beginning of any investigation.

In this line, General Resolutions PGN No. 129/2009 and No.134/2009, informed in previous instances, were thought. Both are aimed to carry out a comprehensive patrimonial investigation since the beginning of the criminal investigation, as well as the promotion of timely precautionary measures to achieve the preventive freezing of assets.

From the different special prosecutorial units operating within the AG's Office, in coordination with the General Directorate of Asset Recovery and Confiscation (hereinafter DRADB), which was created by Resolution PGN No. 339/2014 and then received a greater status by Resolution PGN No. 2636/2015, the PPO it is actively working on the frame of a criminal policy leading to ensure the confiscation from the early stages of any investigations.

In this sense, the planning of the assets recovery strategy implies seeking the adoption of quick decisions to freeze the illicit gains from the first moment of an investigation. To do this, it is essential to have specialized research bodies composed of professionals and experts from different specialties, in charge of

¹⁴ <http://servicios.infoleg.gob.ar/infolegInternet/anexos/270000-274999/271799/norma.htm>

carrying out auxiliary tasks and supporting prosecutors. In recent years, the PPO has been strengthened with such bodies and practitioners.

DRADB

For example, as it was mentioned above within the PPO, in 2015 the DRADB was raised to a greater status, moving from being a unit to a General Directorate. In the last year the DRADB has reinforced its intervention in complex crime cases obtaining results in the identification and seizure of assets.

In addition, the DRADB raises awareness among within legal officers on the importance and usefulness of those measures.

The DRADB's function is to develop and promote an active policy from the PPO aimed at identifying, tracing, freezing, confiscating and seizing assets and funds derived from crimes and criminal phenomena, especially those linked to complex crime and organized crime. For this purpose, it provides support to the prosecutors, specialized units and prosecutorial units within the AG's Office.

In this way, from the central structure of the PPO, it is intended to complement the attribution of criminal liability with a system of tracing the proceeds of crime, promoting the increase of patrimonial actions for identification, tracing, freezing (by seizure or any other preventive measure), and confiscation of assets. Both in number of cases and volume of assets.

In the framework of its functions aimed to promote a proactive asset recovery policy, in 2017 the DRADB published the "*Guideline of Preventive Measures for Asset Recovery*"¹⁵. This guide is presented as a useful tool with the objective of displaying the particularities of the investigation for the recovery of assets, linked to the early adoption of precautionary measures aimed at securing assets during the criminal process. At the same time, it incorporates a theoretical and practical analysis of the multiple challenges that this crucial strategy presents.

The requests for DRADB intervention in the last year registered an increase of seventy percent (70%) in relation to the total requirements between 2015-2017, being those linked to corruption (83%) and drug trafficking (220%) those that verified the most significant increases.

With regards to its distribution among the different regional jurisdictions, the work performed last year confirms the scope to the Prosecutor's Offices of the entire country, in the following order: Corrientes (15%), Province of Buenos Aires (16%), Córdoba (8%), City of Buenos Aires (CABA) (21%), Tierra del Fuego (2%), Santa Fe (13%), Salta (5%), Chaco (8%), Entre Ríos (5%), Neuquén (2%), Santa Cruz (3%), San Luis (2%) Tucumán (2%), and Misiones (1%).

In this context, an important work oriented to the identification, tracing, and freezing of assets was promoted to make effective the seizures ordered for **more than \$89 billion pesos** in cases linked to economic crime and organized crime in which the DRADB intervenes. Thus, during 2018, seizures were requested on **454 properties, 2,027 vehicles, 17 boats, 5 aircraft, and the freezing of 194 banking products** used to channel funds of illicit origin in the local financial system.

Special progress was achieved in the identification and freezing of illicit proceeds in the hands of legal entities, through the request for judicial intervention in 60 companies, as well as the prohibition to innovate in the composition of shares in 60 companies and the ban of contracting in relation to 13 trusts.

¹⁵ Available on <https://www.fiscales.gob.ar/procuracion-general/se-presenta-la-guia-de-medidas-cautelares-para-el-recupero-de-activos/>

In general terms, as the result of the technical assistance and collaboration provided by the DRADB in the period 2015-2018, in the more than 150 cases in which this unit is working, the following assets, through diverse forms of seizure, were frozen:

DRADB's statistics for 2018

Preliminary Measures	Requested in 2018	Order ¹⁶ in 2018
Real Estate assets	454	201
Aircrafts	5	-
Cars and Vehicles ¹⁷	2027	161
Boats	17	8
Freezing / seizure of banking products	194	54
Intervention/ judicial management	60	47
Litigation Annotation	4	4
Prohibition to innovate over trust's assets	13	4
Seizure/ Prohibition to innovate over corporate shareholding structures	60	21

Consolidated Results 2015-2018

Preliminary Measures	Requested 2015-2018	Order 2015-2018
Amounts of seizures	\$ 59.562.585.304	\$ 95.702.687.127
US Dollars	USD 7,584,786.00	USD 13,229,791.00
Argentine Pesos	\$ 40,977,785.57	\$ 41,031,065.57
Real Estate (quantity)	999	719
Aircrafts	10	5
Cars and Vehicles ¹⁸	6397	1866
Boats	30	21
Freezing / seizure of banking products	446	269
Intervention/ judicial management	78	57
Litigation Annotation	10	9
Prohibition to innovate over trust's assets	26	26

¹⁶ Includes the requested seizures and others ordered by the judges

¹⁷ Which includes cars, motorcycles and agricultural equipment.

¹⁸ Which includes cars, motorcycles and agricultural equipment.

Seizure/ Prohibition to innovate over corporate shareholding structures	173	131
General inhibition of goods	276	242

See annex 4 to access the list of causes in which Preliminary Measures have been obtained (2015 - 2018)

PROCELAC has achieved the seizure of assets for an ulterior forfeiture in several cases. It can be noted that within the total amounts reported by the DRADB, USD 604,889,908 belongs to the largest case of fraud in recent years in Argentina, in which the members of PROCELAC intervened as coadjutant prosecutors (*fiscales coadyuvantes*).

Adding to the cases previously reported by DRADB, the results reached by PROCELAC in assets confiscation can be added:

- a) PROCELAC is intervening in a case in which, despite not having a final conviction, seizures against 14 defendants for an amount of USD 344,000,000 were ordered;
- b) In a case which involves illicit financial intermediation (article 310 PC), among other offenses which include money laundering, in September 2016 the seizure of 7 vehicles, for an amount of USD 22,000 were issued. In addition six seizure orders for USD 250,000 each, were issued against the defendants in order to ensure their criminal liability.
- c) Specifically in foreign bribery matters, in a case linked with the bribes given by an Argentine company to public officials in El Salvador, the assets of the three accused were seized for an amount of USD 38.500 in the stage of the procedure known as the "procesamiento". This is when the judge in charge of the case considers that there are sufficient convincing elements ("elementos de convicción suficientes") to determine the commission of the crime and the participation of the accused (article 306 of the National Procedural Criminal Code)¹⁹.

With an executive decree of necessity and urgency (DNU), the Executive Branch through the Customs Administration, ordered the donation of the merchandise seized in favor of foundations, municipalities, civil associations, cooperatives, community centers, clubs, and various non-profit non-governmental organizations. This decision was then executed through judicial orders in 2012 and 2018. The confiscated merchandise reached an approximate value of USD 69,000,000, and consisted of rolls of fabric, instruments for ophthalmological and radiographic use, electronic articles, toys, and clothing.

In other cases in which PROCELAC took part, the asset confiscations were ordered:

- a) A case of illicit association (conspiracy) dedicated to laundering money, in March 2018 the court determined the amount of money laundered at USD 205.000 and ordered the forfeiture for such sum. This forfeiture included real estate assets, movable and non-registrable movables, money, patrimonial content rights and weapons;
- b) In a case of money laundering of goods coming from drug trafficking, in March 2018, 18 cars and 3 properties were forfeited. In this case, an agency of luxury cars was used.
- c) In another case of money from proceeds of drug trafficking, in March 2019 the court ordered the forfeiture of the assets that constitute the object and the benefits of the crime. The execution of said order was postponed until the sentence becomes final.

¹⁹ Case Unetel (El Salvador) - Bribe amount: two payments of 2.000 USD. See update of the case in section "Cases Referred to in the Phase 3 Report"

Anti-Corruption Office (AO)

As reported in previous evaluations, the AO had among its procedures the investigation of the assets of officials and individuals investigated and accused, in order to seek the freezing of funds for subsequent confiscation.

From 2017, these procedures became regular in the all cases in which they are justified, included the government goals themselves and those reported to the Office of the Cabinet of Ministers of the Nation, the statistics of presentations to judges and prosecutors to promote the recovery of goods.

Thus, in the cases of grand corruption and complex economic crimes in which the AO is a plaintiff, there have been seizures and precautionary measures in the amount of \$ 325,109,648,122.00 between 2016 and 2018. This was addressed to both natural and legal persons.

The detail of amounts for cause, liens and precautionary assets, is added in Annex 5²⁰.

Another specific areas of the PPO

DAFI

Another of the specific areas within the AG's Office aimed at greater efficiency in complex economic crime investigations is the General Directorate for Economic and Financial Advice in Investigations (hereafter DAFI).

DAFI was created by article 33 of Law No. 27.148 and through the Resolution PGN No. 2635/2015. Specific functions were assigned to it to improve the processing of the PPO in cases of organized crime and other relevant criminal phenomena, whose investigation implies complex economic and accounting techniques.

Its main functions consists in giving advice to prosecutors in complex cases; produce reports and opinions of economic and accounting matters; cooperate in criminal investigations in the identification of assets of illicit origin; suggest and promote evidentiary measures for the investigation of complex maneuvers, act in relevant judicial cases as qualified experts, and suggest training programmes on matters of its expertise to the AG's Office.

Among the tools developed by DAFI aimed to facilitate the investigation of economic and financial matters is the "Virtual Financial Investigation Platform". This virtual platform was launched in 2016²¹ as a useful management tool on the economic aspects of a crime. It is available to all PPO members through the institutional Intranet site²², and it counts with information queries ordered by the agency to be consulted, guidelines, and tutorials and it allows to generate a requirement and request for support in financial investigations.

Likewise, in 2017, DAFI published the "*Guideline of Financial Investigation*"²³, which was designed as a dynamic tool that allows standardizing the methods handled by PPO members in financial investigations.

²⁰ It must be taken into account that some of the cases included in the lists coincide with those previously reported.

²¹ <https://www.fiscales.gob.ar/procuracion-general/nueva-plataforma-virtual-de-investigacion-financiera/>

²² Therefore, its access is restricted to other people.

²³ https://www.mpf.gob.ar/dafi/files/2017/03/DAFI-Manual_Guia.pdf

For such purpose, a compilation that covers both the experiences obtained from the investigations commissioned by the prosecutors, as well as the experience accumulated by the members of the DAFI was made. The information gathered in the “Assets Investigation Manual” developed by the former Office for Coordination and Follow-up on crimes against Public Administration (OCDAP), and the documents derived from several AG General Resolutions, were also taken into account. It was then a Manual of a dynamic and collective construction, which contents are also available on the Virtual Platform for Financial Investigations and are periodically updated.

This year 17 prosecutor’s offices were assisted by DAFI for the first time and 59% of the prosecutors who requested DAFI’s assistance had required assistance before. After 5 years work, DAFI can provide support to eleven of the twelve federal prosecutor’s offices in CABA and other 55 in the rest of the country.

In the period between December 2017 and November 2018, 107 technical reports and responses to prosecutors were provided in 97 cases. Those requests came from several judicial forums and jurisdictions: 74% came from the jurisdiction for federal criminal matters (which includes economic crimes jurisdiction); 13% from the commercial jurisdiction; and other 12% from the criminal jurisdiction of the City of Buenos Aires.

In such period 389.312 sheets were analyzed (138% more than in 2017), there were involved 363 legal entities in the maneuvers addressed, and DAFI performed 2277 evidentiary measures (116% more than in 2017).

The average time to give a response last year was of 58 days, this includes the period between the reception of the request and the end of the collaboration.

Near 60% of the work was focused in the support in cases of institutional relevance with a great technical complexity. Among such cases the ones which involve public officers or former officers can be stressed. Regarding the money laundering offense it can be mentioned, among others, the support provided by DAFI in the named “Carbón Blanco” case which involved assets coming from drug trafficking.

During 2018 DAFI finished an expert report and continued assisting in the drafting of 5 other reports which continue on 2019.

As it was mentioned above, in 2016 DAFI developed the Virtual Platform for Financial Investigations, which made available to all PPOs a detailed guideline of the different agencies that can be requested information for financial investigations. During 2018 a number of improvements were made to that platform, aimed to facilitate the work of the practitioner in their investigations. Until now the platform counts with information of 189 agencies -both local and foreign- and a classification system implemented that can provide information requested either by note or web queries. Agencies gathering information from different sources that simplify the financial investigation were highlighted in the platform.

Finally, checklists allowing practitioners to keep track of the agencies requested were produced, including information regarding the requests submitted and responses received.

In another order of ideas, during 2018 the members of the DAFI have been consolidated in the academic field and were invited to participate in conferences and meetings where they spoke about the investigation of the economic aspect of criminal offenses, money laundering and capital flight.

Additionally due to the permanent innovation of the issues in the field in which DAFI performs its functions, continuous updates are required. For that purpose the members of DAFI participated in

trainings, events and debate roundtables, not only in the context of the PPO but also at universities and other institutions (Annex 6). This shows that DAFI is made up of professionals who, in addition to the professional practice they develop in the organization, are committed to maintaining their academic improvement and updating through courses, workshops and seminars on topics related to the tasks carried out in this field.

In addition, DAFI gave the course “techniques for tracking and analysing financial and accounting information, national and international, for the economic aspects of a crime”. This in both a classroom/present and virtual/distance modalities, for all members of the PPO. This training was aimed to provide participants with the knowledge of the techniques for financial information tracking, tools for the analysis of accounting and financial information, and the theoretical principles of the offshore jurisdictions and how to address an investigation in such places. 120 agents of the PPO were trained in basic knowledge to start and conduct financial investigations.

DNU No. 62/2019: Expiration of Ownership.

That Decree incorporates a substantial reform to the functions of the PPO in non-criminal matters, leaving aside the exclusion to exercise the representation of the State or the Treasury before the courts. Thus, in the cases included in the expiration of ownership regime, in article 4 of the DNU 62/19, the PPO was assigned with the active legitimation to represent the National State in the actions to demand the expiration of ownership.

At the same time, in order to face this new function of the PPO, the DNU 62/19 created a new prosecutorial unit within the structure of the AG’s Office, named “Prosecutorial Unit for the Expiration of Ownership in Favor of the National State” (article 5).

According with article 3 of the regime, this unit counts with powers to conduct investigations, by its own impulse, as well as to cooperate with other prosecutors in the identification and tracing of assets that may arise from any of the crimes included, but only when the prosecutors intervening in those investigations require the assistance of this unit.

Likewise jointly with the prosecutors acting before the federal civil and commercial jurisdiction in CABA, and the rest of the prosecutors with jurisdiction in federal civil and commercial matters in the rest of the country, the new prosecutorial unit for the expiration of ownership can submit the lawsuits and promote the civil actions incorporated into the legal system by the DNU 62/19.

That is to say that the new Office of Expiration of Ownership has the following attributes:

- Autonomous: to initiate preliminary investigations for the identification and tracing of assets;
- Collaborative: to cooperate with the prosecutors who require its assistance for the identification and tracing of assets;
- Concurrent: to submit the lawsuits and promote the actions provided in the DNU 62/19. In these cases, the Prosecutorial Unit for the Expiration of Ownership could not intervene autonomously before courts.

In order to perform such attributions, the DNU 62/19 gave the new unit the power to send requests to all national public and private entities. It can also send requests to the competent judges to lift fiscal, banking and stock market secrecy, as well as information on money laundering and terrorist financing operations.

Additionally the DNU 62/19 provides that, for the fulfillment of its functions, the new prosecutorial unit may form joint investigation teams with local, international and/or other countries agencies, as well as request and/or provide international collaboration in terms of regulations, conventions and existing agreements.

Article 3 of the regime entrusts the Attorney General, according to what is established in article 22 second paragraph of Law No. 27,148, to determine the functioning of the new Prosecutorial Unit for the Expiration of Ownership and to establish the criteria that will guide the beginning and selectivity of the actions of expiration of ownership in function of the economic significance of the goods, the degree of affectation to the public interest and the objectives that guide the action of the PPO.

In view of the new functions entrusted to the Public Prosecutor's Office, the acting Attorney General made a preliminary diagnosis about the scope of the tasks that the new Prosecutor's Office for the expiration of ownership will have. Based on this, he made an estimate of the resources that will be necessary to fulfill the missions.

In addition to that, the PPO is already working to begin to apply the new regime of the DNU 62/2019. However, according to the diagnosis, when these new tasks are consolidated, the effective functioning of a solid and specialized structure will be required and, consequently, the budgetary expansion that will allow the prosecutor's office for the expiration of ownership with appropriate human and material resources to achieve its goals.

That is why the PPO has been working in coordination with the Executive Branch, through the Ministry of Justice to achieve that goal within the shortest possible time.

In parallel article 21 of the regime entrusts the PPO with an exhaustive analysis of the ongoing criminal cases in order to report to the new unit about all those cases in which there may be assets that, directly or indirectly, come from any of the crimes contemplated in the expiration of ownership regime.

So as to carry out this task, the AG required the first instance prosecutors of the Federal Chambers with criminal jurisdiction, and of the National Chamber of Economic Criminal Matters, as well as to DRADB, to provide pertinent information for the purpose of carrying out the aforementioned analysis of cases.

At the date of preparation of this report, the AG's Office was still compiling the information required by the DNU 62/19.

This DNU 62/19 guarantees that the procedures for the expiration of ownership will be done routinely, since it orders the prosecutors to communicate the existence of "assets object of the measure" (bienes objeto de la medida), in order to initiate the pertinent complaint.

"ARTICLE 7°.- Precautionary measures. The intervening prosecutors must inform the Office on the Expiration of Ownership in favor of the National State, the beginning of all actions in which there may be assets that, directly or indirectly, come from any of the crimes enumerated in article 6 of the present".

If no action has been taken to implement this recommendation, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 4(f):

4. With regard to **sanctions and confiscation**, the Working Group recommends that Argentina:

(f) regarding debarment, (i) extend the grounds for debarment for all federal procurement (including public works) where appropriate to cover all offences falling within Article 1 of the Convention; (b) ensure the effectiveness of the exclusion mechanism, including by routinely checking debarment lists of multilateral development banks; and (c) in conjunction with the reform of the liability of legal persons for bribery, extend the disqualification to legal persons engaged in foreign bribery where appropriate (Convention Article 3(4); 2009 Recommendation X).

Action taken since the date of the follow-up report to implement this recommendation:

On Phase 3 bis, the WGB has identified several concerns regarding debarment: that the debarment regime does not apply to federal procurement for public works, or to legal persons found liable in Argentina for foreign Bribery; that the National Contracting Office (ONC) does not verify the debarment lists of multilateral development banks; that bribery of officials of public international organisations does not result in debarment under the Argentine legislation.

On the issues identified by the WGB as the basis of those recommendations, those referred to the scope of the crime of transnational bribery as a cause for disqualification (para 214²⁴); and those related to the impossibility of sentencing against legal persons in the Argentine Republic (para 216²⁵) are solved by Law 24.701 (CLL). In the first place, and as already stated (see response to recommendation 1), the definition of a foreign public official was modified, covering the requirement of the Convention. Secondly, a regime of criminal liability of legal persons was incorporated for corruption offenses which allows applying the sanction of disqualification, both in a judicial and administrative way, based on the court sentence issued in the country.

Another issue pointed out by the WGB was that the disqualification regime set by Decree 1023/2001 was limited in its application and did not cover all public works contracts.

Through Decree 1169/18²⁶, the ONC became the governing body of the Public Works Contracting and Public Works Concessions System carried out by the National Administration Jurisdictions and Entities included in Decree No. 1023/01 and subsection a) of Article 8 of Law No. 24.156.

The ONC and the MINISTRY OF THE INTERIOR, PUBLIC WORKS AND HOUSING are responsible for arbitrating the mechanisms for the progressive implementation of the Electronic Management System CONTRAT.AR for the contracting and monitoring of the execution of works financed completely or partially with funds from the National Treasury executed by provinces and municipalities.

²⁴ “The Working Group has identified several concerns with these provisions since Phase 2. The IACAC does not cover certain types of foreign bribery, e.g. bribery of officials of public international organisations. These cases therefore would not result in debarment under the Argentine legislation...”

²⁵ “Furthermore, Article 68(h) applies to legal persons found liable of foreign bribery by courts in a foreign country, not Argentina. (...) Argentina agrees that since legal persons cannot be sentenced to imprisonment, the provision could apply only if the foreign court imposed a time-based sanction against the legal person (such as debarment).”

²⁶ <http://servicios.infoleg.gob.ar/infolegInternet/anexos/315000-319999/318039/norma.htm>

Among the main modifications, the new Decree 1169/18 incorporates new rules for ineligibility for the contracting of public works (Article 5); the obligation on the part of the jurisdictions and contracting entities to verify that the bidders are not included in the debarment lists of Multilateral Credit Organizations (Article 5); and the obligation of the bidders to have an integrity programme (Article 7).

Article 5:

“RULES OF INELIGIBILITY. In the procedures of Public Works Contracts and Public Works Concessions, the offer must be rejected, when the information referred to in Article 16 of Decree No. 1023/01, its amendments and supplementary, without prejudice to what is establish in the bidding documents or regulations that apply, it appears that one of the following assumptions is made:

a. There are indications that make presume that the bidder is a continuation, transformation, merger or division of other companies not qualified to contract with the National Administration, according to the provisions of Article 28 of Decree No. 1023/01, its amendments and supplementary, and of the controlled or controlling of those;

b. In the case of members of companies not authorized to contract with the National Administration, in accordance with what is prescribed by article 28 of Decree No. 1023/01, its amendments and supplementary;

c. There are indications that due to their precision and concordance they make presume that the bidders have agreed or coordinated positions in the selection procedure. This cause of ineligibility will be understood, among other assumptions, in offers submitted by spouses, cohabitants or first degree relatives in a straight line;

d. There are indications that due to their precision and concordance they presume that they simulate competition or concurrency. This cause shall be understood, among other assumptions, when a bidder participates in more than one bid as a member of a group, association or legal entity, or when it is presented in its own name and as a member of a group, association or legal entity;

e. There are indications that due to their precision and concordance they presume that a simulation tends to evade the effects of the grounds of inability to contract with the National Administration, in accordance with the provisions of article 28 of Decree No. 1023/01, its amendments and supplementary;

f. Within the THREE (3) calendar years preceding its presentation, a judicial or administrative sanction has been issued against the offeror, for abuse of a dominant position or dumping, any form of unfair competition or for arranging or coordinating positions in the procedures of selection;

g. Defaults arise in previous contracts, according to what is provided in the respective Bidding Terms and Conditions;

h. They are condemned legal persons, with final judgment relapsed abroad, for bribery or transnational bribery practices under the terms of the Convention of the ORGANIZATION FOR ECONOMIC CO-

OPERATION AND DEVELOPMENT (OECD) on Combating Bribery of Foreign Public Officials in International Business Transactions. In this case, they will be ineligible for a period equal to twice the sentence; or

i. Individuals or legal entities included in the debarment lists of the WORLD BANK and/or of the INTER-AMERICAN DEVELOPMENT BANK (IDB), as a result of corrupt conduct or practices contemplated in the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions. When evaluating the offers, the jurisdictions and contracting entities must verify that the bidders are not included in the debarment list referred to.

If an offer is rejected as ineligible, the jurisdictions and contracting entities must communicate this circumstance to the NATIONAL CONTRACTING OFFICE in order to apply the sanction provided for in article 2.4 of subsection b) of article 1 of ANNEX II of this”.

Article 7:

“INTEGRITY PROGRAM. Approve the Form of the Integrity Programme, which, as ANNEX III (IF-2018-67270042-APN-SFI # JGM), is an integral part of this decree, which will be used in order for the bidders of the Public Works Contracts and Public Works Concessions to declare the effective implementation of an adequate Integrity Programme in accordance with the provisions of articles 22, 23 and 24 of Law N ° 27.401”.

In addition, it establishes the obligation for this body to publish and keep updated, through the National Public Data Portal, information and relevant documentation on the procedures for selection and execution of public works contracts and public works concessions incorporated into the Public Sector System. Electronic Management CONTRAT.AR, completely in open format and with the highest level of disaggregation possible (Article 3):

“ARTICLE 3°.- OPEN DATA. ACCOUNTABILITY TO CITIZENS. Instruct the SECRETARIAT OF GOVERNMENT OF MODERNIZATION of the CABINET OFFICE OF MINISTERS to arbitrate all the necessary means to publish within a period not exceeding ONE HUNDRED AND EIGHTY (180) days and to keep relevant information and documentation updated through the National Public Data Portal on the procedures for selection and execution of public works contracts and public works concessions incorporated into the Electronic Management System CONTRAT.AR, in complete form and with the highest level of disaggregation possible. As a minimum, with respect to each selection procedure and each public work in execution, the information and the detailed documentation must be published in the ANNEX I (IF-2018-67270453-APN-SFI # JGM) that is part of the present”.

From the National Contracting Office, it was made available, through the electronic system, the possibility for the offeror to declare - at the time of submitting an offer - the existence of an adequate integrity programme in accordance with articles 22 and 23 of law 27401.

On the other hand, article 7 of Decree 1169/2018 approved the Integrity Programme Form for bidders of public works contracts and public works concessions to declare the effective implementation of an adequate Integrity Programme according to that established in articles 22, 23 and 24 of Law 27.401.

National Registry of Criminal Records for Legal Entities

The National Registry of Criminal Records is a government body under the Ministry of Justice and Human Rights of the Nation. Its mission is to centralize the information concerning criminal proceedings substantiated in any jurisdiction of the country, according to the regime that regulates Law 22.117²⁷.

Aims:

1. Carry out the centralized registry of procedural acts, judgments and rulings issued in all courts of the country that have jurisdiction in criminal matters, in order to provide it to whoever is authorized to request it.
2. Issue reports on data and criminal records recorded, where appropriate.
3. Intervene in expert reports of persons, arranged by competent authority.
4. Intervene in the exchange with foreign countries of information on criminal records of persons in accordance with current agreements on the matter.

Likewise, it draws up statistical reports based on the data obtained from the following resolutions: Convictions, Prosecutions issued by the Federal Court and Suspensions of the Trial on Trial. The statistical base²⁸ consists of all the resolutions that are communicated by the different judicial agencies of the country to this Registry in each specifically mentioned year.

Law 27.401 on Criminal Liability of Legal Persons (CLL) entrusts the National Registry of Criminal Records with centralizing the registration of sentences imposed for the crimes criminalized thereof, and default judgments granted pursuant to sections 14 and 25 thereof.

Decision no. 11/2018 —published in the Official Gazette on November 23, 2018— has created the National Registry of Criminal Records for Legal Entities (Annex 7).

Through Decision No. 11/2018, Argentina have a specific, centralized and digital registry of criminal records for legal entities, which implies an important advance in the implementation of anti-corruption regulations.

Since the creation of the database on 03/05/2019, the following are registered:

Convictions	4
Fails to appear/Declared in contempt	1
Dismissal	11
Extinction of the criminal action	4
Legal requests / consultations	10
Total communications of judicial resolutions	21

²⁷ <http://servicios.infoleg.gob.ar/infolegInternet/anexos/60000-64999/63683/texact.htm>

²⁸ <http://www.dnrec.jus.gov.ar/estadisticas.aspx>

Total report orders	12
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The identification of the legal causes can be found in annex 8.

In addition, such information is made available to judicial authorities and those individuals who show a legitimate interest upon request. This procedure is also available for the other enforcement authorities with whom the Registry has direct communication, for instance AFIP (the Argentine Tax Authority), the General Inspection of Justice (IGJ), among others.

Thus, the database of the National Registry of Companies Criminal Records contains “criminal records” that centralize information on convictions imposed upon companies and becomes an important tool for the judicial system. This is a national registry that provides judges with precise and valuable data, who may toughen penalties in case of recidivism. It also provides more resources to the judicial system intended to promote corporate transparency and integrity.

If no action has been taken to implement this recommendation, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 5(a):

5. Regarding **investigations and prosecutions**, the Working Group recommends that Argentina:

(a) continue to take steps to ensure that foreign bribery cases may be commenced based on information provided anonymously (Convention Article 5 and Commentary 27; 2009 Recommendation Annex I.D);

Action taken since the date of the follow-up report to implement this recommendation:

The Argentine legal system does not proscribe a person who does not reveal his or her identity – anonymous- to present information to the authorities about a presumably illegal act and for that information to be used to channel a criminal case.

PROCELAC, the special unit of the PPO which focuses in complex economic crimes and money laundering, has within its organizational structure a unit for Crimes Against the Public Administration (hereafter DAP). This unit is specifically in charge of investigating and intervening in cases of foreign bribery (article 258 *bis* of the Argentine Penal Code foresees this offense, included within the chapter on Crimes against the Public Administration).

As any other federal prosecutor’s office in the country, PROCELAC can receive anonymous complaints. For this, it has an e-mail address and an online form, shown in its main website, which is visible while navigating anywhere in the page.

In order to broaden this faculty, PROCELAC has updated its website to highlight the theme related to foreign bribery and offer more information to the community and private sector regarding this subject, so as to encourage the use of these tools for receiving anonymous complaints.

Similarly, the Office for Administrative Investigations (PIA) has a website for receiving anonymous complaints. When the complaint is related to foreign bribery, this office has the obligation to send it to the PROCELAC (competent in these matters). In the PPO’s official website this option is also available for

any person who wishes to make an anonymous complaint and, again, PROCELAC will receive it when it is related to foreign bribery.

Security forces also have these channels and in many cases forward the complaints to the competent specialized bureaus or to the corresponding prosecutors or judges.

In other words, there are no legal impediments or lack of tools for citizens who want to bring about any complaint, even anonymously, for this or any other crime.

Once PROCELAC receives an anonymous complaint related to complex economic crimes, it evaluates the possibility of initiating a preliminary investigation. In the limited scope of the preliminary investigation, some investigative measures will be dictated and carried out (such as information requests to public and private organizations, searches in open data sources, testimonies, etc.) to evaluate if a formal complaint will be presented before the corresponding jurisdiction (PROCELAC has competence over all federal economic crimes across the entire country).

Throughout 2018, out of the 122 cases initiated in PROCELAC, 43 were due to anonymous claims or made by people whose identity was not corroborated. This represents 33.25% of all initiated cases, proving that it is a mechanism that is taken advantage of by the community. This shows that the identity of the informant is not an obstacle preventing PROCELAC to start investigations and that many preliminary investigations and criminal cases begin due to these anonymous complaints.

In previous evaluations, it was reported that the AO receives anonymous complaints upon which it initiates preliminary investigations routinely and in accordance with its regulations:

	2017	2018	2019 (first trimester)
Entered complaints	846	731	310
Anonymous	381	369	153
Percentage	45,03%	50,47%	49,35%

Source: *Statistics Anti-Corruption Office*

During the first quarter of 2019, 310 reports were submitted of which 153 were anonymous.

In response to recommendation 12b), the existing bodies and channels for anonymous citizen complaints are listed.

If no action has been taken to implement this recommendation, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 5(b):

5. Regarding **investigations and prosecutions**, the Working Group recommends that Argentina:

(b) continue to use proactive steps to gather information from diverse sources of allegations and enhance investigations (Convention Article 5 and Commentary 27; 2009 Recommendation Annex I.D);

Action taken since the date of the follow-up report to implement this recommendation:

Same as in the previous recommendation, PROCELAC can start preliminary investigations based on information provided by other national and international organisations, as well as information published in the media. For this, PROCELAC has implemented concrete actions to improve its on-line search and case detection system previously reported, not only in domestic newspapers but also in international media, allowing an increase of its capacity for the detection of cases.

PROCELAC has increased its proactivity to collect information from different sources, from all of its operational units (see description in Recommendation 5.f), managing to increase the detection of economic crime cases. Security forces report economic criminal news to PROCELAC, so that it can start a preliminary investigation and make a formal report.

PROCELAC also receives criminal news and information from different public organisations related to diverse topics of economic criminality (Customs Administration, Argentine Central Bank, Financial Information Unit²⁹, and Ministry of Security, among others).

As an example, at least 50 cases in 2018 were initiated in PROCELAC thanks to information sent by other governmental organisations. Throughout 2018, PROCELAC's Money Laundering and Financing of Terrorism operational unit formulated at least ten formal complaints based on information sent by the FIU. On the other hand, PROCELAC's Tax Crimes and Smuggling operational unit started, in that same period, three new cases brought by the Argentine Central Bank and the Customs Administration.

In order to enhance this cooperation, PROCELAC has signed agreements with many of these organisations, generating new channels of communication with diverse public entities, national and provincial, thanks to which experiences and useful information have been exchanged. More fluid work relationships have been generated and many of these have led to the signing of assistance and cooperation agreements, such as the following:

- Collaboration agreement between the Ministry of Justice and Human Rights and the PPO, celebrated on December 17th, 2013 and approved by Resolution PGN N° 436/2014.
- Cooperation agreement between the AG's Office and the National Securities and Exchange Commission (CNV) on assistance and information exchange celebrated on September 15th, 2014 and approved by Resolution PGN N° 2174/2014, by which PROCELAC was designated as focal point, based on its expertise on economic complex crimes.
- Framework agreement of cooperation between the PPO and the National Auditing Agency within the executive branch (SIGEN) on the exchange of information celebrated on September 16th, 2014 and approved by Resolution PGN N° 2175/2014, by which it designated PROCELAC as the focal point.
- Framework agreement of cooperation between the PPO and the National Electoral Chamber, celebrated on February 24th, 2015 and approved by Resolution PGN N° 593/2015, through which the following were established: agreements on collaboration, training, assistance and exchange of information related to the funding of political parties, understood as an important strategy in fighting against certain manifestation of economic and organized criminality.

²⁹ In order to strengthen the exchange of information between the FIU and the PPO, on 04/03/2019 a framework cooperation agreement was signed between both agencies, which was ratified by Resolution PGN No. 29/2019.

- Framework agreement between the PPO and the Central Bank of Argentina celebrated on March 16th, 2015 and approved by Resolution PGN N° 794/2015.
- Framework agreement of cooperation between the PPO and the National Insurance Control Agency -*Superintendencia de Seguros de la Nación*- on the exchange of information in matters of economic criminality, celebrated on June 12th, 2015 and approved by Resolution PGN N° 1956/2015.
- Framework agreement of cooperation and assistance between the PPO and the National Institute of Cooperatives and Social Economy (INAES), celebrated on December 14th, 2016 and approved by Resolution PGN N° 1231/2017.
- The framework cooperation agreement between the FIU and the PPO, signed on 04/03/2019, which was ratified by Resolution PGN No. 29/2019.

Another source of information used by PROCELAC for the detection of cases is international cooperation. In the framework of its competences, it receives spontaneous information, MLA requests to be executed and informal cooperation requests – for example, through the Asset Recovery Network of GAFILAT (RRAG), which will be explained in 7 a). In some cases, these forms have motivated the initiation of preliminary investigations in cases of economic criminality.

Since 2017, PROCELAC has received 46 spontaneous exchanges of information without prior request. The main source for these is Interpol. Out of the 46, 35 investigations were initiated, from which 34 ended in the presentation of formal complaints and one of them is an ongoing case. Ten of them were either closed or forwarded to administrative investigative organisations in order for them to evaluate the possible commission of infractions. In the remaining case, the information was forwarded to an ongoing investigation in a case that was initiated by PROCELAC and in which it collaborated with the prosecutor in the redaction of the formal rogatory letters. This document asked for more information and requested precautionary measures regarding the assets in the country from which the information came from.

Within the investigation of other crimes, prosecutors as well as other specialized units and/or prosecutorial offices have sent case files so that, from its specialized viewpoint, PROCELAC could evaluate the possible commission of economic crimes. We can state the example of a money laundering case in which the prosecutor in charge detected a possible foreign bribery crime which led to broadening the prosecutor's accusation for that crime.

In addition, apart from the information that PROCELAC receives from the WGB Matrix of cases, which allows for the identification of possible new cases of foreign bribery, this unit has proactively detected new foreign bribery cases from media reports. PROCELAC has, in recent years, adopted concrete measures to improve the online search system and case detection mechanisms not only in national press but also in international media. In this way, it created an internal system to search in different world news websites that allows it to detect the publication of any news related to possible foreign bribery cases in Spanish, English and Portuguese.

PROCELAC's initiative for the detection of foreign bribery cases has been successful. Out of the 12 ongoing foreign bribery cases in Argentine courts, 2 have been detected autonomously by this unit (16,6%). Thanks to the aforementioned internal search system: one of them involved the payment of bribes by an Argentine company in El Salvador to obtain contracts to manage the collection system in public transportation, detected in 2017- this is the case that has advanced the most in Argentina-; and another one on the possible payment of bribes by a consortium of Argentine and Peruvian companies to public officials in Peru for the construction and exploitation of an airport, detected in 2018.

Notwithstanding that new measures have brought more efficiency in the detection of cases, trainings on foreign bribery given by PROCELAC to employees of the PPO – which will be discussed in point 5 g) – have also served to identify foreign bribery elements of their ongoing investigations. For example, the

investigation in a smuggling and money laundering case has been broadened recently to disentangle the possible precedent crime of foreign bribery of Argentine companies in Venezuela.

Anti-Corruption Office

During previous phases of evaluation, it was reported that the Anti-Corruption Office (AO) had among its obligations, to initiate preliminary investigations based on information published by the press, or from the analysis of the information and reports of other control and auditing National bodies (Decree 102/99 art. 11; Resolution 1316/2008 art. 1).

In 2017, the structure of the Anti-Corruption Office was reformed, maintaining this obligation at the head of the Undersecretariat for Anti-Corruption Investigations..

Decree 838/2017 Annex II, states:

“Undersecretariat for Anti-Corruption Investigations. - *Objective:*

1. (...).-

7. *To analyze the information produced by the Office of the Comptroller General (Sindicatura General de la Nación- SIGEN) and by the Office of the National Auditor General (Auditoría General de la Nación - AGN), or that published by the media, in order to evaluate the possible existence of irregular events that could justify an investigation.*

8. (...).”

Pursuant to this obligation, the AO has carried out the following actions:

Within the framework of the Critical Audits programme prepared by SIGEN, until 2018 the AO has received 102 audit reports, analysed 74.5% of its total and identified elements to initiate 49 investigations. Thirty-two complaints and/or contributions of elements to the federal justice system arose from these investigations.

In addition, 22 other entries were received for submissions made by other ministries or governmental agencies based on internal audits. Of these, 12 were transferred from the Admissions Unit to the Investigations Directorate and 10 were pending at the closing date of the report.

In 2019, on the basis of 33 reports registered in the SIGEN database, 6 have already led to the opening of proceedings and another 18 are under analysis in the oa.

The area reporting to SSIA produces a daily overview of national graphic media, as well as routinely and periodically review of international media (such us: FCPA web page -DOJ-; FCPA Blog; El País; Washington Post; Folha De Soa Paulo; Security & Exchange Commission website). From this source it is possible to identify 11 current investigations.

If no action has been taken to implement this recommendation, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 5(c):

5. Regarding **investigations and prosecutions**, the Working Group recommends that Argentina:

(c) take steps to ensure that prosecutors and judges in economic crime cases act promptly and proactively without delay.

Action taken since the date of the follow-up report to implement this recommendation:

In order to actively and permanently evaluate the effectiveness of measures to reduce the delay in economic crime cases, on June 30, 2016, the Judicial Council of the Nation (through Res. CM 342/16 and cc)³⁰ ordered the first audit of corruption cases on the whole Federal Criminal Justice system of the country, responding to a postponed demand of the society.

Focus was set on culminated and on-going cases of all federal courts with competence in criminal matters during the period 1996-2016, where a public official had been charged and investigated any of the crimes provided in Res.CM 342/16 and cc.

In total, one hundred and forty seven (147) judicial offices were audited, including two hundred and ninety-four (294) federal judges, distributed as follows:

- One (1) Federal Court of Cassation in Criminal Matters, made up by thirteen (13) judges.
- Sixteen (16) Federal Courts of Appeals, totaling sixty-nine (69) judges.
- Forty-one (41) Oral Federal Courts, totaling one hundred and twenty-three (123) judges.
- Eighty-nine (89) Criminal Federal Courts, totaling eighty-nine (89) judges of lower courts.

The causes investigated amount to 9870, of which 2148 were in process at the time of the temporary cut (2016) and 7722 terminated.

TOTAL SURVEYED CASES							
9870							
Courts		Oral Federal Courts		Chamber(s)		Cassation	
4456		1550		2272		1592	
ON-GOING CASES				TERMINATED CASES			
2148				7722			
COURTS	FEDERAL ORAL COURTS	CHAMBER(S)	CASSATION	COURTS	FEDERAL ORAL COURTS	CHAMBER(S)	CASSATION
1585	336	139	88	2871	1214	2133	1504

Source: Open Data Portal

³⁰ <https://www.pjn.gov.ar/Publicaciones/00015/00097677.Pdf>

Resolution 733/16³¹ established the development of an Open Data Portal³² regarding Audits, which allows the dissemination of the data received in accessible format by any citizen interested in its visualization and analysis.

This portal has two parts: a graphic one that provides information to citizens accessible and swiftly; and a part with content, which allows access to open data information sources and facilitates a genuine and transparent access to data, pursuant to provisions under Law 27.275 on Access to Public Information and Resolution 147/18³³ from the Judicial Council.

The audit should be understood as a permanent process, and not as an act of instantaneous execution. The work is carried out continuously, so that the information that is collected does not become anachronistic and may enter a continuous audit process on areas that are considered sensitive by society; as well as of remarkable utility for the design of judicial and criminal policies, allowing the intellectual comparison and offering a certain basis for the design of judicial management policies.

In 2019, the audit is in the stage of completing the survey corresponding to the 2018 period. The incorporation of new data is done progressively as the Plenary approves partial or final reports of the processing of each jurisdiction. According to Res. CM 707/16³⁴, a "Permanent Execution Plan was established in order to enter a Continuous Audit Process". For compliance, data is requested year by year, with a cut-off date on December 31, following the Work Programme and objectives established by the Council. It requires information and updating the causes that are promoted and those that culminate, allowing to establish comparative variations.

The procedure is carried out following protocols and systematized methods which are uploaded in the website, under page "Biblioteca de Normas".

In accord with regulations under Resolution 733/16 from the Judicial Council, audits are conducted with the assistance from various areas of the Judicial Council: Statistics Division, Technology General Office, Computing Auditing Office, Judicial Infrastructure Office, Human Resources Office, Modernization and Innovation Unit, Open Council and Citizen Participation Unit and the Criminal Investigations Institute.

The information received from the whole country is processed in a Technological Platform designed by the Judicial Council with the Technology General Office (Rules of Resolution 707/16 of the Judicial Council), which ensures high computing security standards. Following data from the whole country are included: total of country, total per jurisdiction, total per Court of Appeals, Tribunal and Court, up to reaching the highest level of individualization of the office audited and data surveyed. The processed data for every case is added to files and spreadsheets.

After the information is processed in the Technological Platform, it is revised and validated by the auditor responsible for every office, consolidating files and spreadsheets of every case surveyed; this enables obtaining accurate, correct, complete and reliable information. The process ensures that heads of every audited office has the right to examine the results before they are submitted to the plenary meeting (Rule added under decision 35, subsection c, Resolution 249/17³⁵ of the Judicial Council).

³¹ <https://www.pjn.gov.ar/Publicaciones/00012/00103494.Pdf>

³² <https://auditorias.pjn.gov.ar/corrupcion>

³³ <https://www.pjn.gov.ar/Publicaciones/00024/00118805.Pdf>

³⁴ <https://www.pjn.gov.ar/Publicaciones/00025/00103023.Pdf>

³⁵ https://www.pjn.gov.ar/02_Central/ViewDoc.Asp?Doc=107944&CI=INDEX100

The stages end by processing, revising and validating the feedback received from such prior examination. The data added to the Open Access Data Portal is made available to the plenary meeting of the Judicial Council pursuant to provisions under item 8 of Resolution 733/16 of the Judicial Council.

In relation to the duration of the processes, it was observed that different courts and tribunals offered data in a clear and precise manner. This allows us to analyze the efficiency of the justice system in relation to the processes under study. As well as it enables a follow-up on the greater or lesser efficiency of criminal proceedings and judicial management based on specific data and its evolution by periods.

As to the territorial aspect, the audits started in the Federal Courts of Appeals of the provinces and after that the Buenos Aires city jurisdiction was audited.

During the first stage, the Federal Courts of Appeals of Salta, Resistencia, Posadas, and Corrientes have been audited.

Resolution 28/17³⁶ of the Judicial Council authorized the second stage of audits in Tucumán, Santa Fé, Córdoba, Mendoza, Mar del Plata, General Roca and Comodoro Rivadavia.

Resolution 102/18³⁷ of the Judicial Council approved the beginning of the third and fourth stage: The Federal Courts of Appeals of Bahía Blanca, Paraná, San Martín, and La Plata, the Court of Appeals in Criminal Economic Matters of Capital Federal and the National Court of Appeals in Federal Criminal and Correctional Matters.

On November 8, 2018, a plan to audit the National Criminal and Correctional Courts, the Oral Criminal and Correctional Tribunals, the National Court of Appeals in Criminal and Correctional Matters and the National Court of Cassation in Criminal and Correctional matters for years 2017 and 2018 has been approved, pursuant to Resolution 509/18³⁸ of the Judicial Council.

The importance of the territorial amplitude of the survey carried out, which covers the entire country, is highlighted, thus completing one of the purposes of the audit that focuses on the possibility of having a complete and accurate map regarding the operation of the justice system in relation to the problem of crimes against public administration involving national public officials. Such a measure allows the observation of results by jurisdiction, counting on the possibility of adopting strategies in the functional competence scope of this Council and that correspond to the reality of each jurisdiction.

It is necessary to state that all the new authorized judicial offices that are covered by the object of the aforementioned audits are immediately incorporated into the control tasks carried out by the Body of Auditors.

Likewise, it is pointed out that experts of the European Union met with the Body of Auditors, in order to analyze the work that was being developed and assist with their own experience, attending to the expertise and entity that the judicial inspection service in Spain (headquarters of the visiting experts) has, where this control or management evaluation is carried out permanently and through the system itself.

³⁶ <https://www.pjn.gov.ar/Publicaciones/00021/00104385.Pdf>

³⁷ <https://www.pjn.gov.ar/Publicaciones/00002/00118091.Pdf>

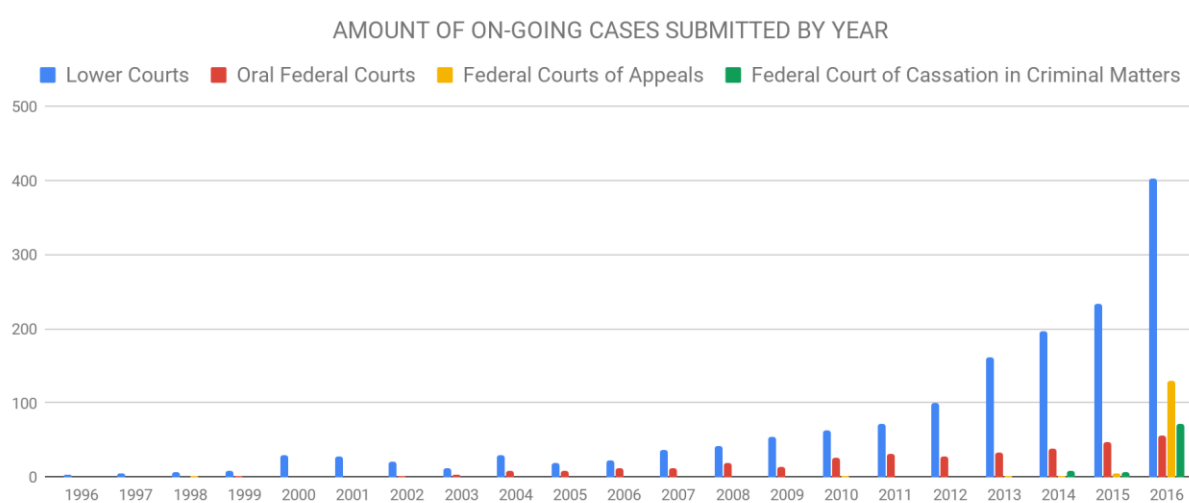
³⁸ <https://www.pjn.gov.ar/Publicaciones/00032/00128923.Pdf>

Finally, and in order to optimize audit tasks, the Body of Auditors organizes training sessions for all its personnel with CONICET³⁹ specialists. Training, knowledge, updating and exchange of experiences developed with experts on judicial inspections of the European Union are also carried out. Copies of international certificates of training sessions with experts from the European Union are attached (Annex 10).

The present analysis brings together the causes of corruption in the period 1996-2016 in the federal jurisdiction of the Argentine Republic.

- **Number of on-going cases processed by year (1996-2016)**

Amount of on-going cases in process as of December 31, 2016 according to their year of initiation or filing per instance.



Source: Open Data Portal

- **Total average country by instance (1996-2016)**

Average time of on-going cases			
Jurisdiction	Instance	Average	Amount of cases used for the average
Total country	Lower Courts	4 years, 2 months and 20 days	1543
	Federal Courts of Appeals	0 years, 6 months and 2 days	138

³⁹ The National Council of Scientific and Technical Research (CONICET) is an autarchic entity under the orbit of the Secretariat of Government for Science, Technology and Productive Innovation, under the Ministry of Education, Culture, Science and Technology, aimed at promoting the development of science and technology in the country.

	Oral Federal Courts	4 years, 6 months and 3 days	335
	Federal Court of Cassation in Criminal Matters	0 years, 7 months and 14 days	88

For more information see Annex 9

Average time of terminated cases			
Jurisdiction	Instance	Average	Amount of cases used for the average
Total country	Lower Courts	2 years, 7 months and 4 days	2650
	Federal Courts of Appeals	0 years, 4 months and 19 days	1926
	Oral Federal Courts	2 years, 4 months and 15 days	1040
	Federal Court of Cassation in Criminal Matters	0 years, 9 months and 21 days	1500

For more information see Annex 9

- **Duration of cases (1996-2016)**

<i>Quantity of terminated cases per instance for periods of time</i>					
<i>Total instance</i>	<i>≤ 3 years</i>	<i>> 3 to 6 years</i>	<i>> 6 to 10 years</i>	<i>> 10 years</i>	<i>Total</i>
<i>Total Federal Courts of Appeals</i>	1910	11	0	4	1925
<i>Total Lower Courts</i>	1888	473	249	118	2728
<i>Total Oral Federal Courts</i>	743	185	95	17	1040
<i>Total Federal Court of</i>	1449	39	3	9	1500

<i>Cassation in Criminal Matters</i>					
<i>Total country</i>	5990	708	347	148	7193

Source: Res 416/18⁴⁰

<i>Quantity of on-going cases per instance for periods of time</i>					
<i>Total instance</i>	<i>≤ 3 years</i>	<i>> 3 to 6 years</i>	<i>> 6 to 10 years</i>	<i>> 10 years</i>	<i>Total</i>
<i>Total Federal Courts of Appeals</i>	135	1	1	1	138
<i>Total Lower Courts</i>	829	336	195	182	1542
<i>Total Oral Federal Courts</i>	141	91	70	32	320
<i>Total Federal Court of Cassation in Criminal Matters</i>	88	0	0	0	88
<i>Total country</i>	1193	428	266	215	2088

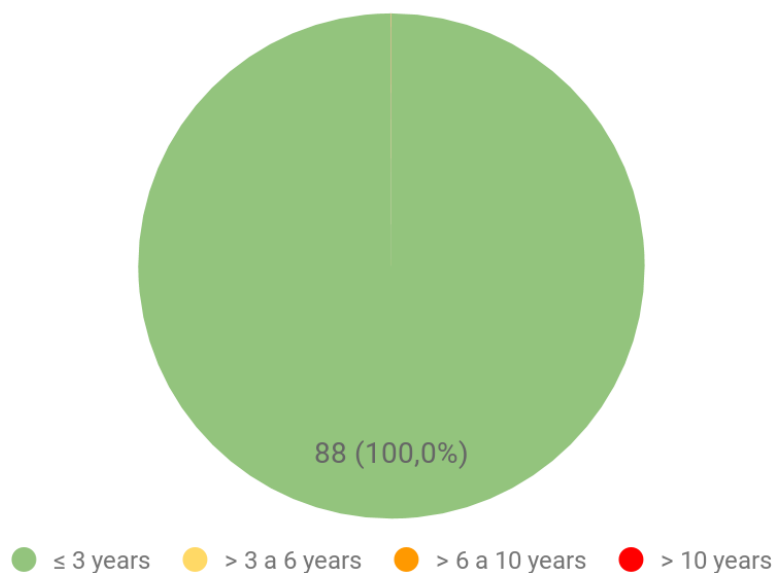
Source: Res 416/18

- **Quantity and percentage of on-going and terminated cases, divided in periods according to their duration (Autonomous City of Buenos Aires)**

⁴⁰ https://www.pjn.gov.ar/02_Central/ViewDoc.Asp?Doc=126931&CI=INDEX100

Federal Court of Cassation in Criminal Matters

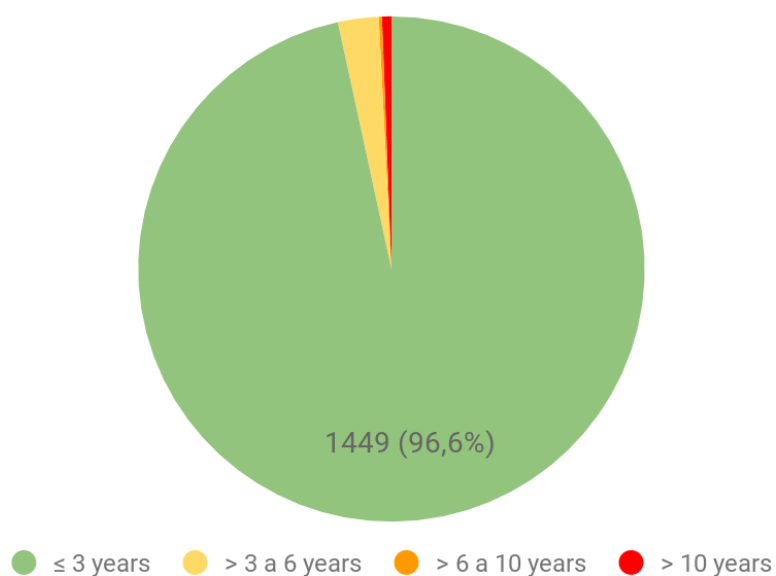
Duration of cases - On-going



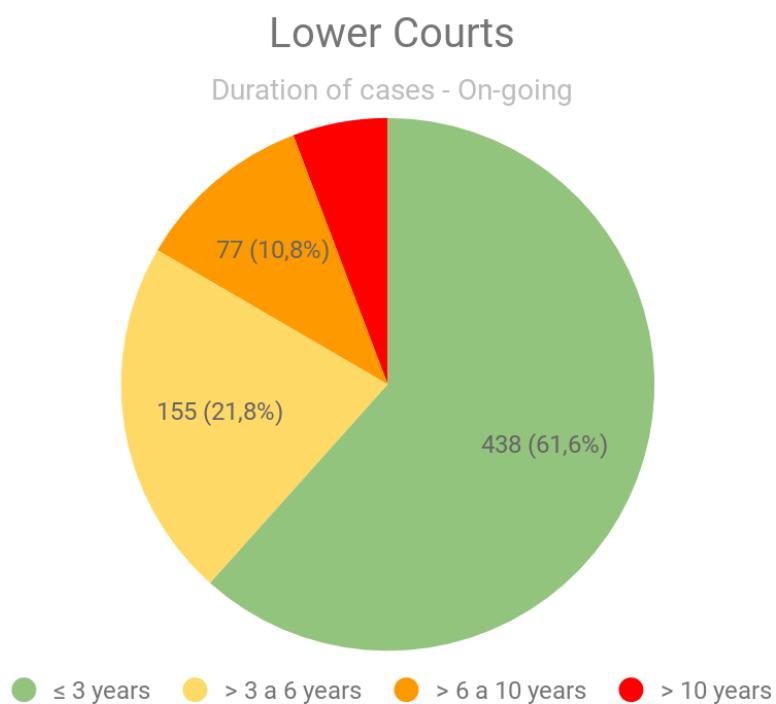
Number of cases used to obtain this data: 88 - Source: Open Data Portal

Federal Court of Cassation in Criminal Matters

Duration of cases - Terminated



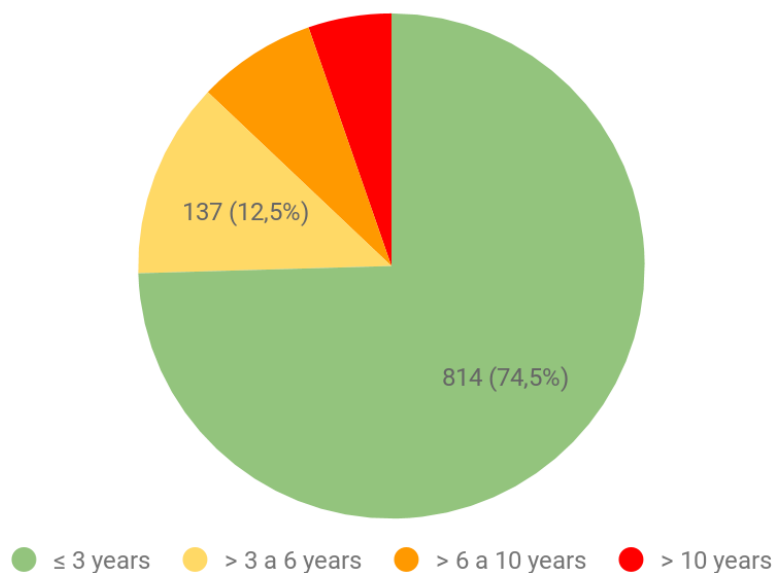
Number of cases used to obtain this data: 1500 - Source: Open Data Portal



Number of cases used to obtain this data: 710- Source: Open Data Portal - For more information about on-going cases in Lower Courts of the country, please see Annex 11.

Lower Courts

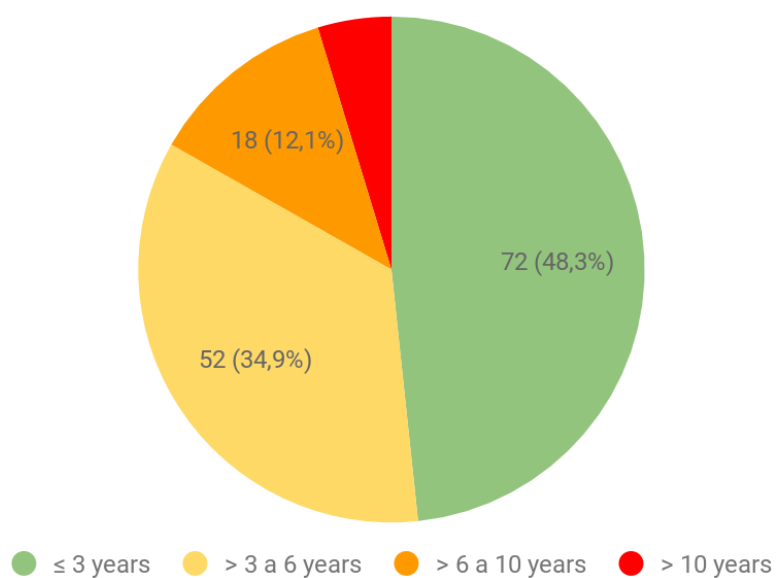
Duration of cases - Terminated



Number of cases used to obtain this data: 1092 - Source: Open Data Portal

Oral Federal Courts

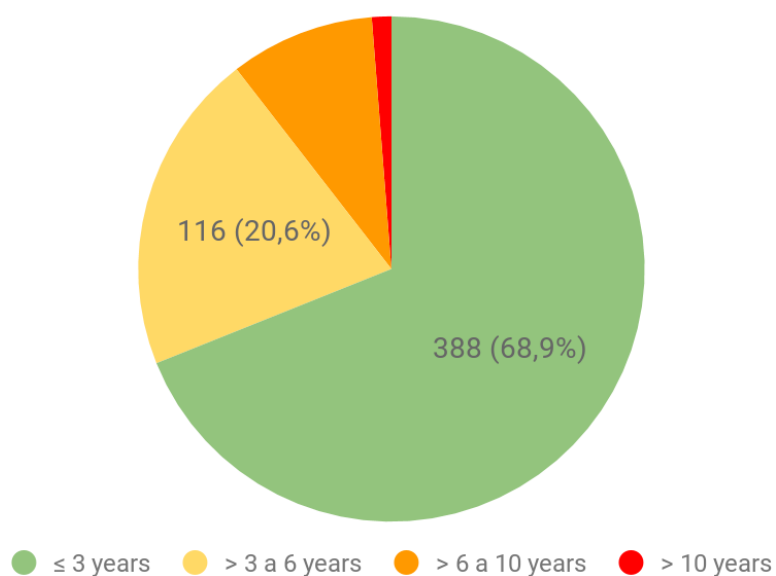
Duration of cases - On-going



Number of cases used to obtain this data: 149 - Source: Open Data Portal

Oral Federal Courts

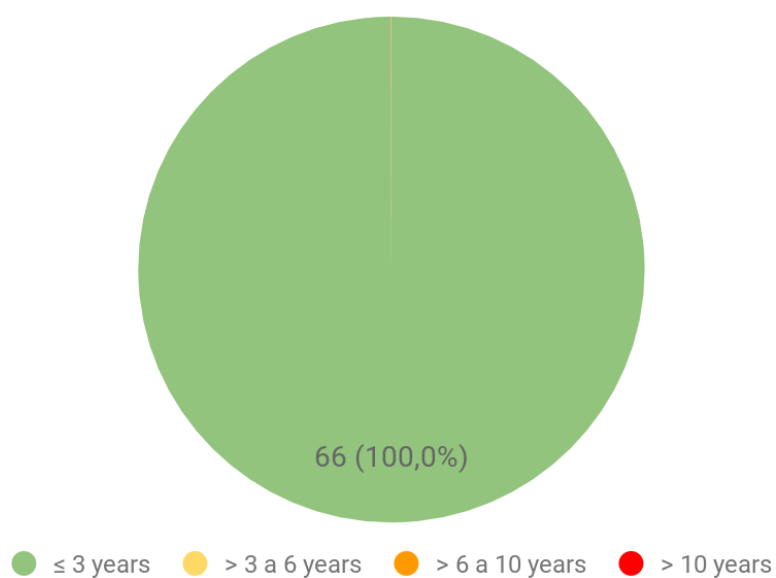
Duration of cases - Terminated



Number of cases used to obtain this data: 563 - Source: Open Data Portal

Federal Courts of Appeals

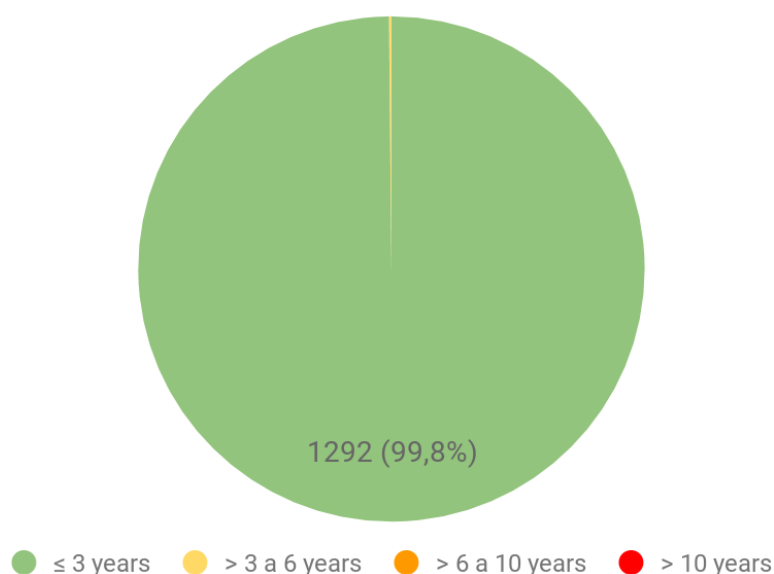
Duration of cases - On going



Number of cases used to obtain this data: 66 - Source: Open Data Portal

Federal Courts of Appeals

Duration of cases - Terminated



Number of cases used to obtain this data: 1294 - Source: Open Data Portal

The Phase 3bis Report cited extraofficial statistics that indicated extraordinary delays: “the average duration of a case was 14 years, with some lasting two decades” (paragraph 82). The official audit of corruption cases of the Judicial Council provides reliable statistics regarding delays in corruption cases that reached the trial stage.

It is of great interest to note that the data presented above, not only allows to analyze the efficiency of the justice system against criminal proceedings related to crimes against the public administration in which public officials are involved, but also to verify compliance with the obligation of the Argentine state to administer justice in "reasonable terms", according to the new Code of Criminal Procedure (law 27.063), which provides for a maximum duration of criminal proceedings of 3 years for non-complex crimes and 6 years for complex crimes.

The ongoing work described above allows us to maintain a qualitative and quantitative analytical information base of all the causes studied, their evolution and progress over time, obtained with methods and procedures that meet the highest auditing standards. They include the opinion and confrontation of the information with the audited judges, so that it is accurate, complete and uncontroversial. It is a management and efficiency control tool for the system and its operators.

- Causes period initiated or processed 1996 - 2017

COUNTRY TOTAL										
AUDITED OFFICE	ON GOING AND TERMINATED CASES 1996-2016			UPDATE 2017						ON GOING UNTIL 31-12-2017
	TOTAL ON GOING AND TERMINATED	TERMINATED UNTIL 31-12-2016	ON GOING UNTIL 31-12-2016	STARTED IN 2017	TOTAL TERMINATED IN 2017	TERMINATED 2017				
						INSTRUCTION		OFC		
						BRING TO TRIAL	OTHER FORM	SENTENCE	OTHER FORM	
Federal Court of Cassation in Criminal Matters	1592	1504	88	306	331	0	0	0	0	63
Federal Courts of Appeals	2272	2133	139	516	526	0	0	0	0	129
Lower Courts	4532	2949	1583	882	515	74	440	0	0	1950
Oral Federal Courts	1550	1214	336	105	53	0	0	15	38	388
Total	9946	7800	2146	1809	1425	74	440	15	38	2530

Source: Res 416/18⁴¹

- **Transnational bribery**

In the Phase 3 bis report the WGB noted the following: “*Similar delay can be observed in some of Argentina’s foreign bribery enforcement actions. The investigation in the Agribusiness Firms (Venezuela) Case started in 2009 and is still on-going today, some eight years later. The Oil Refinery (Brazil) Case has been open since 2013. The Power Project (Philippines) Case dragged on for over six years before it was terminated without charge. As described at p. 21, there was also delay in opening several foreign bribery investigations after the media reported the allegations*”

In order to promote and strengthen the investigation and punishment of crimes effectiveness provided in the Convention, the Anti-Corruption Office - as the technical body that shares representation in the WGB - requested the Judicial Council that its auditing should undertake work of a similar scope and depth in transnational bribery cases (art. 258 bis APC).

⁴¹ https://www.pjn.gov.ar/02_Central/ViewDoc.Asp?Doc=126931&CI=INDEX100

The Plenary of the Judicial Council ordered the requested audit, confirming that the investigation and punishment of the convention's crimes is a priority.

In accordance with resolution 414/18 (Annex 12), the periodic survey includes the causes of bribery by foreign public officials or by a public international organisation - typified in art. 258 bis of the PC:

- 1) The totality of the points established by resolution 342/16 for the ongoing cases
- 2) Accused natural or legal persons;
- 3) Role of the public official(s) to whom it has been promised, offered or have accepted the bribe (for example: employees of public companies, head of State, minister, customs officials, health officials, defense officials, etc.);
- 4) Way of initiating the proceedings (for example: voluntary complaints, reports made by the companies or accused persons, law enforcement authorities, cases that were known in the context of mutual legal assistance between countries, complaints based on journalistic information, etc.);
- 5) Detail of the totality of the procedural alternatives that the case/file had and its current state;
- 6) Way of culmination (if it has happened) of the proceedings (for example: dismissal, dismissal due to extinction of the criminal action, acquittal, condemnatory sentence, abbreviated trial, probation or application of article 9 of Law 27.401).
- 7) If a new case related to the aforementioned penal types was promoted.
- 8) An annual digital tracking file was established for said cases and those related to the aforementioned penal types; granting permanent and continuous status to the labour of auditing data.

From the survey carried out (Res 547/18) (Annex 13) it can be inferred that the universe of causes studied, up to November 2018, were 11⁴². In any case, the updated circumstances of each case will be explained in the corresponding section.

It should be noted that the Judicial Council will be able to monitor the status, progress, delays and effectiveness in each of the investigations initiated or to be initiated for Convention crimes, both past and future.

PROCELAC

Regarding foreign bribery cases, one of the ways in which the PPO seeks that prosecutors in charge of these economic criminality cases act promptly is by offering PROCELAC's collaboration. PROCELAC's specialized work in preliminary investigations bring great value to achieve greater efficiency in foreign bribery cases. This is because a formal complaint presented by PROCELAC comes with a previously established factual and evidence base elaborated by a specialized office in this cases, which will necessarily make investigations advance more efficiently. Similarly, by giving support to federal prosecutors during the investigation phase, PROCELAC's work can help avoid major delays in judiciary processes.

This line of work has been successful. By the end of 2017, PROCELAC registered 4 requests of formal assistance from prosecutors, which represented 33% - out of the then 12 ongoing foreign bribery cases-. In 2018 PROCELAC's support was requested in another 3 cases, out of which one corresponds to a new case initiated by a preliminary investigation in PROCELAC. Therefore, currently, out of the 12 cases of foreign bribery, 7 count on PROCELAC's formal intervention, which represents 58.3% of the cases.

In addition to the aforementioned, other initiatives on judicial statistics in open data format are added:

⁴² The auditors were disabled from inspecting one more, due to errors in the information that identified it, which were already corrected for future revisions.

1. Data Portal for Judicial Statistics of the Argentine Justice System

The Argentine Justice Data System has become operative in October 2017 and gathers 52 judicial institutions from the whole country, including Attorney General's Offices, and Higher Courts, totaling 23 signatory provinces along with the Autonomous City of Buenos Aires, coordinated by the Ministry of Justice and Human Rights for releasing judicial statistics in open and reusable formats.

This system is the result of the Inter-Jurisdictional Agreement on Judicial Open Data, entered into on October 11, 2016 at Casa Rosada. (Find attached the Inter-Jurisdictional Agreement on Judicial Open Data)

The data used for preparing such statistics has been agreed with signatory institutions; data protocols and procedures have been also developed, aiming at organizing the task and unifying criteria. (Find attached the Unified Data and Procedure Protocol)

The statistical universe of this initiative consists of all cases handled by federal, national and provincial justice systems. Statistics that are currently published are from the Attorney General's Offices from Buenos Aires, Chubut, La Pampa, Mendoza, Santa Fe, Rio Negro, Salta, Corrientes, Jujuy and from the Judiciary of Buenos Aires city, Tucumán, Córdoba, Neuquén, Tierra del Fuego and Chubut.

The Open Justice Programme intends to promote an even greater openness of the justice system. Particularly, it intends to have data from the provincial and federal justice systems within the following 5 years.

Besides, data will be certified in blockchain for authentication; it will be useful for promoting a single cloud so that every agency may store its data, improve quality of data registration, collection and systematization by creating standards in new versions of the Data Technical Protocol.

Information from the Argentine Justice Data System can be accessed at the Argentine Justice Data Portal (<http://datos.jus.gov.ar/>), which contains (as at January 2019), 52 datasets provided by 23 institutions.

The CKAN platform (<http://ckan.org/>), version 2.5. has been used for the data portal. This is a tool developed by the Open Knowledge Foundation (<http://okfn.org/>) and is free software distributed under "GNU Affero General Public License" (<http://www.gnu.org/licenses/>).

2. Online public database of corruption cases of the Supreme Court of Justice of Argentina

The Corruption Observatory of the Judicial Information Centre⁴³, under the sphere of the Supreme Court of Justice of Argentina, has been publishing information on corruption cases since October 2016, but does not prepare statistics. Until January 2019, said Observatory contained public information on 601 pending cases and 484 cases that have ended.

The universe of cases published in this site is made up by those cases that, according to a judge's opinion, satisfy at least one of the parameters stipulated under Resolution 12/2016 of the National Court of Appeals in Federal Criminal and Correctional Matters:

- That a public official in the exercise of his functions has a participation in the fact under investigation.
- That the fact under investigation is related with the very own activity of a public agency,
- That the fact under investigation is related to public works or a public service.

⁴³ <https://www.cij.gov.ar/causas-de-corrupcion.html>

- That the fact under investigation affects a public interest (for example: the financial system, the environment, the division of powers, the electoral system, etc.)
- That the fact falls within provisions under law 24759 (approval of the Inter-American Convention against Corruption).

National Registry of Criminal Records

In response to recommendation 4.c), the National Registry of Criminal Records was explained. In its statistical work published in open format, includes the statistical calculation of the time of proceedings, but limited to cases in which judges, according to law, communicate sentences ⁴⁴

If no action has been taken to implement this recommendation, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 5(d):

5. Regarding **investigations and prosecutions**, the Working Group recommends that Argentina:

(d) promptly implement the CPC 2014, and ensure that the law effectively reduces delay in practice (Convention Article 5 and Commentary 27; 2009 Recommendation Annex I.D);

Action taken since the date of the follow-up report to implement this recommendation:

In the year 2014, when the Federal Criminal Procedural Code was approved by Law 27.063⁴⁵, a set of laws were also enacted, which are related with what is legislated in the Code; for instance, Law on Implementation (Law 27.150⁴⁶) that stipulates the creation of a Bicameral Committee on Implementing and Monitoring the new Procedural Code within the sphere of the National Congress.

This Bicameral Committee is responsible, under legal mandate, for establishing a schedule of implementation, among other duties. It became operative in April 2015; in that moment the dominant idea was to bring the Federal Criminal Procedural Code into force in the city of Buenos Aires in March 2016.

In December 2015, when the new administration took office, the Ministry of Justice and Human Rights considered that the infrastructure, staff training, equipment, inter-institutional coordination and budgetary conditions were insufficient for its entry into force in March 2016 and were also against having the city of Buenos Aires as the starting point for its implementation. The rest of the agencies involved in implementing the Federal Criminal Procedural Code arrived at the same conclusion (including the Legislative and Judicial Branches, the provinces, the Attorney General's Office and the Judicial Council). Therefore, based upon this widespread consensus and considering the Code will come into force imminently, the President signed the Decree of Need and Urgency 257/2015 that suspended the implementation of the new Criminal Procedural Code.

During years 2016 and 2017, the initial stage of the implementation process started, which consisted in making a diagnosis of the jurisdictions. Workloads, number and qualifications of the personnel were assessed; building infrastructure, furniture, computing equipment, and connectivity of the offices were

⁴⁴ <https://www.dnrec.jus.gov.ar/estadisticas.aspx>

⁴⁵ <http://servicios.infoleg.gob.ar/infolegInternet/anexos/235000-239999/239340/norma.htm>

⁴⁶ <http://servicios.infoleg.gob.ar/infolegInternet/anexos/245000-249999/248181/norma.htm>

verified. The structure of the judicial office was designed (court management); the computing management system was modified, and the technological equipment started to be updated; during the year 2018, training activities were organized for judges, prosecutors, defenders, law enforcement officials and administrative staff.

The new Criminal Procedural Code (Law No. 27.482⁴⁷) (CPC 2019) was enacted on December 6, 2018 and the uniform text of the Federal Criminal Procedural Code was published through Executive Order 118/2019 (Annex 14), dated February 7, 2019.

This last reform was necessary prior implementing the code. The Bicameral Implementation Commission was created by law (art. 3) and the training programme for prosecutors and official defenders (art. 4). Incorporated one-person trials (art. 10), new victims' rights (art. 13), added to the prosecutor's faculties the possibility of allowing controlled delivery or experimental consummation of crimes (art. 18). In addition, a more agile regime of interception of communications and correspondence was established (art. 25) and a complete chapter of modern investigative techniques was added - undercover agent, revealing agent, identity reserves, whistleblowers (art. 29). A section devoted to cooperation agreements between prosecutors and defendants (art. 31) and another that completes the procedure in cases of liability of legal persons (art. 51).

On March 26, 2019, the first meeting of the year of the “Special Bicameral Commission for Monitoring and Implementing the New Federal Criminal Procedural Code” took place in the National Senate, in which its members appointed Rodolfo Urtubey, Senator for the Province of Salta, as President, and María Gabriela Burgos, Member of the Province of Jujuy, as Vice President. Likewise, it was established as the date of entry into force of the Federal Criminal Procedural Code, starting on June 10, 2019 for the jurisdiction of the Federal Chamber of Salta, which includes the provinces of Salta and Jujuy, and its progressive implementation in its judicial office. It is also important to note that both the president and the vice president of this commission come from the two provinces in which the implementation of the new Code will begin, since both are well aware of the reality of these provinces.

The decision of this Commission is transcribed as follows:

“ACT No. 15: In the Autonomous City of Buenos Aires, on the twenty-sixth day of the month of March 2019, in the Eva Perón Room of the National Honorable Senate, being the nineteen hours and thirteen minutes, the legislators who are members of the Bicameral Commission for Monitoring and Implementing the Federal Criminal Procedural Code meet.

The Parliamentary Secretary of the National Honorable Senate, Dr. Juan Pedro Tunessi, takes the floor and verifies that quorum is in place. Reads the DPP No. 98/18 and DPP No. 18/19 through which the senators were appointed and RP No. 1283/18 appointing deputies.

The Parliamentary Secretary informs that it corresponds to designate authorities, before which Senator Guastavino takes the floor and proposes Senator Rodolfo Urtubey for the Presidency and Ms. Gabriela Burgos as Vice President, a proposal that is voted on and approved unanimously.

Then the President reports on the progress of the state of affairs of the Commission and submits for consideration the implementation schedule of the CPC 2019 namely: on June 10, 2019 to be implemented in the jurisdiction of the Federal Court of Appeals of Salta, implementing progressively the respective judicial offices according to the reality and needs of each jurisdiction. After an exchange of opinions, the motion is approved. /// Published in the Official Gazette on April 10, 2019, No. 23638/19”.

In turn, this Commission convened a technical meeting to finalize details regarding the entry into force of the CPC 2019. Such meeting was attended by members of the Bicameral Commission, the National Attorney General, the National General Defender (Defensora General de la Nación), the Council of the National

⁴⁷ <http://servicios.infoleg.gob.ar/infolegInternet/anexos/315000-319999/319681/norma.htm>

Judiciary, the Supreme Court of Justice of the Nation, the Federal Cassation Court, of the Federal Court of Appeals of Salta, of the judicial unions and of the Ministry of Justice and Human Rights of the Nation.

A Schedule for implementing the Federal Criminal Procedural Code per province has been prepared for the entry into force of the CPC 2019 in the whole country, which has taken into account following topics, among others: workload, number of judge positions -filled and vacant-, population of provinces, and type of criminal activities in the region (Annex 15).

In this scenario, the implementation phase continues with the following initiatives: strengthening the operative capacities of the Attorney General's Office and law enforcement agencies; preparing and disseminating protocols of action in every institution involved; preparing monitoring guidelines for bringing the Federal Procedural Criminal Code into force.

SUMMARY OF PROGRESS IN IMPLEMENTING THE NEW FEDERAL CRIMINAL PROCEDURAL CODE — JANUARY 2019

Before it comes into force:

1. Design an implementation plan in relation to the new Federal Criminal Procedural Code and its laws on implementation ✓
2. Design a transition plan for pending cases ✓
3. Design a management computing system ✓
4. Diagnosis of jurisdiction ✓
5. Inter-institutional agreements on implementation ✓
6. Raising awareness of the system among actors ✓
7. Adjustments to the implementation design in relation to the results of the diagnosis ✓
8. Minimum adjustments to buildings for conducting oral proceedings ✓
9. Intensive training, divided as per function [...]
10. Media campaign in national media ☒
11. Dissemination of Protocols [...]

After it comes into force:

1. Management adjustments ☒
2. Presenting first statistical data ☒
3. Assessment ☒
4. Promoting necessary regulation adjustments ☒
5. Definitive adjustment to buildings ☒
6. Closing of cases handled using the previous system ☒
7. End of the Implementation process in the jurisdiction ☒

[...] In progress

☒ Awaiting

✓ Completed

- **Implementation plan agreed by consensus**

Consensus has been reached about an implementation plan, which sets out a road map for the new functions and work dynamics (Annex 16).

The implementation of a new criminal procedural system involves all institutions related to the justice administration so, to carry out the actions described above and coordinate the actions that each actor should promote within their own respective framework of competency and responsibility, a mutual cooperation agreement was signed between the Attorney's Office and the Ministry of Justice and Human Rights, which was adopted through Resolution PGN N° 84/2018⁴⁸ and provides advice and assistance in logistics, training, computer resources, equipment, building infrastructure and any other matter that is necessary in the framework of the process of implementation of the CPC 2019.

For the purposes of the execution of this agreement, it was agreed to create a Coordination Unit, with representatives of both institutions, which will function as an inter-institutional coordination entity.

As a continuation of this mutual cooperation agreement, through complementary acts No. 1, of February 27, 2019 (Resolution PGN No. 14/2019⁴⁹) and No. 2, of March 13, 2019 (Resolution PGN N° 15/2019⁵⁰), by means of which the lease of real estate was promoted for the installation of the new fiscal units that will work with the CPC 2019 in the cities of Salta and San Salvador de Jujuy, and the provision of computer equipment to fulfill the AG's Office needs for resources.

To this end, through Resolution PGN N° 16/2018, of February 15, 2018, the interim Attorney General entrusted the head of the Institutional Coordination and the Disciplinary and Technical Secretariats, to coordinate between the different areas of the Attorney General's Office and with other national and local agencies involved in the administration of the justice system, the actions necessary to promote the institutional and operational adequacy of the AG's Office, in face of the needs and challenges of the new Criminal Procedural Code.

To support this task at operational level, the Strategic Special Unit for the Implementation of the Accusatory Criminal Procedure System (UNISA) was created.

During 2018 UNISA has worked evaluating the different implications and requirements that the new procedural system will demand. This work included a design proposal for each city, marking the differences between each of the fiscal units, and the preparation of Action Manuals of the Fiscal Units, specific to the actions of prosecutors in the new justice system.

In addition, the Judicial Council signed various agreements with the Attorney General's Office and the National General Defender's Office for a proper interoperability of the computing systems of every agency regarding communications/notifications, user validation, schedule coordination, sending of reports/files, producing statistics, etc.

- **Diagnosis of the Court of Appeals of Salta**

Based on the Implementation Plan of the New CPC, the units reached by the implementation process collected, systematized and analyzed the information corresponding to the federal prosecutors of the 4 cities of this jurisdiction (San Salvador de Jujuy, Salta, Oran and Tartagal), on:

- The situation of existing human resources;
- The workload for the period 2014-2017;
- The groups and predominant criminal phenomena according to the geographical, demographic and socio-political specificities of the jurisdiction;

⁴⁸ <https://www.mpf.gov.ar/resoluciones/pgn/2018/PGN-0084-2018-001.pdf>

⁴⁹ <https://www.mpf.gov.ar/resoluciones/pgn/2019/PGN-0014-2019-001.pdf>

⁵⁰ <https://www.mpf.gov.ar/resoluciones/pgn/2019/PGN-0015-2019-001.pdf>

- The situation of persons deprived of liberty in the facilities of the Federal Penitentiary Service located in the jurisdiction;
- The building infrastructure available;
- Existing material resources.

Activities carried out:

- Diagnosis of the Federal Justice system of Salta (September 2016)
- Diagnosis of the Federal Justice system of Jujuy (October 2016)
- Survey covering staff from the Federal Justice system of Jujuy and Salta (May and November 2018)
- Diagnosis of the Internet connectivity network of Federal courts.

Based on the data obtained, the following actions were carried out:

- **Building assessment**

This item includes two main aspects: in the long term, the design and construction of buildings for the functioning of the adversary system will require a period no shorter than 10 years (Criminal Justice Federal Centers); on the short term, minimal renovations to buildings for the functioning of the Judicial Office and for holding hearings.

With this end in view, various offices were surveyed, relocations and adjustments have been considered in Salta, Jujuy, Libertador General San Martín, San Ramón de la Nueva Orán and Tartagal.

The building needs were defined and a document was drawn up defining the requirements that the new buildings destined for the Fiscal Unit should have. Secondly, various alternatives were explored for the allocation of new buildings for the AG's Office headquarters in the 4 cities of the jurisdiction with the Ministry of Justice and Human rights, and a presentation was formalized within the framework of the cooperation agreement. For its part, it coordinated with the various areas of the AG's Office to specify from the furniture elements to the technological tools necessary to adequately equip the new venues.

As for the building readjustment, courtrooms were built and the physical spaces of the courts were conditioned for the better functioning of the system. The process of renting the new offices for the Fiscal Units of the provinces of Salta and Jujuy was also carried out; which finished in the first week of May.

Assessments conducted:

- Building assessment of the Federal Justice system of the city of San Salvador de Jujuy (June 2016)
- Building assessment of the Federal Justice system of the city of Salta (August 2016)
- Building assessment of the Federal Justice system of the city of San Ramón de la Nueva Orán (August 2016)
- Identification of potential buildings for the Attorney General's Office in the city of Salta (May 2018)
- Identification of potential buildings for the Attorney General's Office in the city of San Salvador de Jujuy (June 2018)

- **Workload assessment and baseline identification**

An assessment of files was conducted and 200 samples were selected in the cities of Salta, Jujuy and San Ramón de la Nueva Orán. Three groups made up of 4-5 members traveled and every evaluator that participated was trained.

In addition to the figures obtained during the assessments, the Judicial Council, after optimizing the information gathered, has facilitated access to certain data of cases through their upload to the management computing system (Lex100).

Assessments conducted:

- Workload assessment and current pending cases in the city of Salta (May 2018)
- Workload assessment and current pending cases in the city of San Salvador de Jujuy (June 2018)
- Workload assessment and current pending cases in the city of San Ramón de la Nueva Orán (June 2018)
- Workload assessment and work dynamics in Federal Prosecutor's Offices in the cities of San Salvador de Jujuy and Salta (November 2018)
- **Design a management computing system**

A redesign and adjustment of the computing system, its adaptation to oral proceedings and pilot tests have been conducted. All agencies were involved in joint work. Inter-institutional agreements on interoperability have been entered into between the Judicial Council and the AG's Offices and the General Defender's Offices. (from May to September 2018).

Meetings have been held between technical-computing teams from the Judicial Council, the AG's Office, the General Defender's Office, and the Ministry of Justice.

As a result of these meetings and the working documents discussed, functional issues of the systems and web services (WS) have been identified.

The functional aspects that have been addressed are as follows:

1. Adaptation to the Judicial Management System;
2. Interoperability among agencies' systems (the Judiciary, the Attorney General's Office, the General Defender's Office).
3. System for recording hearings in audio and video in digital format.

1) Firstly, the basic functioning of the **Judicial Management System has been defined, starting with requests from the Attorney General's Office to the Judiciary** and considering the opening of a judicial file if it is the first proceeding in a case that requires a hearing. In these cases, a computer file containing the original documents has to be created; later, a court is assigned and lastly a hearing is organized (type, date, hour, place, parties, electronic notifications, etc.).

In subsequent requests, the case has to be mentioned in order to facilitate the sequential creation of hearing files, which will contain the proceedings as they occur in a digital format.

It is expected that judicial files will be mostly digital from their creation and will function with electronic and digital signatures for both judicial offices and external procedural parties authorized in those cases.

In addition, resources necessary for putting the **Judicial Office** into operation will be allocated. This new agency, created by Law 27.063 and whose main mission is to assist judges, will have to —pursuant to regulations in force—: *“organize hearings, organize any administrative procedure regarding juries, issue resolutions related to formalities, order communications, keep safe seized objects whenever appropriate, keep records and statistics updated, direct support staff, inform parties, and assist in any other task requested by judges”*.

Law N° 26.685 on Electronic Judicial Files will be applied as well as regulations issued to date (Decisions N° 14/13, 31/11, 11/14, 3/15, etc. from the Supreme Court of Justice) and any other relevant regulation.

The computing system should aim at promoting efficiency and transparency of judicial acts, protecting—in accordance with regulations in force—the security and confidentiality of the information, the parties to the proceedings and the effectiveness of on-going investigations.

2) **Interoperability among the agencies' systems** has been taken into account in order to bring the adversary system into operation.

To facilitate systems integration, cooperation agreements have been prepared between the Judiciary and the Attorney General's Office and between said agencies with the General Defender's Office.

This will enable each agency to exchange—from its own system— transactions such as requests for hearings, responses, creation of judicial files, court assignation, agenda synchronization, sending and receiving documents, resolutions and electronic notifications.

The Judiciary has designed a scheme of its current services for accessing and uploading information to the Judicial Management Computing System, which includes, among others, the following services:

- **Sending archived files:** Sending of documents from the Judiciary to the Attorney General's Office.
- **Search for file data by file id or password:** Services providing similar access and same information that is currently available through the web search.
- **Search for parties within a file:** similar to the web search, information search on parties within a file by file id.
- **Search for related files:** similar to the web search, information on related files by file id.
- **Search for proceedings of a file:** similar to the web search, information on proceedings contained in a file by file id.
- **Search for appeals of a file:** similar to the web search, information on appeals contained in a file by file id.
- **Search for parties to an appeal:** similar to the web search, search for parties to an appeal by appeal id.
- **Search for circulations of an appeal:** similar to the web search, search for a list of circulations by appeal id.
- **Uploading an electronic document:** the service receives data on a Prosecutor's Office and prosecutor, identification of files or interlocutory proceedings to which a document is to be uploaded (PDF or another format). Documents must be signed, and signatures are verified.
- **Authentication Service:** User for the Attorney General's Office to search limited-accessible information.
- **Registration of Prosecutors and Prosecutor's Offices:** the service allows maintaining automatically updated computing records on prosecutors and prosecutor's offices.
- **Search for electronic notifications:** adaptation of services from the System for Electronic Notifications to Agencies in order to notify when a file is allowed to be examined, providing destination and file details.

The following data will be shared between the Judiciary and the Attorney General's Office:

- **General:** Identifying data for a judicial file/folder.
- **Proceedings:** List of decisions, circulations, communications, etc. that are contained in a “main” judicial file/folder.
- **Parties:** individuals related to a judicial file/folder. Parties and lawyers.
- **Appeals:** Objections filed in a “main” judicial file/folder.
 - o **Parties:** individuals related to an appeal.
 - o **Circulation:** movement of appeals through various offices and/or levels in which judicial agencies are organized.
- **Related files:** judicial files/folders related to the “main” judicial file/folder.

On the other hand, from UNISA, the work was coordinated with the General Directorate of Institutional Performance (DGDI) of the AG’s Office in various aspects of the adaptation and strengthening of the computerized management system COIRON.

3) With regards to the **recording of hearings in audio and video digital format**, adaptation of an already available application is being developed for the purposes of providing the service with the necessary functionalities to bring the adversary system into operation.

An adaptation of selected open source software is being developed in order to enable recording of hearings and related meta-data in any judicial body, adjusted to our regulations and specificities. Such solution must be compatible with existing and newly acquired hardware.

The tool aims at recording hearings using information and interoperability from the Judicial Management System to a module with specific technology that allows controlling devices before a recording session, recording of points of interest during hearings (tags) and synchronization with a central storage for its publishing in cases involved.

Recording of hearings in digital format must be ensured since their content is, in principle, unreproducible if an event that may affect its integrity occurs while recording. Therefore, a local recording must be made and later or simultaneously it must be saved in a central server.

In addition, in order to ensure its integrity, it must have an encryption or signature mechanism that preserves its inviolability and authorship.

Moreover, the infrastructure needed must also be considered, which is in process to be bought or any other infrastructure that is deemed necessary in accord with the architecture defined for every service.

- **Developing a proposal for the Federal Judicial Offices and protocol models**

The structure of the Federal Judicial Office has been established, which was approved by the judges of the Court of Appeals of Salta and has been used by the Judicial Council for redesigning the management computing system. (From August 2017 to August 2018) (Annex 17).

- **Computer Installation**

The Executive Branch bought 900 new computers for judges, which have started to be delivered in June 2018 for Oral Federal Courts and Tribunals. The process for purchasing 800 new computers for Federal Prosecutor’s Offices has already started.

- **Transition**

A new plan is being designed for pending cases, which will take into account current workloads and the impact that the simultaneous use of the two systems may have on courts, coupled with the multi-jurisdiction nature of federal courts in the provinces.

Furthermore, proposals for making the transition from the current mixed system to the new adversary system are being developed for their eventual approval.

- **Intensive training, divided as per function**

Workshops on specific cases have been organized for judges, prosecutors and defenders; administrative processes and interaction with law enforcement agencies have also been simulated.

UNISA, in coordination with the Ministry of Justice and Human Rights, held several training sessions in Salta and Jujuy.

In addition, training activities for various users such as unions, lawyers, and the general public have been organized. These activities have been completed by 50%.

The training programme for judges, prosecutors and defenders is divided in 5 modules.

As to judges, the Federal justice system of Salta and Jujuy has a total of 18 judges among lower and superior courts; the first module was taught in every city and was attended by 61% of the judges (11 judges) and the second module was attended by 40% (5 judges).

As to prosecutors, the Court of Appeals has a total of 9 prosecutors among lower and superior prosecutor's offices; both prosecutors and personnel from said offices participated. Module 1 was attended by 78% (7 prosecutors) of the total and Module 2 was attended by 55% (5 prosecutors) of the total.

Modules 1 and 2 for Public Defenders have been fully completed.

The Court of Appeals has 8 public defenders among lower and superior courts. Defenders and personnel from public defender's offices have attended. Therefore, 8 public defenders attended Module 1 (100% attendance), 6 defenders attended Module 2 (75% of attendance) and 6 defenders attended Module 3 (75% of attendance).

Training activities planned for experts and staff members of future Judicial Offices have not started yet.

The training activities started in May 2018, considering last modules are practical and, according to the methodology, must be taught soon before the Federal Criminal Procedural Code enters into force; such modules are pending until the Bicameral Committee on Implementing and Monitoring the new Federal Criminal Procedural Code decides on a date (Annex 18).

- **Interaction with law enforcement agencies**

New procedures have been presented and discussions have been held in working groups, in which relevant officials participated directly.

A training plan for officers deployed in the provinces of Salta and Jujuy has started and workshops for high-ranking officers were held in the city of Buenos Aires.

The Attorney General's Office has planned strengthening the working scheme by preparing and disseminating single action protocols and developing a mobile application for transmitting information and accessing data (Annex 19).

A 3-module training activity for law enforcement agencies has been conducted jointly with the Ministry of Security. A total of 3000 officers deployed in Salta and Jujuy have been initially estimated, including staff from the Border Patrol, Airport Security Police, Federal Police and the National Coast Guard.

The training exercises were held from June to October 2018 in the cities of San Salvador de Jujuy, Salta and Buenos Aires.

The training plan consists in 3 modules; to date, the first one was taught and was attended by 15% of the total staff members of the Border Patrol (groups of up to 60 officers attended)

Simultaneously, workshops have been conducted at the Officer Training Academy in Buenos Aires city.

- **Design of evaluation and monitoring indicators**

Regarding the design of evaluation and monitoring indicators, UNISA analysed the implementation experiences in Argentine provinces and in various countries of the region. Currently, work is being done on the planning of evaluation and monitoring processes, which includes both the definition of general management indicators and the identification of a set of indicators by area or process.

If no action has been taken to implement this recommendation, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 5(e):

5. Regarding **investigations and prosecutions**, the Working Group recommends that Argentina:

(e) regarding delay, (i) urgently take further steps to reduce delays in complex economic crime cases, including by addressing the causes of delay that originate in the criminal procedural system and (ii) maintain and analyse statistics on delay and economic crime cases to assess the effectiveness of the measures to reduce delay; (Convention Article 5 and Commentary 27; 2009 Recommendation Annex I.D);

Action taken since the date of the follow-up report to implement this recommendation:

Following the comments of the WGB in the Phase 3 bis Report and the analysis of the causes of delays in cases of corruption and complex economic crimes, progress was made in the implementation of some procedural reforms that had already been reported and others were proposed. All aimed to address some of the problems presented by the procedure of the Code sanctioned by law 23.984 and its amendments, and were directed in some cases directly and indirectly, to streamline those processes by making use of resources.

This section lists these initiatives and the impact on the processes in those cases where it has already been possible to measure them:

- Laws 26,052 and 26,702 that authorized the transfer of criminal competences in the matter of sale and possession of narcotics, to the City of Buenos Aires.
- Strengthening Federal Justice in the Provinces.
- Law 27,384 of authorization to chambers of appeals and other collegiate courts to resolve appeals in a unipersonal manner.
- Law N ° 27.308 of authorization to hold one-member courts.
- Appointment of Auxiliary Prosecutors.
- Law N ° 27.272 of procedure for cases of Flagrancy (destined to shorten the procedures in those cases to reallocate resources to the investigation and prosecution of complex crimes)

a) Transfer of competence to the justice of the Autonomous City of Buenos Aires and Strengthening of Federal Justice in the Provinces

The WGB noted in the Phase 3 bis report that:

“89. Investigative judges who are responsible for leading foreign bribery investigations appear to be substantially under-resourced. In the Buenos Aires City, just 12 investigative judges handle all cases under federal jurisdiction, including but not limited to corruption cases. At the on-site visit, one judge from Buenos Aires City who has conduct of one foreign bribery case stated that he has 400-500 other on-going cases. (...) During these periods, he receives around 2 000 new cases of relatively minor crimes such as low-level drug trafficking which take up much of his time (...)”

With direct relation to this problem, the progressive transfer of competences was established, trying to reduce the number of causes linked to the Law on Narcotics pending in the Federal Justice system of Capital Federal, for the purposes of optimizing existing resources to investigate more complex crimes⁵¹.

Thus, crimes under following paragraphs of the Law on Narcotics have come under the jurisdiction of the Autonomous City of Buenos Aires since January 1, 2019:

- Whoever deals narcotics, or is in possession of them for the purpose of consumption, storage, transportation, etc. (Section 5, subsection c).
- Whoever provides, supplies, applies or facilitates narcotic drugs to others for valuable consideration (Section 5, subsection e) and when the provision, supply or facilitation were occasional and gratuitous and from the small amount and other circumstances it is unequivocally inferred that it is for personal use (section 5, last paragraph).
- When from the small amount sown or cultivated and other circumstances it can be unequivocally inferred that such small amount is intended to obtain narcotic drugs for personal use (section 5, penultimate paragraph).
- When medical prescriptions are falsified or are written without authority to do so or whoever accepts them knowing their illegitimate origin or irregularity (Section 29)
- Whoever authorized to sell medicinal substances, provides them in a quantity, quality or type different from the ones prescribed in a medical prescription (Section 204 of the PC) or the crime is committed by negligence (Section 204 bis of the PC), or whoever that is responsible for directing, managing, controlling, or guarding premises wherein medicines are dispensed (Section 204 ter of the PC) and whoever sells without authorization medicinal substances that require a medical prescription to be sold (Section 204 quater of the PC).

As the new allocation of causes began in 2019, there is still no current statistics to measure this reduction.

However, when making the decision, the statistical report of the Judicial Council, corresponding to the year 2017⁵², was taken into account. It arises from such that, in the Federal Criminal and Correctional

⁵¹ Main legal grounds for this process are:

- Law 26052, enacted on August 2005, introduced important amendments to the Law on Narcotics (no. 23737) in force throughout the country since October 1989. Section 2 thereof amends section 34 of Law 23737 and provides that crimes criminalized under the law on narcotics shall remain under the jurisdiction of the federal justice system “except for those provinces and the Autonomous City of Buenos Aires that, through a law of adherence, opt for exercising their jurisdiction under the conditions and within the scope stipulated below”.
- Subsequently, Law 26702 sets forth a progressive transfer of crimes from the jurisdiction of the National Ordinary Justice system to the jurisdiction of the Autonomous City of Buenos Aires.

⁵² <https://docs.google.com/document/d/1m63d590UXtoVDwUi03IE9EIZ94t7vcbuapSGafF7r38/edit>

Justice of the Federal Capital, 24.366 causes began. Of this total, 42.9% correspond to the crimes of the Narcotics Law, transferred to the Autonomous City of Buenos Aires, with 10,305 cases.

Confirming the statistical data of the Judicial Council, the Public Prosecutor's Office - PROCUNAR - Area of Information Analysis and Operational Planning registered a total of 10,305 cases initiated by narcotics⁵³, during the 2017 period that, depending on the type of crime, determines the following disaggregated in percentages⁵⁴:

- 51% Section 5 C - whoever trades in narcotics or is in possession of them for the purpose of dealing, storage, transportation, etc. (narcotic drugs or raw material)
- 11% Section 14 - simple POSSESSION
- 38% Section 14 - POSSESSION for personal consumption

As a result, the transfer resolves one of the central problems according to the WGB report and the statistics of income from cases to the Federal Criminal and Correctional Federal Capital Justice.

In relation to the initiative of Strengthening Federal Justice in the Provinces of the Ministry of Justice and Human Rights of the Nation, this initiative has as its objective the creation of Federal Courts of First Instance in Criminal and Correctional Matters with a seat in multiple localities of the national territory , in order to complement and decompress immediately the tasks of the current Federal Courts established in the Provinces.

The dynamics of courts creation with exclusive criminal competence will be given through the division of the current secretariats that presently understand in criminal matters in federal courts of multiple competence, and from that separation will proceed to create the position of the criminal judge that will address the workload of each secretariat.

The project promoted from the Executive Branch in the Honorable Senate of the Nation under the N ° of File S-1940/2018, signed by the senators Rodolfo Urtubey, H.L. Schiavonni, Federico Pinedo, H. F. Martinez, Silvia B. Elias de Perez and Luis Naidenoff. Progress has also been made in appointing federal judges in order to complement and expedite the pending legal proceedings - more details on this in recommendations 6 (a) and 6 (e).

b) Resolution of Appeals by the Chamber of Appeals and Chamber of Cassation in a one-member court system

In the Phase 3 bis report, the WGB analyzed the possible reasons for delays in the progress and resolution of investigations into cases of corruption and complex economic crimes. Among others, he pointed out:

“The delay has been blamed, at least in part, on several features of the Argentine criminal procedural system. A frequently cited cause of delay is the ready availability of interlocutory proceedings and appeals which many defendants allegedly use as a delaying tactic ...(para 85)”

⁵³ Includes causes initiated by the offenses referred to in Art. 5 ° C, Art. 14 ° 1 ° paragraph, Art. 14 ° 2 ° paragraph and Art. 29 ° of Law 23,737.

⁵⁴ Includes causes initiated in the CABA Region

As it was previously informed, the new accusatory procedural code resolves this problem to a large extent, by limiting the number of intermediate resolutions that authorize the filing of appeals by the defendant or his defense, before the trial and sentence.

In the case of the procedure provided for in the code sanctioned by Law 23,984 and its amendments, it is not possible to avoid these resolutions, so that efforts were made to simplify the processing of some appeals and appeals by the courts of appeal, in order to avoid delays in those cases and lighten the workload of its judges in general, favoring the quickest resolution of all resources.

To that end, Law 27,384 was passed, modifying the law code 23.984, which established the possibility for judges of the Federal Chamber of Criminal and Correctional Cassation of the Federal Capital, the Federal Chamber of Appeals in Criminal and Correctional Matters of the Federal Capital (and of each jurisdiction), the National Chamber of Criminal and Correctional Cassation of the Federal Capital and the National Chamber of Appeals in the Criminal and Correctional Matters of the Federal Capital, to dictate single-person resolutions, in cases of:

- 1 °) Competence issues.
- 2 °) appeals filed against the resolutions of Probation.
- 3 °) Crimes punishable by non-custodial sentence and those of private action.
- 4 °) Issues of excusation or recusal.
- 5 °) The resources related to the Abbreviated Trials.

In the remaining cases, these collegiate courts may issue rulings and judgments with the vote of only two judges if they are coincidental, and must resort to a third party only in the cases of a tie.

The provisions on the integration and single-person action of the Chambers are applicable to cases that began before the law.

The law entered into force on November 1, 2017 (Article 1 of Resolution No. 2/2017 of the Bicameral Commission for Monitoring and Implementing the New Code of Criminal Procedure of the Nation, B.O., 13/10/2017).

c) Unipersonal Trials and Adjutant Prosecutors

The impulse given by prosecutors, judges, agencies that act as plaintiffs (oa, UIF, AFIP), and some of the measures described, caused the trend to be modified in some corruption investigations and accusations and elevations to be taken to trial.

Beyond the quantitative impact, it was important in qualitative terms, since it was largely a case of great corruption, involving former presidents, former vice presidents, former ministers, secretaries, and undersecretaries of state.

According to the audit report of the Judicial Council whose content and methodology has already been explained, the trials of corruption cases went from 39 in 2014 to 47 in 2015 and 55 in 2016. In 2017, 105.⁵⁵

⁵⁵ Source Resolution 416/18 (1996-2016).

More than 50% of the cases filed in the Federal Oral Courts reviewed in the Audit of Causes of Corruption until 2016 were more than 3 years old.

In turn, when focusing Serious/Large Corruption cases, the Anti-Corruption Office had, in 2016, 25% of its complaints at trial stage, and that percentage increased to 39% in 2018. In 2018, the AO requested the prosecution in Oral Courts of 37 people in cases of Serious Corruption.

This meant a difficulty for the Federal Oral Courts in charge of carrying out the trials and issuing the sentences.

The Law 27.307⁵⁶, named “Law on Strengthening Oral Federal 3-judge Courts in Criminal and Correctional Matters and Oral 3-judge Courts in Economic Criminal Matters” stipulates a one-judge trial for said courts. Law 27.308 sets forth same possibility for National Oral 3-judge Courts in Criminal and Correctional matters. Through this simplified process of one-person trials, the time to conclude the prosecution of cases submitted to this jurisdiction is accelerated.

The one-Judge trial is mandatory when a sentence of up to six years’ imprisonment may be imposed; it may be optional when the crime is punished with 6 to 15 years’ imprisonment; and, finally, the decision must be taken by the three judges that are members of a court when the crime is punished with 15 years’ of imprisonment or more.

This initiative allows judges to act individually in a large number of oral debates, which contributes to decompress the current cluster of pending cases in the Oral Courts of the National Justice, guaranteeing access to the plenary oral trial of a greater number of cases and avoiding in this way its prescription or resolution by means that shut out the oral debate.

For the purposes of analyzing the impact of this initiative, a first survey was conducted during January 2019 (results of this preliminary survey are attached in the Annex 20).

The sample includes cases brought to oral 3-judge courts during the months of June 2015 and June 2017, for the same type of crimes. In this way, data was obtained about judgments pronounced by existing 3-judge courts for all cases in 2015⁵⁷ and judgments pronounced by one-judge courts, which is the method mainly used in 2017.

The survey was made from 319 cases and 371 accused, since in some cases there was more than one accused person. In the cases of resolutions made by collegiate courts, 144 cases were taken (131 of 2015 and 13 of 2017) and of the cases resolved by a single court, 175 cases were dismissed (174 of the year 2017 and one case that entered the court in 2015 but it was resolved in 2017 by applying unipersonal).

The survey covered oral 3-judge courts in criminal and correctional matters of Capital Federal numbers 7, 8, 9, 13 and 18; and oral 3-judge courts in federal criminal matters of Capital Federal numbers 2 and 6; and oral 3-judge courts in federal criminal matters of San Martín numbers 1 and 2. Even though the sampling is limited, it is representative as to territorial and subject-matter jurisdiction.

Following conclusions can be derived from provisional survey results:

- One-judge courts, in general terms, resolve cases more quickly. In less than a year, one-judge courts resolved 76% of the cases, while 3-judge courts resolved 65% of the cases within the same

⁵⁶ Esta ley entró en vigencia para la justicia federal el 1 de marzo de 2017.

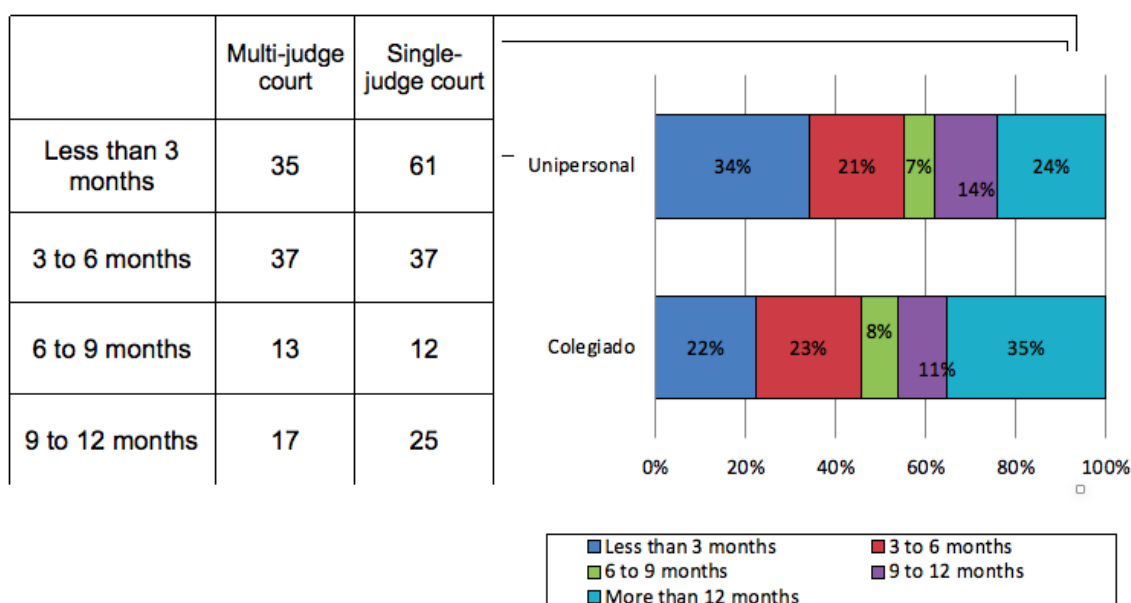
⁵⁷ With the exception of a case brought in 2015 but resolved by a one-judge court in 2017.

period of time. Therefore, there is an increase of 11 percentage points in cases resolved in less than a year.

- Considering a shorter period of time, 55% of cases resolved by one-judge courts took six months less as from they were brought to the court, which represents a 9% improvement in comparison with 3-judge courts.
- Probation was the main method used for resolving cases by one-judge courts, constituting 47% of cases brought; this means an 11% increase in the use of such type of sentence for resolving cases, since 3-member courts used it in 36% of cases resolved.
- In cases resolved using a summary criminal trial, one-judge courts—in addition to use more this resource—are quicker: 67% of the cases took less than six months, which represents a 22% improvement compared with 3-judge courts.
- Summoning accused individuals for trial within a month increase from 73% in 3-judge courts to 79% in one-judge courts.
- Admission of evidence within the first 3-month period increased from 58% to 62%.
- Summons to hearings of debate within the first 6 months increased from 29% to 39%.

Second part of the survey will examine samplings from April 2018 and will enable assessing judgments pronounced using the system which was already fully operative (official letters sent by the Ministry of Justice and Human Rights to the Federal Court of Appeals in Criminal Matters used for conducting the second survey are attached, see Annex 21)

Legal cases settled by type of Court



As a consequence of the enactment of Law 27.307, it was necessary to reinforce the action and procedural representation of the MPF, since the possibility of holding one-person trials means that each judge can individually set the hearings of the cases under his charge, resulting in the prosecutors' offices finding their overloaded hearing agendas.

For that reason, on December 7th, 2017 the AG issued the Resolution PGN N° 3777/2016 establishing a new mechanism for the appointment of assistant prosecutors, which would be implemented in a progressive manner. The assistant prosecutors are the officials who without being formal prosecutors, can

give support to prosecutors, acting on behalf and under the instructions, supervision, and responsibility of them in specific cases.

According to Article 51 of the LOMPF, assistant prosecutors are authorized to carry out the activity assigned in the National Code of Criminal Procedure for investigating cases or to attend the hearings specified by the Code and to litigate with the scope and objectives set by the Code.

Therefore, by Resolutions PGN N° 3777/2016⁵⁸ (7/12/2016), 3866/16⁵⁹ (16/12/16), 55/17⁶⁰ (31/01/2017), 87/17⁶¹ (7/02/17), 173/17⁶² (10/02/17), 328/17⁶³ (24/02/17), 891/17⁶⁴ (24/04/17), 1771/17⁶⁵ (3/07/2017), 1772/17⁶⁶ (3/07/2017), 1773/17⁶⁷ (3/07/17), 2184/17⁶⁸ (14/08/17), 3404/17⁶⁹ (17/11/17), 47/18⁷⁰ (11/05/18), 48/18⁷¹ (11/05/18), 49/18⁷² (11/05/18), 88/18⁷³ (3/09/18), 89/18⁷⁴ (3/09/18) y 8/19⁷⁵ 11/02/19) the appointment of assistant prosecutors in the diverse prosecutorial units of the MPF to assist the prosecutors' task was authorized.

Without an adequate coverage of assistant prosecutors acting before the Federal Trial Law Courts of the CABA, the PPO could not have been able to face the increased demand for participation in oral hearings; situation that would have made the remedy fixed to achieve greater speed in the prosecution of federal crimes ineffective.

d) Punishment Execution Unit (Unidad de Ejecución Penal)

Likewise, being that the later controls over the compliance of the conditions imposed by the suspensions of trial (probation) as well as the execution of the conviction in suspense and the effective prison, constituted one of the main tasks of the federal prosecutors of the trial stage, by Resolution PGN N ° 40/2018, of April 20, 2018, the creation of a new Unit of Criminal Execution was decided. This unit is aimed to assist and act in conjunction with the prosecutors who intervene before the Oral Courts in the Federal Criminal and Economic Criminal Matters. This measure meant mitigation in the tasks of control after the trials concluded, allowing federal prosecutors in this instance to concentrate their efforts on carrying out oral trials of greater relevance, in order to reach the final conclusion of the cases.

e) Repentant Defendant (Arrepentido)

⁵⁸ <https://www.mpf.gov.ar/resoluciones/pgn/2016/PGN-3777-2016-001.pdf>

⁵⁹ <https://www.mpf.gov.ar/resoluciones/pgn/2016/PGN-3866-2016-001.pdf>

⁶⁰ <https://www.mpf.gov.ar/resoluciones/pgn/2017/PGN-0055-2017-001.pdf>

⁶¹ <https://www.mpf.gov.ar/resoluciones/pgn/2017/PGN-0087-2017-001.pdf>

⁶² <https://www.mpf.gov.ar/resoluciones/pgn/2017/PGN-0173-2017-001.pdf>

⁶³ <https://www.mpf.gov.ar/resoluciones/pgn/2017/PGN-0328-2017-001.pdf>

⁶⁴ <https://www.mpf.gov.ar/resoluciones/pgn/2017/PGN-0891-2017-001.pdf>

⁶⁵ <https://www.mpf.gov.ar/resoluciones/pgn/2017/PGN-1771-2017-001.pdf>

⁶⁶ <https://www.mpf.gov.ar/resoluciones/pgn/2017/PGN-1772-2017-001.pdf>

⁶⁷ <https://www.mpf.gov.ar/resoluciones/pgn/2017/PGN-1773-2017-001.pdf>

⁶⁸ <https://www.mpf.gov.ar/resoluciones/pgn/2017/PGN-2184-2017-001.pdf>

⁶⁹ <https://www.mpf.gov.ar/resoluciones/pgn/2017/PGN-3404-2017-001.pdf>

⁷⁰ <https://www.mpf.gov.ar/resoluciones/pgn/2018/PGN-0047-2018-001.pdf>

⁷¹ <https://www.mpf.gov.ar/resoluciones/pgn/2018/PGN-0048-2018-001.pdf>

⁷² <https://www.mpf.gov.ar/resoluciones/pgn/2018/PGN-0049-2018-001.pdf>

⁷³ <https://www.mpf.gov.ar/resoluciones/pgn/2018/PGN-0088-2018-001.pdf>

⁷⁴ <https://www.mpf.gov.ar/resoluciones/pgn/2018/PGN-0089-2018-001.pdf>

⁷⁵ <https://www.mpf.gov.ar/resoluciones/pgn/2019/PGN-0008-2019-001.pdf>

Another effective tool settled in order to reduce delays and achieve more efficient results in the investigation and prosecution of the economic criminality offenses, including local and foreign bribery and money laundering, among other offenses, is the commonly named “arrepentido” “repentant”.

By Law No. 27 304, enacted on November 2016, the possibility for the perpetrators and participants of an offense to cooperate with the investigation of the case in which they are involved, providing relevant, verifiable and credible information was introduced. The defendants who agree to cooperate with law enforcement authorities by a cooperation agreement with the prosecutor will be benefited with a substantial reduction in their punishment between a half and a third of the possible punishment for to committed offense.

That reduction in the punishment could be possible if the information provided could contribute to avoid or prevent the beginning, the permanence or the consummation of the crime; clarify the facts under investigation or other related matters; disclose the identity or whereabouts of perpetrators, instigators or participants in the investigated or related facts; provide sufficient information to allow a significant advance in the investigation or the whereabouts of victims deprived of their liberty; find out the destination of the instruments, effects, products or proceeds of crime; or indicate the funding sources of criminal organizations involved in the commission of crimes.

This law established the criteria to apply the reduction over the punishment, in where the following factors must be considered:

- a. The kind and scope of the information provided;
- b. The usefulness of the information in order to reach an advance in the investigation;
- c. The procedural stage in which the defendant decided to cooperate;
- d. The seriousness of the crimes that the accused has helped to clarify or prevent;
- e. The seriousness of the facts attributed to the defendant and the liability that corresponds to them.

It was expressly provided that the one who decided to cooperate first will be especially benefited.

Every cooperation agreement within the framework of Law 27.304 must be concluded between the prosecutor and the persons who provide information, who must have the assistance of their defense attorney. That agreement must then be presented, for endorsement to the intervening judge, who must ensure that the accused repentant has had due knowledge of the scope and consequences of the agreement signed.

Once the agreement is endorsed it could be incorporated to the process, while the execution of the benefit must be postponed until the moment of the conviction issued by the trial law court.

The law sets a term to corroborate the compliance with the obligations that the defendant had assumed in the agreement with the prosecutor, especially the verisimilitude and utility, total or partial, of the information that had been provided.

As regards to the concrete application of the repentant agreement tool, in its article 16, the law No. 27 304 required to the AG’s Office to send a detailed report about the performance and application of this law to the Bicameral Commission of the National Congress in charge of the following of the PPO. Fulfilling with that command, the General Directorate for Institutional Performance of the AG’s Office included a special chapter for the annual performance reports for 2017 and 2018 aimed that every prosecutor’s offices and special units with criminal competence among the country, provide the details about the application of the law No. 27 304 during the first’s years of its implementation.

The information about the application of the Law 27 304 was incorporated in a special section in the PPO's Annual Reports for 2017 and 2018, and as it is established by Law 27.148, the PPO sent those reports by the beginning of the ordinary sessions of the National Congress in both periods. Those reports are also publicly available in the official PPO's web site (<https://www.mpf.gob.ar/transparencia-activa/informes/>).

In general terms, the results of the reports collected in the first's two years showed that the reception of this law by prosecutors was highly positive, with an almost immediate and sustained application in both the investigation and the trial stage (where the agreements obtained were validated). In this sense, most of the operators who were expected to use this tool have resorted to it more and more frequently, particularly in cases related to organized crime.

Among the outstanding contributions, it was mentioned that the use of the collaboration agreement incorporated by Law 27,304 has been extremely useful for the prosecutor's actions in the framework of narco-criminality offenses. In a large number of these cases, the Procurator Office against Drug Trafficking (PROCUNAR) provide its assistance, being in the two years the unit which most agreements achieved. Both PROCUNAR and different prosecutor's offices in the federal sphere highlighted the possibility of approaching, through collaboration agreements, the ascent in the chain of responsibilities. Indeed, prosecutors argue that it is an extremely useful tool for those lowest and most fungible links in the chain from which valuable information can be obtained to identify the top members of organizations, sources of funding and places of storage of illicit substances, among other issues.

For example, PROCUNAR clearly expressed in its 2017 report the positive evaluation of the application of Law 27,307 in relation to the role of the PPO in the following terms: "The realization of the agreement between the PPO and the defendants recognizes the dynamic of the accusatory system and positions this agency in the proper role of promoting the investigation and dispose of the accusation regarding who contributes information".

Statistical information of 2017:

The following information was provided by the federal prosecutor's offices among the country as well as the special units within the AG's Office as inputs to elaborate the PPO's annual reports for 2017-2018.

From the information provided by the units which applied the Law 27.304 in such periods, some specified the number of procedures and others only mentioned generically having resorted to the Institute of the law without indicating quantitative information. Some also indicated what type of crime was investigated in each case that included the contribution of a repentant accused and others did not.

However, even though it is not uniform, from that information it was possible to develop a mapping of the ongoing cases grouped in the Special Prosecutor's Offices and Fiscal Units and federal fiscal districts, and about the matters investigated in these causes.

According to the data collected in the annual reports of the PPO, of the cases reported in these years, the PPO evaluated collaboration agreements in 84 cases during 2017, and in 183 cases during 2018. Also in the second year were negotiated 156 agreements with defendants who had contributed with useful data and evidence to the respective investigations.

This growth compared to the previous year shows that the figure incorporated in article 41 ter of the Penal Code was of great importance for the investigation of cases of organized crime of greater complexity

- Application of the law 27.304 (recorded by the PPO, 2017)

Aplicación del Instituto de la ley 27.304 en el año 2017

Registro de Intervenciones por Dependencias del MPF

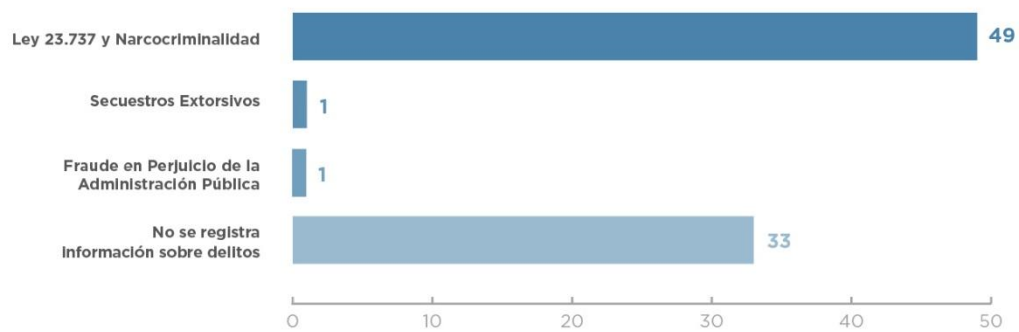
Total de Intervenciones MPF: 84



Fuente: Informe de Gestión del Ministerio Público Fiscal de la Nación (2017)

Aplicación del Instituto de la ley 27.304 en el año 2017
Registro de Intervenciones por Delito - Hechos Investigados

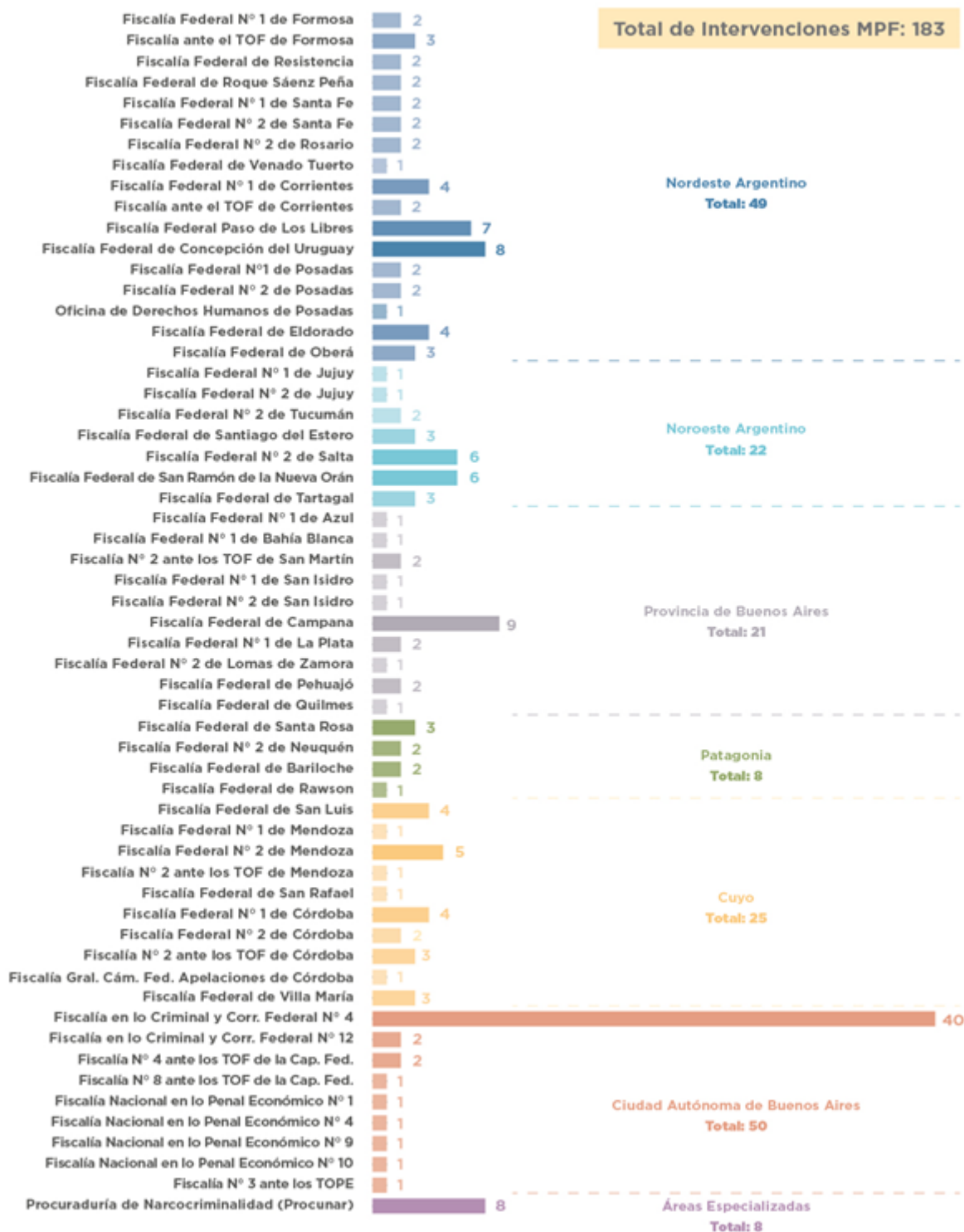
Total de Intervenciones MPF: 84



Fuente: Informe de Gestión del Ministerio Público Fiscal de la Nación (2017)

Aplicación del Instituto de la ley 27.304 en el año 2018

Registro de Intervenciones por Dependencias del MPF



Fuente: Informe de Gestión del Ministerio Público Fiscal de la Nación (2018)

f) New Federal Oral Courts

In the year 2016, in order to strengthen the federal criminal justice system in the City of Buenos Aires in its trial stage, Law 27307 was passed ordering the integration of an Oral Federal Criminal Court and the transformation of others 6 Oral Courts of the same jurisdiction, with endowments and magistrates, officials and agents of Oral Criminal Courts of the ordinary jurisdiction of the City of Buenos Aires.

The Council of the Judiciary issued Resolution No. 491/2017 through which it transformed the Oral Criminal and Correctional Court No. 10 of the Federal Capital into the Federal Criminal Oral Court No. 9 of the Federal Capital.

Notwithstanding the foregoing, and in accordance with the criteria of the Supreme Court of Justice of the Nation, in its Resolution No. 4/2018, of 03/15/2018, the Courts shall be constituted the constitutional procedure of Article 99, paragraph 4, second paragraph, which establishes the intervention of the President and the agreement of the Senate.

On the side of the Public Ministry, for the new Trial Courts, the Prosecutor's Office No. 8 was created (March 1, 2017), which was added to No. 7, which had already started its activity in 2013.

g) Law on Flagrante Delicto

The last mechanism incorporated into the criminal procedure regime aimed at reducing delays in investigations for minor crimes was the oral procedure for cases of flagrancy, or "in flagrante delicto", sanctioned by Law No. 27,272 and on which the WGB was already informed in the follow-up report of March 2018.

The expected impact on corruption processes, with the application of the Law of Flagrancy (Law No. 27272) is indirect, based on the possibility of redistributing the resources of the justice system to the investigation of complex crimes.

It allows an agile response to cases of lesser relevance, allowing judicial bodies to concentrate their efforts more efficiently in cases of greater complexity such as transnational bribery; what surely has repercussions in a better functioning of the administration of justice system.

In order to assess such outcome, the Assistance Unit for Criminal Procedural Amendment, within the sphere of the Undersecretariat for Justice and Criminal Policy has prepared five reports describing hearings under flagrante delicto proceedings within the National Criminal and Correctional Justice System. Such reports -in digital format- are available on following links:

- 1st. Report on the first sitting courts of December 2016:

https://www.argentina.gob.ar/sites/default/files/201612_informe_flagrancia.pdf

- 2nd. Report on the Second Sitting Courts of January 2017:

https://www.argentina.gob.ar/sites/default/files/flagrancia_-_seguimiento_02-17.pdf

- 3rd. Report on the Third Sitting Courts of April 2017:

https://www.argentina.gob.ar/sites/default/files/seguimiento_de_flagrancia_3.pdf

- 4th. Report on the Fourth Sitting Courts of August 2017:

https://www.argentina.gob.ar/sites/default/files/flagrancia_4.pdf

- 5th. Report on the Fifth Sitting Courts of January 2018:

<https://www.argentina.gob.ar/sites/default/files/flagrancia-5.pdf>

These reports show that 69% of final judgments in the cases under analysis were pronounced within less than 30 hours; this contributes towards streamlining the system and freeing-up the judicial system's resources to devote them to more complex investigations.

FINAL JUDGEMENTS IN LESS THAN 30 HOURS



Based on this information, a national survey of the application of the flagrancy procedure has been initiated through the National Chamber of Criminal Cassation. In this context, a request for joint action has been made in order to collect the data and carry out an exhaustive analysis of its application throughout the country. This information will make possible to know about the impact of the measure and the effective possibility of reallocating resources to the Courts, Prosecutor's Offices and specialized units in complex crimes.

If no action has been taken to implement this recommendation, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 5(f):

5. Regarding **investigations and prosecutions**, the Working Group recommends that Argentina:

(f) take urgent steps to ensure that adequate resources are made available for foreign bribery investigations and prosecutions and consider assigning foreign bribery and corruption investigations and prosecutions to specialised investigative judges and prosecutors who have expertise in complex economic crime cases (Convention Article 5 and Commentary 27; 2009 Recommendation Annex I.D);

Action taken since the date of the follow-up report to implement this recommendation:

In previous evaluations, the Working Group noted that delays were also due to the lack of resources and specialised expertise in corruption cases.

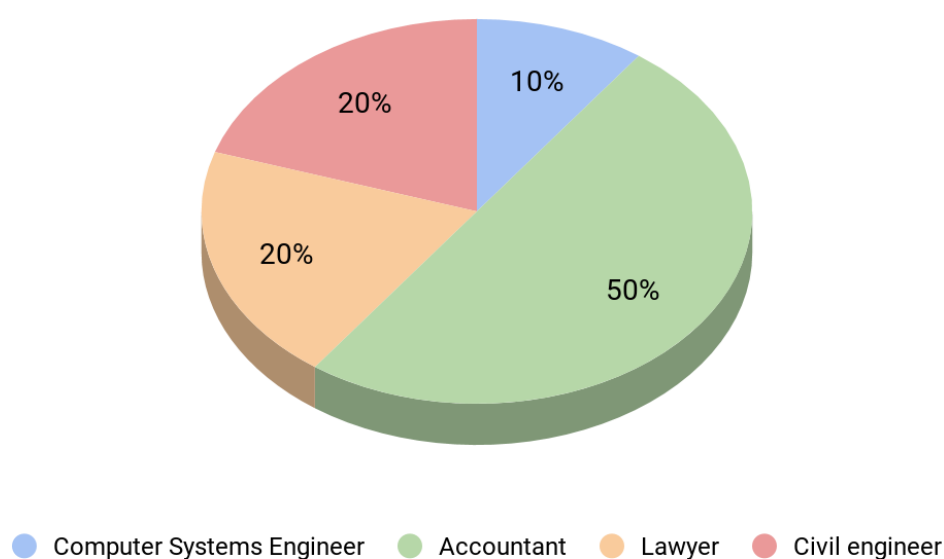
As it was mentioned in the evaluation Phase 3bis: “The federal investigative judges or prosecutors who lead foreign bribery investigations are not specialised in corruption or economic crime cases. (...) The Phase 3 Report (para. 97) referred to a group of ten experts created by the Supreme Court that would support corruption cases heard in federal criminal courts. There is no information, however, on the group’s impact in actual cases” (para. 92).

In this respect, a detail is made of (i) the quantity and specialty of specialized experts in cases of corruption and crimes against the public administration; (ii) number of on-going and terminated expertises; (iii) types of on-going expertises; (iv) number of expertises entered per year; (v) jurisdiction of the requesting authorities of the on-going expertises; and (vi) jurisdiction of the requesting authorities of the completed expertises.

(i) Quantity and Specialty of Experts

At the present time, there are 10 (ten) experts specialized in cases of corruption and crimes against public administration, 5 (five) accountants, 2 (two) civil engineers, 2 (two) lawyers and 1 (one) engineer in computer systems.

Quantity and specialty of experts specialized in Cases of Corruption and Crimes against the Public Administration

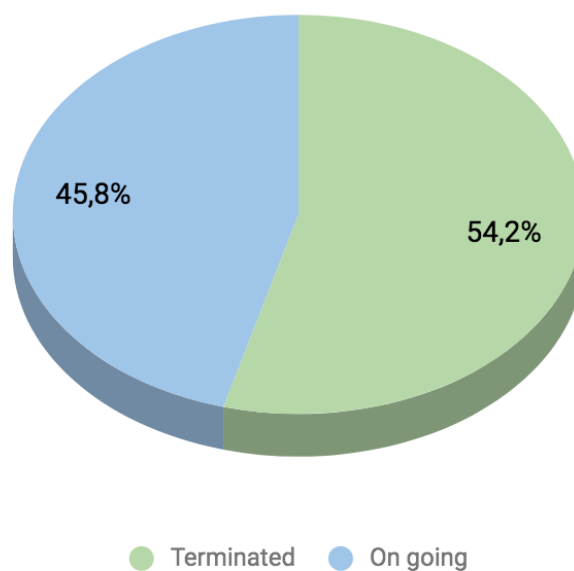


Source: Directorate for Judicial Assistance in Complex Crimes and Organized Crime of the Judicial Branch

(ii) Amount of expertises

From the following graph, it is observed that 32 expertises are terminated, while 27 are on going.

Amount of expertises

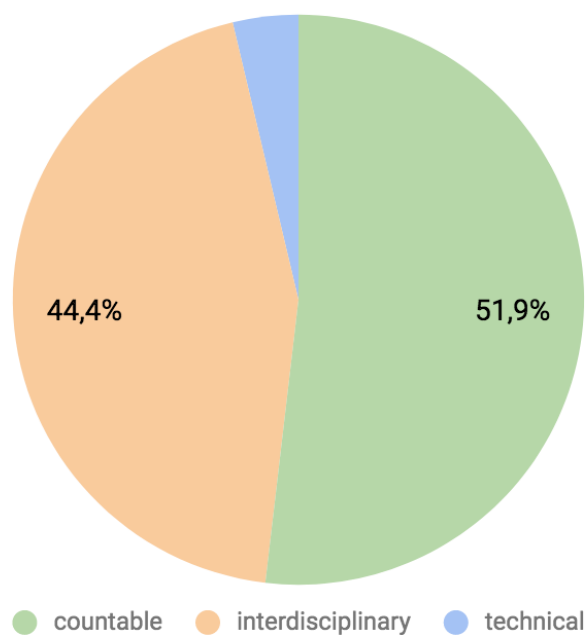


Source: Directorate for Judicial Assistance in Complex Crimes and Organized Crime of the Judicial Branch

(iii) Types of on-going expertises

In the following graph, it is observed that of the 27 skills that are on-going, 14 are countable, 12 interdisciplinary and 1 technical.

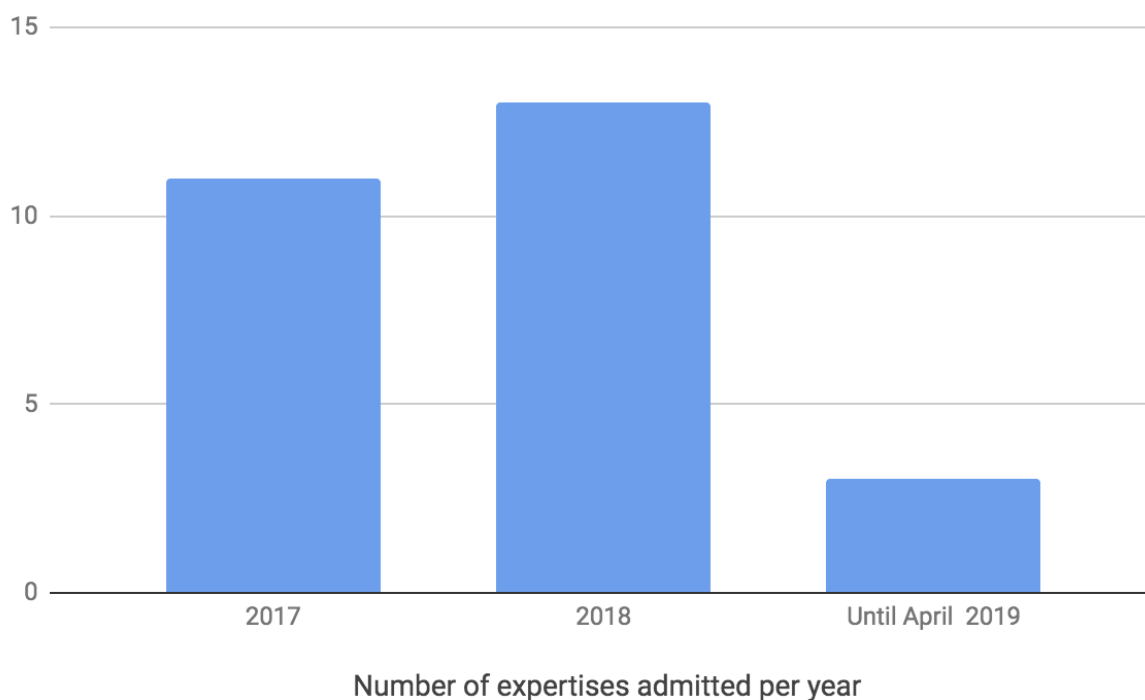
Types of on-going expertises



Source: Directorate for Judicial Assistance in Complex Crimes and Organized Crime of the Judicial Branch

(iv) Number of expertises entered per year

Regarding the 27 on-going expertises, 11 entered during the year 2017, 13 during the year 2018 and 3 until the month of April 2019.



Source: Directorate for Judicial Assistance in Complex Crimes and Organized Crime of the Judicial Branch

(v) Jurisdiction of the authorities regarding on-going expertises

Regarding the on-going expertises, 26 respond to requirements from the National Criminal and Correctional Federal Justice and 1 to a Federal Oral Court.

(vi) jurisdiction of the requesting authorities of the completed expertises

Regarding the completed expertises, 29 respond to requirements from the National Criminal and Correctional Federal Court, 2 to Oral Federal Courts and 1 to the National Criminal and Correctional Magistrate's Court.

With regard to the type of completed expertises, 29 expertises were countable and 3 were interdisciplinary.

PPO

In the information provided by the PPO regarding Recommendation 4.c), the gradual process for the implementation of the COIRON computer system in all the MPF's dependencies was described. COIRON was developed as a very useful computer tool for the work of prosecutors and PPO officials.

In the scheme of the PPO's modernization programme, it was explained that in Resolution PGN No. 320/2017⁷⁶, the COIRON system was established as the guiding information management tool for criminal cases of all the prosecutor's offices and was decided that the data registered in COIRON will constitute the official basis for making decisions related to the determination of workload and allocation of resources,

⁷⁶ <https://www.mpf.gov.ar/resoluciones/pgn/2017/PGN-0320-2017-001.pdf>

conformation of official statistics on the PPO performance and the drafting of the annual management reports.

But, in addition to being a registration system and providing the possibility of obtaining more accurate statistics, the great improvement that the COIRON system presents is that it is a tool that provides support for the daily work processes and support for investigations, thus being an effective management system. To do this, in addition to centralizing the relevant information of each investigation, which allows for crossings between different cases, the COIRON offers the possibility of interacting with the computer management systems of other national agencies outside the PPO. This process of modernization seeks to incorporate a technological tool that represents an improvement in the treatment of files and daily operations of the prosecutor's offices throughout the country.

COIRON has a series of relevant features for the PPO. This is designed to support criminal investigations and litigation in general, allowing to manage criminal and procedural information as a basis for decision making. That is why it constitutes a research tool, through the cross-linking of data of all registered cases. Also, because of its architecture it is used as a file manager, giving support to daily tasks, which facilitates the planning of cases.

The main difference between the FISCALNET and COIRON systems is that the former was developed as a "registration" system. Its function was to replace physical records, based on paper books, by digital records. On the other hand, the COIRON was designed, mainly, under the paradigm of a "management" system, providing support to the daily tasks of the prosecutors' offices. This system unifies all work processes in the same tool that allows you to manage all the tasks that make up the daily work of the operators.

Among the possibilities offered by COIRON are the following:

- The incorporation of a word processor in the system allows different users to work on the same software, being able to generate "drafts" or documents that are administered by all the members of the office that owns the case;
- The possibility of scheduling and generating alerts when registering actions enables the office to carry out, through the integrated agenda, an organization of the different tasks planned from a common calendar that allows a better performance of all operators;
- The possibility of registering different types of actions allows the operator to give an account of those procedural issues that make the processing of a criminal case, as well as the tasks that, without being procedural, make the investigation as a whole. For example, from the registration of an "instruction requirement", to the loading of a telephone communication by a test measure carried out in the context of a cases
- This register of actions carried out by each operator in the framework of the cases will allow those responsible for the prosecutor's offices to have control of the workflow, the quantity, quality and status of the cases that the office has and regarding each user in particular, and be able to choose the working methodology that best optimizes their daily work;
- "Coiron" is aimed to assist all operators in their daily tasks, is not only intended for users of the "front desk" (mesa de entradas) or a simple "stock control".

Safeguarding those data that must remain confidential, COIRON allows to share or link the criminal information of each case registered in the system between the different prosecutor's units. The Criminal Information is the one contained in the cases, and that responds to the nodes of facts, persons, crimes, and elements. This information will be interchangeable for all operators that use the software. In relation to the facts, it will be the georeferencing of the place. Regarding the people, it will be all their personal and

family data that can be queried (DNI, full name, address). Of the crimes, it will be their article and the description of the typology. And of the elements, it will be information that refers to its mode of registration (registration numbers in the case of vehicles, serial number in the case of weapons, line number in the case of a telephone, etc.).

Regarding the CORION as an information database of the PPO, for example, it can be pointed out that when a user registers some person or element in the context of a case, because its links, Coirón system will offer the option to verify if it was registered in the same way in any other case of all the prosecutor's offices that work with this software. In this way, and in the case of obtaining a "match" or coincidence in the information, the interested operator will obtain from the system the case number, title page, prosecutor's office and responsible, and will enable him to communicate, by telephone or email, to find out any other question related to that case, which offers an extremely useful tool to achieve greater efficiency in the daily tasks of prosecutors.

Another relevant aspect to highlight of the COIRON is the possibility of linking with other systems through interoperability mechanisms, being able to establish a dialogue between different databases, which allows operators to obtain more information about the cases that work and in less time.

At present, through COIRON, the databases of the National Registry of Persons (RENAPER)⁷⁷ can be accessed online through a web service system, which provides its users with the possibility of registering a person and being able to request the respective nominal report, which will be added directly to the procedural information contained in the specific case.

To improve this tool, the Institutional Performance Directorate of the PPO has been working with different agencies to add more API accesses or web services with the systems and databases of other agencies, in order to have direct access to information for the investigations, finding several of these and technical tests at an advanced stage. Among these agencies are, for example, the National Recidivism Registry (RNR), which provides the criminal records, through the agreement approved by Resolution PGN No. 5/2018; the National Directorate of the Registry of Motor Vehicles (DNRPA), the company Telefónica de Argentina S.A. through the agreement approved by Resolution PGN No. 60/2018, the National Ship Registry (RNB), the Argentine Naval Prefecture, the National Civil Aviation Administration (ANAC), the National Directorate of Migration (DNM), through the agreement approved by Resolution PGN No. 13/2018, the Superintendence of Insurance of the Nation (SSN), the Public Bar Association of the CABA (CPACF), or the commercial reporting system NOSIS Manager, the General Inspection of Justice (IGJ), which is the registry for non-listed companies, and the National Registry of Real Property (RNPI).

Also, beyond the access via API or web service, with which it is already counted through COIRÓN, or regarding which negotiations have been initiated to achieve interoperability of the systems, it should be noted that with many of these organizations the PPO already has agreements that allow prosecutors and PPO officials to enter queries in their respective systems to obtain information; this, through web access with enabled users and passwords.

Likewise, the AG's Office has agreements with various organizations that provide for the exchange of useful information for investigations. Among these agencies can be mentioned, for example, the National Administration of Drugs, Food and Medical Technology (ANMAT), approved by Resolution PGN No. 132/2018⁷⁸.

⁷⁷ By an agreement approved by Resolution PGN N° 54/2018,

<https://www.mpf.gov.ar/resoluciones/pgn/2018/PGN-0054-2018-001.pdf>

⁷⁸ <https://www.mpf.gov.ar/resoluciones/pgn/2018/PGN-0132-2018-001.pdf>

Through Resolution PGN No. 60/2018⁷⁹, the agreement signed with the Telefónica de Argentina SA Group was approved, through which a direct communication channel was created and a system of judicial requirements and their respective responses by an electronic way was put into operation.

An agreement was signed with the Ministry of Security of the Nation, approved by Resolutions PGN No. 3609/17 and No. 02/2018, to access the Federal System of Police Communications -SIFCOP-, which allows the registration and consultation, through web access, of the information related with arrest warrants, prohibitions of exit from the country, habeas corpus, restrictive measures, requests for seizures, requests to appear, among other measures, ordered by all the security forces and judicial authorities of the country adhering to this system. Until December 2019, the PPO already had 230 registered users.

An agreement was signed with the National Registry of Recidivism, approved by means of Resolution PGN No. 5/2018, to expedite the obtaining of criminal records, through a web access, while continuing to work to establish the interoperability of both systems and that queries can be made directly through the web service installed in COIRON.

An agreement of reciprocal cooperation and assistance was signed with the National Directorate of Migration, approved by Resolution PGN No. 13/2018, through which web access can access information from their databases. By Resolution PGN No. 32/2018, prosecutors can access the Unique Personal File System of the Federal Penitentiary Service. Through an agreement with the Public Prosecutor's Office of the province of Buenos Aires, adopted by Resolution PGN No. 51/2018, access to the registered and systematized database of the "IBIO" system was made possible. The last is a system of registration and identification of accused persons, which allows the positive comparisons associated with a person (footprint and face), achieve their correct identification, and reliably determine their age and criminal records.

Likewise, the Institutional Performance Directorate, which operates within the scope of the Institutional Coordination Secretariat of the AG's Office, has been working with the technical areas of the Judicial Council so that the COIRON can be operatively connected with the Judicial Management System "Lex 100", of the National Judiciary.

From all the above described it is observed that in the last two years the PPO has made great efforts, signing agreements with different national and provincial organisms, to take to the prosecutors' tools and resources that are able to facilitate, or at least, reduce the times for the investigations and prosecutions that they conduct.

The gradual implementation of COIRON began on March 1, 2017, at the prosecutor's offices located in the provinces of Salta, Jujuy, Chubut, Santa Cruz and Tierra del Fuego (it had sense because they are expected to be the first in which the new CPC will be implemented). In turn, within the central structure of this AG's Office, it was launched in the Specialized Cybercrime Prosecutor's Unit and in the Procurator Office against Drug Trafficking (PROCUNAR).

Progressively, through Resolutions PGN No.1223/2017, 2469/2017, 3370/2017, 30/2018, 104/2018 and 130/2018, the implementation of COIRON was extended to various agencies of the organization. Each stage of implementation has also included a previous period of teaching and training on the use of the new computer system.

Finally, like any system, and as best it have been developed, this will never be effective if it do not have an adequate operation by users. In this regard, in addition to the training provided in the framework of its

⁷⁹ <https://www.mpf.gov.ar/resoluciones/pgn/2018/PGN-0060-2018-001.pdf>

programme of gradual implementation (Resolution PGN N° 30/18⁸⁰), on October 10, 2018, the interim AG issued the Resolution PGN N° 104/18⁸¹, aimed at reinforcing the commitment of all PPO agents, recalling the mandatory registration of all criminal cases, in accordance with Resolution PGN 320/2017, and recording the various procedural steps according to the terms of the previous resolutions PGN 94/2010 and 119/2011.

The process for the implementation of COIRON is carried out by the General Directorate of Institutional Performance, belonging to the Secretariat of Institutional Coordination of the AG's Office.

As a result of the work that has been carried out in the last two years, it can be highlighted that by March 2019 the nine programmed implementation stages (since March 2017) were completed, reaching about the 92% (near 2200) of trained and implemented system operators. Nowadays COIRON is already implemented in all federal prosecutor's offices among all the country, and in the City of Buenos Aires, it is implemented in all the prosecutor's offices in the economic crime jurisdiction and in 6 of the 12 prosecutor's offices of investigation in criminal federal matters. It is expected that the rest of the prosecutor's offices would implement COIRON by the June 16th, 2019.

Regarding with the development and growth of the tool, the priorities and requirements of the operators that were gradually implemented began to be taken, as well as to stabilize the link with the "Geographical Server" of the Criminal Analysis Department, which will allow identifying the geographical places where the offenses are committed.

Specialization

The criminal action is exercised by the representatives of the PPO, according to the rules of competence by subject (articles 22 to 33 of the CPC), territory (art. 37 of the CPC) and procedural instance in that case. Articles 26 of Law 24946 and 8 of Law 27148 also empower the representatives of the PPO to conduct preliminary investigations that allow them to request and produce information in order to identify criminal phenomena to guide the verification of criminal hypothesis.

One of the AG's Office policies to improve the technical capacity of its agents is the permanent offer of trainings and courses, on-site, long-distance and external. For these purposes, the AG's Office has a General Directorate of Training (Dirección General de Capacitación y Escuela del MPF de la Nación (DGCE)). Its role is to propose and implement models and strategies of training to improve institutional functioning and strengthen the work of the prosecutors and their teams (art. 35, inc. K, Law 27148). In accordance with these objectives, it designs training in levels, axes and thematic areas (Res. PGN 52/18).

On the other hand, facing the need for greater specialization in investigations and in charging complex crimes, the PPO has been incorporating structures, under the authority of the AG's Office, to deal with particular problems and to address them adequately according to the manifestations of organized criminality. The AG, as maximum authority of the PPO, has the faculty to define the criminal policy of the organism - the capacity to decide the strategic guidelines of how to prosecute certain crimes that may have bigger significance in defending society's best interests. This is why within the PPO specialized units can be created to improve the quality of the work.

Even though the AG's specialized offices and specialized prosecution units can carry out preliminary investigations (art. 8 of Law 27148), as a general rule they cannot exercise the public criminal action by themselves in a proceeding that is already in a judicial stage.

⁸⁰ <https://www.mpf.gov.ar/resoluciones/pgn/2018/PGN-0030-2018-001.pdf>

⁸¹ <https://www.mpf.gov.ar/resoluciones/pgn/2018/PGN-0104-2018-001.pdf>

The specialized units, as any other federal prosecutor in the country, have the role of carrying out preliminary investigations in the cases under their competence; to collaborate with other prosecutors when they request it, and are able to assist with the substantiation of the investigation when the case is already in a judicial stage, when the prosecutor requests it. In these latter cases, the units are able to fulfill all roles and competences of the federal PPO foreseen in the Procedural Criminal Code and the special criminal laws applicable.

These units also have the objectives of designing investigation strategies; planning criminal prosecution policy, in accordance with the strategic guidelines of the AG; arrange for interinstitutional links and actions with specialized organs in those matters; or to propose to the AG trainings, legislative projects and regulations, as well as the signing of conventions, among others.

Therefore, the main role of these specialized units is to investigate preliminarily the criminal hypotheses that are encompassed within their respective subject areas (following criteria of specialization); in case of corroborating the extremes necessary on the probability of the commission of a crime, to promote the criminal action through the formulation of a formal claim; and, when requested by the prosecutor in charge of the case, to collaborate in the substantiation of the judicial process in its different stages and procedural instances.

The organic law of the PPO, introduced in 2015 by Law 27148, formalized the appearance of: a) specialized offices, b) specialized prosecution units, and c) general directions.

Article 22 of the Organic Law (27148) established which specialized offices must work permanently within the structure of the PPO following the criminal policy that had been adopted in the organism. However, by being incorporated by law, these cannot be suppressed, with the exception of by another formal law. The specialized offices established in this law respond to the demands of organized crime, as will be seen, and are the following:

- a. Office for Administrative Investigations
- b. Office for the Defence of the Constitution
- c. Office for Crimes Against Humanity
- d. Office of Economic Crime and Money Laundering
- e. Office for Narcotic-Criminality
- f. Office for Human Trafficking and Exploitation
- g. Office for Institutional Violence

Economic Crime and Money Laundering Prosecution's Office (PROCELAC)

The PPO has 21 specialized organisms and one of them, the PROCELAC (Economic Crime and Money Laundering Prosecution's Office), has competence and specialization in cases of economic crime. The latter comprehends 7 areas of work: 5 operational units that relate to the most relevant manifestations of economic criminality, being 1) money laundering and the financing of terrorism, 2) tax and customs crimes, 3) bankruptcy, 4) financial fraud and capital markets and 5) crimes against the public administration (within which cases of foreign bribery are included); an administrative area (which includes tasks of advising in matters of international cooperation and transnational asset tracing, respecting this office's competences); and a technical area, a multidisciplinary unit (integrated by accountants, economists, information technology graduates, one anthropologist and a sociologist), necessary to address the complexities that economic crime presents and to complement investigative and legal work that perform the operational areas.

The different areas of the PROCELAC coordinate the work with the objective of achieving a transversal and comprehensive view of the economic criminality phenomena and manage to avoid, because of this, a

fragmented analysis of the cases. PROCELAC's main objective is to enhance the PPO's efficiency in the strategic criminal prosecution of economic delinquency, mainly in cases of organized economic criminality – frequently transnational – which generates a socio-economic impact of relevance and of institutional transcendence.

Within its competences are: a) to initiate preliminary investigations – mentioned in points 5 b) and c) – b) to collaborate with prosecutors across the country in cases of complex economic criminality – the object of the collaboration granted is delimited by the prosecution, and therefore changes from case to case, however, overall, it can be: suggesting measures to adequately investigate the criminal maneuver; coordinating the prosecutorial strategy in the case; providing legal analysis and establishing the legal criteria in a controversial matter; studying of documentation, financial and asset information; researching open-source databases; establishing the relevant facts; performing financial investigations or any other technical-accounting analysis; participating in hearings and other instances of the procedure; assisting and/or participating throughout the oral debate stage, c) to collaborate, when requested by the prosecutors, jointly or alternately in the cases. Many of the cases of larger economic impact and institutional transcendence of complex economic criminality which are ongoing in the country, have, on the one hand, began with a preliminary investigation by PROCELAC and on the other, the PROCELAC is collaborating with the prosecutor in the investigation.

The crime of foreign bribery is of the competence of the operational unit of crimes against the public administration (delitos contra la administración pública (DAP)). Their team specializes in the detection and investigation of cases related to this crime. PROCELAC's proactive role seen in the past years on these matters, has contributed to the prosecution of the crime of foreign bribery in Argentina.

Currently, there are 12 ongoing cases in the entire country which are in different stages of the investigation. Out of those 12 cases, 8 began as PROCELAC's preliminary investigations, representing 57% of the cases. Out of those, 3 were detected autonomously by PROCELAC through the press (37.5% of the cases initiated by PROCELAC and 21% of the total of the cases in Argentina), whereas the remaining 5 cases were initiated from information in the matrix of cases of the Working Group on Foreign Bribery.

Up to date, none of the formal claims presented by PROCELAC have been dismissed. This reflects the level of specialization that characterizes DAP's team on these subject matters. For example, the use of indicators of risk of corruption found in "Bribery and Corruption Awareness Handbook for Tax Examiners and Tax Auditors" (2013), <http://www.oecd.org/tax/bribery-corruption-awareness-handbook.htm>).

In the last 4 formal claims of foreign bribery presented by PROCELAC, the aforementioned indicators of risk of corruption were used by considering them as circumstances that, according to international experiences compiled throughout years, usually appear in these cases and that therefore should be especially considered as signs of evidence, especially in contexts such as this one in which one cannot rely on "direct evidence". This way of working that PROCELAC has grants the accusation more strength and also makes the procedure quicker because the analysis of the presence of those indicators give weight to the criminal hypothesis and, therefore, a more adequate foundation to be able to maintain the existence of acts of corruption.

Regarding PROCELAC's collaborations with the prosecutors in charge of ongoing foreign bribery cases, out of those 12 cases 7 have the formal intervention of this Office (58,3% of the cases), as was previously mentioned.

In one of these cases (bribes paid by an Argentine company in El Salvador in order to obtain contracts to manage the charging system in public transportation), PROCELAC's intervention included an intense analysis of the evidence and the further elaboration of a collaboration report that also included the request to cite the accused to give testimony. With this report, the prosecution in the case took a more proactive approach (even though the judge was in charge of the investigation) and was able to formally prosecute 3 accused, a decision that was later confirmed by the Chamber of Appeals. Recently, the prosecution

requested the case be taken to trial stage, making it the first case of foreign bribery to make it to this stage in proceedings.

This case reflects how the specialization of these Offices and their coordination with the prosecutors can reduce delays. The case began in 2017 due to a detection by PROCELAC – see point 5.b) - which started a preliminary investigation and led to the subsequent presentation of a formal claim. The advancement of the proceedings was due to the coordinated work of the prosecutor and PROCELAC and to the assistance given by this specialized unit, which helped with the analysis of the evidence, the suggestion of lines of investigation and in the legal analysis of matters related to transnational bribery (for example, depending on the case, that a private company exercising public functions with public funds should be considered as a public official). To carry out this legal analysis, the specialized team of PROCELAC once more used OECD's suggested standards on indicators of risks of corruption. The presentation made to the judge was co-signed by PROCELAC and the prosecutor in the case. It was accepted by the intervening judge and later confirmed by the Chamber of Appeals.

The specialization was also seen in the advance in another case of foreign bribery (possible bribery committed in Panama by an Argentine company in the framework of a project of implementation of a digital system to fight crime) where PROCELAC collaborated with the prosecutor in the elaboration of the legal arguments to reply to a claim by the defense that there was an affectation to the principle of “ne bis in idem internacional”. The judge resolved in favor of the prosecution, a resolution which could have concluded the entire investigation.

On the other hand, PROCELAC follows-up on each case periodically. This is to, firstly, be on top of the latest movements in the proceedings and advancements in the investigation, to detect obstacles that come up in each one, and with that knowledge, suggest measures so that investigations can move forward, either by to a formal petition of the prosecution or proactively. Secondly, as was mentioned in recommendation 5.c), this follow-up allows PROCELAC to contribute to the matrix of cases of the Working Group on Foreign Bribery.

Also, PROCELAC elaborated a system of information processing called “SAIPRA”. This system, besides supporting the implementation of Analysis of Social Networks, is also important to work swiftly in structuring the information contained in the files in paper format, as well as to accelerate the pick-up times of asset information analysed by the unit accountants. The system similarly brought solutions to other obstacles, such as being able to establish whether a person was already being investigated in PROCELAC. It allows to standardize the inputs of the data bases visited to which the investigators of the units turned to. This is due to the fact that the system is a part of an online portal which also concentrates other resources with useful information. SAIPRA is in being constantly updated and developed.

Regarding the relationship between expertise, the reduction in delays and trainings, we refer back to the answer given to recommendation 5 g).

Regarding other specialized support units, included in the Organic Law of the PPO, their functions and competences, please see Annex 22.

Anti-Corruption Unit of the Security Forces

On the initiative of the Executive Power, through Resolution 1750/17 of the Ministry of Security (Annex 23), the Anti-Corruption Unit of the Security Forces was created as a mechanism for each federal force.

This initiative implies the modification of the organization chart of the four federal security forces (Federal Police, Prefecture, Gendarmerie and Airport Police) to give greater weight to the area that follows the tracking of possible frauds to the State.

This, through the existence of groups of experts with the sole assignment of focusing on judicial requests related to this issue (originally, everything related to corruption was in charge of personnel who also

carried out other issues related to complex crimes, such as human trafficking or drug trafficking), with the purpose of granting greater speed to the judicial orders on possible acts of corruption⁸².

In this sense, and in order to deepen the training and awareness of the professionals specialized in the subject, on November 14, 2018, the Anti-Corruption Office, in coordination with the Undersecretariat of Training and Career of Personnel of the FFPPyS of the Ministry of Security of the Nation, dictated in the Auditorium of the "Superior School of National Gendarmerie", the training "Transnational Bribery and Criminal Liability of Legal Entities". The training was attended by high-level personnel (Annex 24) and addressed issues such as the OECD Convention to Fight Bribery, offenses set forth in the Convention, accounting fraud and its detection, the elements of an integrity program, investigation and sanctions in the framework of the Law on Criminal Liability of Legal Entities.

Additionally, on January 29, 2019, through Resolution No. 59/2019 of the Ministry of Security, the Administrative Protection System for Federal Police and Security Force Personnel (SPAPFS) was created in order to promote the denunciation, investigation and punishment of illegal acts and irregular acts by members of the Police and Security Forces (Please, see recommendation 12.b).

If no action has been taken to implement this recommendation, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 5(g):

5. Regarding **investigations and prosecutions**, the Working Group recommends that Argentina:

(g) provide additional foreign bribery-specific training, including on the practical aspects of and best practices on seeking MLA, to all investigative judges and prosecutors who have jurisdiction to investigate and prosecute this crime (Convention Article 5 and Commentary 27; 2009 Recommendation III.(ii) and V);

Action taken since the date of the follow-up report to implement this recommendation:

Efforts to raise awareness and foreign bribery-specific training among law enforcement authorities were carried out by the Ministry of Justice, the PPO and the oa, during 2016-2019.

Judicial System

In order to raise awareness and train operators of the Argentine judicial system on transnational bribery, the Anti-Corruption Office and the Unit for Assistance to the Criminal Procedural Code Reform organized a series of training sessions on the application of the new Law on Criminal Liability of Legal Persons, developed within the framework of the Convention (Annex 25).

⁸²

<https://www.lanacion.com.ar/seguridad/unidades-de-agentes-especiales-lucharan-contra-la-corrupcion-nid2077128>

<https://www.infobae.com/politica/2017/03/25/como-funciona-el-equipo-anticorrupcion-de-las-fuerzas-de-seguridad/>

The first trainings were given to the Federal Courts of Appeals and Federal Courts located in the provinces of Salta and Jujuy within the framework of the implementation of the New Criminal Procedural Code, on March 8th and 9th, 2019.

The agencies visited were the Federal Courts of Appeals, and the Oral Federal Courts No. 1 y No. 2 of Salta, and the Oral Federal Criminal Court of Jujuy. The event was attended by the presidents of the courts, the other judges that comprise them, acting secretaries (officials) and operational and administrative employees (Annex 26).

In this regard, along three successive meetings, it was lectured to the magistracy and the civil servants of the judiciary on the OECD Convention on Foreign Bribery (hereafter Convention), its scope, and the trajectory of the Argentina in its implementation, as well as the impact of its application on the National Public Administration. The main subjects of the Convention were exposed, from the definition of the offense, the concept of public official, the ability to exercise jurisdiction, enforcement and article 5 of the Convention, the procedures and regulations for the settlement of balance sheets, corporate liability, granting and monitoring officially supported export credits, among others related subjects.

During the meetings it were discussed, the utility of Repentant Law N° 27.304 (effects on natural persons liability and possible gaps on its implementation), and the CLL Law N° 27.401 (cases that trigger corporate liability, penalty exemptions, effective collaboration, incentive scheme, effective and dissuasive sanctions including confiscation, etc). In addition, concepts related to the types of sentences, fines and penalties, and calculation of benefits were worked on. In this context, the “Cuadernos” Case was taken as a practical example of the development of a case after the application of the new legal framework.

Finally, the magistrates expressed the challenge of applying this new framework and, based on this, they requested the organization of new workshops on Law No. 27.401, especially in relation to investigative techniques on transnational bribery, an interest that arises due to the proximity of the jurisdiction with national borders.

As the first provinces with responsibility for the implementation of the new CPC, they were offered to be the first to receive tools or instances of collaboration/cooperation on the specific crime, as with other actors of the national or foreign judicial system.

In accordance with the established schedule for the implementation of the Federal Criminal Procedural Code (see recommendation 5.d), it is expected that this same training will be provided to the Federal Courts established in the province of Mendoza and with jurisdiction in the provinces of Mendoza, San Juan, and San Luis in November 2019.

Public Prosecutor’s Office

Strategic Training plan

On May 16, 2018, the Strategic Training Plan for Employees, Officials and Magistrates of the PPO and the Initial Level Course Programme were approved (Resolution PGN N ° 52/2018)⁸³.

The Strategic Plan emphasizes that *“the training received and developed by the members of the Public Prosecutor's Office must be connected, necessarily, with the criminal policy guidelines that the institution defines. Based on this, as a first step, it is necessary that the courses, seminars and activities*

⁸³ <https://www.mpf.gov.ar/resoluciones/pgn/2018/PGN-0052-2018-001.pdf>

in general that the Public Prosecutor carries out take into account the General Resolutions and the most relevant Opinions in each of the aspects that make their actions” .

In line with the recommendation of the WGB, linked to the need to provide PPO members with specific training on transnational bribery, the corresponding courses in 2018 and 2019 included activities designed to increase the capacities of PPO officials in this matter and related aspects. Thus, among the courses offered are those aimed to develop skills in the following areas:

- New accusatory procedural system
- Special Investigation Techniques
- Repentant regime
- International cooperation and extradition
- Transnational bribery
- Money laundering and financing of terrorism
- Criminal liability of legal persons
- Cybercrime Investigation
- Tracking and analysis of national and international financial and accounting information for investigation of the crime’s economic aspect
- Confiscation and Expiration of ownership.

In order to make the courses offered more widely known, the PPO’s institutional website contains a special section that provides information and details on each activity, both for classroom, online and external courses (<https://www.mpf.gob.ar/capacitacion/>).

Through the above-mentioned Resolutions 56/2018⁸⁴ and 99/2018⁸⁵, a total of 116 courses (2 initial level, 104 continuing education and 10 higher level) were approved for 2018, in addition to 16 virtual training activities about the use of COIRON data management system (approved by Resolution 320/2017).

In this academic offer, an attempt was made to ensure that each course that was offered in a classroom setting was also offered in a virtual format with the same programme, and with a similar content, materials and evaluation methods.

The network through which the long-distance courses are offered - the webcampus - is available to students 24 hours a day from any computer with Internet connection.

On the other hand, more than 85% of the courses taught in 2018 were lectured by prosecutors, as compared to 33.68% in 2017.

Regarding the number of people enrolled in the courses, there was a total of 4495: 1433 in classroom training and 3062 virtually. In this modality there were 8.52% more enrolments than in 2018.

Priority was given to activities focused on developing management skills for processes with a view to implementing an accusatory system in the future, as well as to providing the necessary tools for blatant crime proceedings, investigation and trial in cases involving complex criminality, and Investigation for Prosecution: the planning of criminal proceedings.

Another priority was to ensure that training activities are available to all PPO members, regardless of the jurisdiction in which they are assigned. This implied ensuring a dual mode (classroom and online) for all offered courses.

⁸⁴ <https://www.mpf.gov.ar/resoluciones/pgn/2018/PGN-0056-2018-001.pdf>

⁸⁵ <https://www.mpf.gov.ar/resoluciones/pgn/2018/PGN-0099-2018-001.pdf>

The existing PPO agreements were collected and systematized, along with other agreements involving NGOs and universities. In particular, the National University of Mar del Plata (protocolized by Resolution PGN 7/2018), University of San Andrés (protocolized by Resolution PGN 111/2018) and University of Palermo, which is currently in the process of being protocolized. Similar agreements are also being negotiated with the universities of Buenos Aires (UBA), Torcuato Di Tella (UTDT), Del Salvador (USAL), Austral and Católica Argentina (UCA), among others.

PROCELAC Training

In addition to the activities carried out by the Training Department, given its high degree of expertise in economic crime and transnational bribery, during 2018 PROCELAC also carried out an active and passive training plan for PPO employees and officials.

PROCELAC's training focused on transnational bribery and the criminal liability of legal persons regime, which entered into force in March 2018. The training plan aimed to:

- a. update on discussions related to the matter and to engage with public and private actors involved in these issues;
- b. improve the quality of PROCELAC's preliminary investigations and contributions;
- c. Replicate the knowledge by providing training to the rest of the PPO members.

The training plan implemented by PROCELAC in the last three years does not only highlight the importance for magistrates, officials and employees to be regularly trained by national and international experts on issues related to complex and transnational economic crime, but also for the Attorney General's Office to provide training to other PPO officials and employees in order to replicate the knowledge gained and share their experiences and practices in the fight against complex crime and transnational bribery.

In this sense, it is worth mentioning the training session held on August 16, 2018 called "Transnational Bribery", which has been replicated since 2016. This was led by PROCELAC's co-head prosecutors and was held in the City of Buenos Aires, a jurisdiction in which 93% of the country's transnational bribery cases are being handled, with over 100 participants, in both classroom and virtual settings.

Following the enactment of the Criminal Liability of Legal Persons' Law, PROCELAC provided training in 2017 and 2018 to magistrates, officials and employees of the PPO with the aim to analyze and identify the challenges for its implementation, with special emphasis on the effective application by PPO members.

A list of all the training sessions in which PROCELAC staff members participated during 2018 can be viewed in annex 27.

International Workshop on Beneficial Ownership (PROCELAC)

Since 2015, PROCELAC has been co-organizing, together with NGOs "Fundación SES" and the international "Tax Justice Network (TJN)", the "*International Conference on Public Records on Beneficial Ownership of Legal Persons and its Link with Corruption*". This conference is an annual event focused in generating a dialogue platform regarding public registries' regulation on beneficial ownership in Argentina and in the region. In this sense, each year, panels are organized in which national and foreign representatives of public agencies and government ministries participate; magistrates and officials of the Judicial Branch and PPO; as well as NGOs representatives, technological innovations experts, journalists, among others.

All the news on the four conferences held were posted on the PPO news portal⁸⁶.

⁸⁶ <https://www.fiscales.gob.ar/criminalidad-economica/procelac-organiza-la-cuarta-edicion-de-las-jornadas-internacionales-sobre-registro-de-beneficiarios-finales-de-personas-juridicas-y-corrupcion/>

OECD Latin America Academy for Tax and Financial Crime Investigation

The OECD Latin America Academy provides another space for professional training in the area of economic crime.

In July 2018, the OECD and the Federal Administration of Public Revenues of Argentina (AFIP) signed a memorandum of understanding to establish, in Buenos Aires, the Latin American headquarters of this training center on tax and financial crimes.

This OECD Latin America Academy is one of the outcomes of the OECD's Oslo Dialogue, as a way to strengthen the capacities of tax crime investigators to combat illicit financial flows.

Although focused on the investigation of tax and financial crimes, many of these cases have similarities and links to most transnational bribery investigations. The programmes currently available in Buenos Aires are oriented towards: Conducting Financial Investigations (Foundational Programme); Managing Financial Investigations (Intermediate Programme); VAT/GST Fraud (Specialty Programme) and Asset Recovery: Freezing and Seizing Assets (Specialty Programme)

The first programme of this new academy was held on 12-16 November 2018, bringing together investigators from Argentina, Bolivia, Chile, Colombia, Mexico, Paraguay, Peru and the Dominican Republic. The content of the first programme was on value-added (VAT) and goods and services (GST) tax fraud and it aimed to provide tools to address the specific needs of countries in the region and to learn from Latin America's experiences and best practices in dealing with illicit financial flows. This programme focused on thematic areas such as bribery and corruption, offshore corporate structures final beneficiaries, money laundering, investigative techniques, international cooperation and asset recovery.

The second programme was held on 18-27 February 2019 and focused on Asset Recovery, providing an overview of the legal measures associated with it, exploring the use of restraint orders, considering both confiscation of assets derived from crime, based on those resulted in convictions or non-convictions, as well as providing an overview of international asset recovery initiatives and the challenges and best practices in this area.

On 24 June - 5 July 2019, the third OECD Academy programme will be held in Argentina, focusing on "Conducting Financial Investigations".

Serious Fraud Office

In July 2018, the Anti-Corruption Office invited the Serious Fraud Office (UK) to provide a training course for officials of the judicial system and law enforcement agencies on the operation of the SFO and to exchange experiences in the fight against corruption. The workshop was attended by officials from the AO Investigations area, federal prosecutors: Gerardo Pollicita, Paloma Ochoa, Eduardo Taiano and Carlos Rívolo, PROCELAC Head Directors Laura Roteta and Gabriel Pérez Barberá; the head of the Anti-Corruption Division of the Argentine Federal Police, officials of the Financial Information Unit (FIU) and the Office for Administrative Investigations (PIA).

During the workshop, the attendees were informed of the structure of the Serious Fraud Office, the Roskill model and the legal framework established by the 2010 Bribery Act. In addition, the cycles present in all research were explained: Resourcing and training; operational security; Covert and overt (interviews and searches) investigations; Handling and Interrogation of evidence (Including digital material); Mutual Legal Assistance; and Disclosure.

Furthermore, the workshop focused in depth on the prosecution phase, more specifically on the charging decision, the code for Crown Prosecutors, and Deferred Prosecution Agreements (including negotiations). Finally, two case studies were presented: Rolls Royce, and Sweet Group. The content of the course can be found in annex 28.

National Criminology Programme

In 2018, the National Criminology Programme organized training sessions for officials from the Attorney General's Office and the Judiciary, the Council of Officials and Magistrates of Buenos Aires and specialized technicians, among others.

During these trainings, the following topics were addressed: Cyber-crime; criminal investigation; computer forensics and digital evidence; drug-related crime and organized crime.

Said activities were conducted in the Autonomous City of Buenos Aires and in the provinces, with 8260 attendees as detailed below:

PROVINCE	NUMBER of ACTIVITIES	ATTENDEES
Buenos Aires (province)	40	1856
Catamarca	2	80
Chaco	6	221
Chubut	3	64
Ciudad Autónoma de Buenos Aires	8	151
Córdoba	8	332
Corrientes	3	227
Entre Ríos	1	43
Formosa	7	498

Jujuy	9	477
La Pampa	2	104
La Rioja	1	149
Mendoza	4	198
Misiones	9	452
Neuquén	3	148
Río Negro	3	188
Salta	3	122
San Juan	8	522
San Luis	1	54
Santa Cruz	1	150
Santa Fe	9	611
Santiago del Estero	11	906
Tierra del Fuego	8	256
Tucumán	2	451
Total	152	8260

II International Congress on Economic and Corporate Criminal Law

The Second International Congress on Economic and Corporate Criminal Law, organized by the Ministry of Justice and Human Rights and the Ibero-American Association of Economic and Corporate Criminal Law (Asociación Iberoamericana de Derecho Penal Económico y de la Empresa), was held on 3 May 2018.

The Congress addressed relevant issues such as money laundering and criminal liability of legal persons, parties involved in the investigation and judicial process, integrity programmes and compliance in the company⁸⁷.

International Cooperation

In October 2018, the International Affairs Division of the Ministry of Justice and Human Rights participated in a Training Seminar on International Legal Cooperation organized by the Association of Magistrates. During the seminar, various practical aspects of international legal cooperation were discussed, including the specific requirements to be fulfilled in an assistance request, depending on the type of evidentiary measure asked. Approximately 20 officials and judges from the criminal jurisdiction attended, for instance, from Lower Courts and Federal Courts of the provinces.

On December 7, 2018, the US Embassy in Argentina organized a “Summary of the US Federal Criminal System” Symposium, which was attended by judges and prosecutors and focused on the legal and practical aspects of the US justice system. This activity has contributed to deepen the knowledge about the US justice system and has provided tools for a more effective international cooperation.

Main topics addressed during this symposium were: indictments and preventive detentions, detection and preliminary hearings, international cooperation, mutual legal assistance, extraditions and oral and appellate proceedings.

The speakers at this symposium were: the current US Ambassador to Argentina and former Judge of the United States District Court for the Western District of Texas, Edward Prado; the Federal Judge for the Southern District of Texas, Marina García Marmolejo; the Federal Prosecutor for the Western District of New York, Everardo (Andy) Rodríguez; and the Trial Attorney for the International Affairs Office of the US Department of Justice, responsible for extraditions and legal assistance with Argentina, John Basley

Approximately 100 judges, prosecutors and officials from the Federal Justice of the City of Buenos Aires and Buenos Aires Province, from the Ministry of Foreign Affairs and Worship and the Ministry of Justice and Human Rights, participated of the symposium.

On February 15, 2019, the US Embassy in Argentina and the Office of Overseas Prosecutorial Development, Assistance and Training (OPDAT) of the US Department of Justice, organized an other “Summary of the US Federal Criminal System” Symposium.

The speakers at this symposium were: the US Ambassador to Argentina, Edward Prado; the Federal Prosecutor for the Western District of New York, Everardo (Andy) Rodríguez; the FBI Legal Attaché, Murry Streetman; and the Advisor to the Economic Crimes Team of the Office of Technical Assistance (OTA) of the US Department of the Treasury, Daniel Zambrano.

⁸⁷ http://www.eldial.com/Publicador/Comodin/pdf/15_FORÉS_PROGRAMA.pdf

Topics addressed during the Symposium were: Structure of the US Criminal System; stages of criminal proceedings; roles of prosecutors, investigators and judges; Federal/State cooperation; Accusation and Preventive Detention; and Right of Defense, among others.

Judges, prosecutors from the Federal Justice system of the City of Buenos Aires, officials from the National Ministry of Foreign Affairs and Worship and the Ministry of Justice and Human Rights participated in this event.

Regarding foreign bribery, specific training on the practical aspects and best practices on seeking MLA, please see answer to Recommendation 7.a)

If no action has been taken to implement this recommendation, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 5(h):

5. Regarding **investigations and prosecutions**, the Working Group recommends that Argentina:

(h) accelerate efforts to implement an effective national register of information relating to all Argentine companies (2009 Recommendation II).

Action taken since the date of the follow-up report to implement this recommendation:

Following OECD and FATF Recommendations, the new Decree 27/18⁸⁸ (dated 1/10/2018, which entered into force on 5/30/18 after Law 27.444 was passed by Congress) provides for several amendments to Law 26.047.

According to this new regime, the National Company Registry works under the competency of the Ministry of Justice and Human Rights and takes its functions to a federal level without the need for the provincial local registers to adhere. In fact, the National Company Registry is the only database of corporate entities at a federal level.

To comply with Law 27.444 (Annex 29), the new Administrative Decision 312/2018 created the Directorate of the National Company Registry and Bankruptcy Proceedings (DNCRBP), within the Undersecretary of Registry Affairs of the Ministry of Justice and Human Rights. The DNCRBP shall organize and run the national database for corporate entities, while the Secretary of Modernization (former Ministry) shall develop and maintain the software development.

The working plan detailed below aims to:

1. Grant immediate public access to any person of a federal nationwide database of corporate entities and civil associations, independently of its jurisdiction of registration.
2. Provide an open, easy to use and direct searching system of existing corporate entities and civil associations.

⁸⁸ <http://servicios.infoleg.gob.ar/infolegInternet/anexos/305000-309999/305736/norma.htm>

3. Materialize a uniform system of identification of corporate entities and civil associations for all states registries.

To fulfill those purposes, the DNCRBP shall grant, in a free and open format, public information of all the entities (domestic or foreign) registered before the 24 provinces in the country as required by Law 27.444.

The implementation of the National Company Registry is carried out in different phases.

- **First phase: Open access to Database Law 27.444**

The Secretariat of Modernization provided the software development for the operation of the corporate database in March 2019. The loading of the information of the corporate database started also in March 2019 and it is updated monthly.

Searches and queries related to corporate entities shall be on a free and open basis. The search system and the user platform has become available on 9 May 2019. It is available through the RNS web page: <https://www.argentina.gob.ar/justicia/registonacionalsociedades>

At this stage, any person is granted free access to search the corporate database of the Directorate either by CUIT (personal identification) number or by legal name. The database provides the complete legal name, legal type, incorporation date, statutory and fiscal address, provincial registry identification number (when available) and date of update.

Moreover, the database includes local and foreign corporate entities as is required by Law 27.444. From the statutory address, any person is now able to reach the appropriate state registry. Such lead prevents risks of homonymy (as the search is only conducted by CUIT number which is unique for each corporate entity). Furthermore, it prevents consultants from doing individual searches in the 24 Argentine provinces.

Completed this first phase, Argentina complies with the WGB request (para.131 Phase 3 bis) to have a national company registry with information on all Argentine companies at a federal level, which allows prosecutors and judges to obtain corporate information.

- **Second phase: Matching the information with State registries**

Beyond the recommendation of the WGB, and with the aim of continuing the development of the National Corporate Registry, the second phase of the implementation consists in matching the information with State registries.

The DNCRBP will divide the corporate database by state jurisdiction and will send a confirmation list of corporate entities to each jurisdiction. By such confirmation, the Directorate expects to overcome current communication deficiencies with state registries due to (1) non uniform indexing and identification of corporate entities at local level, (2) the need of an interrelated software system not currently in place, (3) in some cases, files pending digitalization; etc.

From the corporate entities list, the state registry will confirm the effective corporate registration (or not) of each CUIT in such jurisdiction. Due to the autonomy of the jurisdictional registries, and to the different forms and stages of development of the means of registration, this stage is estimated to be finished by December 2019.

If no action has been taken to implement this recommendation, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 6(a):

6. With regard to **judicial and prosecutorial independence**, the Working Group recommends that Argentina:

(a) adjust the composition of the Judicial Council, and ensure that the Council effectively protects the independence of judges (Convention Article 5 and Commentary 27; 2009 Recommendation Annex I.D);

Action taken since the date of the follow-up report to implement this recommendation:

The WGB noted in Phase 3 bis report on March 2017 that: “Since Phase 2, the Working Group has expressed serious concerns that the Argentine judicial system has suffered from a significant degree of political interference”.

In particular, Phase 3 Recommendation 6(a) asked Argentina to ensure that disciplinary action against judges and prosecutors does not adversely affect the effectiveness of foreign bribery investigations and prosecutions, and is not motivated by Article 5 factors.

Recommendation 6(b) asked Argentine government officials to refrain from contacting judges and prosecutors about specific cases. The Working Group also decided to follow up the functioning of the Judicial Council, and disciplinary proceedings against judges and prosecutors, arising out of foreign bribery cases (Follow-Up Issue 15(h)).” (parag 99)...”, “Since Phase 3, Argentina has made some progress in implementing these Recommendations. However, fresh concerns have arisen over the politicisation of the Office of the Attorney General and her interference in sensitive cases.” (para 100).

As informed in the written follow-up report on March 2018, the Ministry of Justice and Human Rights, through the “Justicia 2020” Programme, conducted an open and participatory procedure (with open consultations to citizens, specialists and civil society) and drafted and submitted a bill to reform the Judicial Council⁸⁹, which includes the modification of its composition, by proposing to increase the amount of members to 16. The members would be:

- 4 judges of the National Judicial Branch elected while guaranteeing equal representation of both first and second instance judges. Two of the magistrates must belong to the federal jurisdiction: one with competence in the city of Buenos Aires and the other with competence in the provinces.
- 6 legislators or National Legislative Branch representatives.
- 4 representatives of the Federal Attorney’s Office enrolled in the Public Bar Association of the City of Buenos Aires or in the Provincial’s Federal Chambers (appointed by the direct vote of the attorneys).
- 1 representative of the National Executive Branch.
- 1 representative of the academic and scientific field (who must be a regular university professor at a National University and hold a PhD: he or she must be chosen by the direct vote of the Law Faculty professors)

The backgrounds to this bill are two court rulings.

Firstly, the “Rizzo” case (June 18, 2013); where the Supreme Court of Justice declared that the amendment introduced by Law 26.855 to Law 24.937 of the Judicial Council was unconstitutional. This reform imposed the direct election by political parties of all members.

⁸⁹ <https://www4.hcdn.gov.ar/dependencias/dsecretaria/Periodo2017/PDF2017/TP2017/0026-PE-2017.pdf>

Secondly, the decision given in file no. 29053/2006 “COLEGIO DE ABOGADOS DE LA CIUDAD DE BUENOS AIRES Y OTRO c/ EN-LEY 26080-DTO 816/99 Y OTROS s/PROCESO DE CONOCIMIENTO” (COLEGIO DE ABOGADOS DE LA CIUDAD DE BUENOS AIRES Y OTRO c/ EN-LEY 26080-DTO 816/99 Y OTROS s/PROCESO DE CONOCIMIENTO). In this case, both the first instance judge and the chamber declared the unconstitutionality of various articles of Law 26.080, which reduced the number of members of the Judicial Council to 13. The Attorney General at the Supreme Court of Justice has just ruled in favour of the legitimacy of the current composition of the Judicial Council and the trial is at the decision of the Court.

It is probable that the imminent pronouncement of the Supreme Court of Justice that will make it possible to know its opinion on what the correct conformation of the Judicial Council should be according to the Constitution, will then allow legislators to advance in the treatment of the Bill in Congress.

The Bill introduces amendments to: a) composition of the Judicial Council; b) term of office; c) powers of the plenary meeting; d) incompatibilities and immunities of its members; e) the Committee for Selecting judges and the judicial school; f) the discipline and accusation committee; g) rules and principles for the selection process and term of duration of some of its phases.

As to the composition of the Judicial Council, the bill proposes a composition that is considered to be the best at striking the balance set forth under section 114 of the National Constitution among the representatives of the political parties resulting from popular election, judges from lower and superior courts, lawyers with federal registration and representatives from the academic and scientific arena. In this way, the number of judges and council members, who are representatives of lawyers with federal registration and registered with the Lawyers Association of the city of Buenos Aires, or with the Federal Court of Appeals located in the provinces, designated by direct vote of the professionals who have such a registration, is increased.

Furthermore, the bill is more rigorous regarding the necessary requirements to be a council member, since the candidate must qualify to be a Judge of the Supreme Court of Justice.

In addition, full-time commitment while fulfilling duties as council members or members of the impeachment tribunal for judges is required for the representatives of judges and lawyers. This is to avoid an overlapping of tasks that may hinder an appropriate performance, which in turn, tends to ensure their independence.

The WGB had the opportunity to analyse an earlier draft that raised the number of members to 15, and had expressed concern that it did not allow judges and professional representatives to form a majority able to confront the political establishment (Phase 3 bis Report paragraph 108).

The final proposal submitted by the Executive Branch and currently in Congress improves the situation since among the representatives there are: 4 judges and 4 lawyers of both matriculations (of the City of Buenos Aires and Federal), which adds up to 8 out of 16 total members. If the academic representative is added, it is clear that the professional-technical staff has a majority over the political.

With respect to this composition, it is worth noting that, in relation to the current composition of 13 members, it incorporates 1 judge and 2 lawyers as representatives.

With this new composition, the representatives of the political sectors -the 6 legislators and the representative of the Executive Branch- are at a numerical disadvantage with respect to the representatives of the technical sectors -the 4 judges, 4 lawyers and the representative of the academic sector.

Therefore, taking into account the observation made by the Working Group, the proposed composition is that the political sector has 7 representatives and the technical sector has 9.

From this, it can be understood that for a political trial to start -which is carried out by the Jury for the Prosecution of Magistrates, an independent body of the Judicial Council and with a different composition from the latter- the sum of the votes of the political representatives is not enough. In addition, it is worth recalling that each Legislative Chamber is represented by two majority legislators and one first minority legislator. Then, according to this, the governing party could have 5 of the 7 representatives of the political sectors and 5 of the total of the 16 councillors. With the current representation, in the same scenario, the governing party could have those 5 representatives of the total of 13 members.

In the Lower Chamber, the Bill is under discussion in both the Commission of Constitutional Affairs and the Commission of Justice. In public hearings, the opinion of the president of the National Association of Magistrates; the president of the Bar Association of the City of Buenos Aires; the president of the Bar Association of Buenos Aires Province; the president of the Argentine Federation of Bar Associations; the General Secretary of the National Justice Employees Union, the President of the Council of Magistrates; the President of the Association of Federal Judges of Argentina (AJUFE), the President of the NGO “Será Justicia”; representatives of the Centre for Legal and Social Studies (CELS), representatives of the Association of Labour Lawyers; the President of the Superior Court of Córdoba and of the Council of Magistrates of Córdoba has been heard (a comparative analysis of the bill and the current law is attached in Annex 30).

Regardless of whether the Supreme court passes sentence and the Bill becomes law or not, it is worth noting that since the Phase 3 bis evaluation in March 2016 there have been no allegations, no suspicions of interference or pressure to judges or prosecutors, and no reports stating that the Council has incorrectly used its powers over judges.

The spirit of Law No. 24.937 and its reforms has been fully operational and so, the independence of magistrates was taken into account when imposing aggravated majorities for the preparation and elevation of lists of candidates for magistrates -from lower courts- to the National Executive Branch for the start of a political trial regarding their removal.

Regarding the preparation of a ternary of candidates, it should be noted that article 13 of the aforementioned law provides that, for the approval of a ternary, a qualified majority of the total number of members of the council -9 votes on its 13 members- is required, together in Plenary session, and not a simple majority, which would be 7 votes. Prior to the preparation of this ternary, the candidates go through a process that has a written examination, a background assessment -with objective parameters- and a personal interview. Added to this, it should be noted that, in addition, there is a phase to allow for objections to the proposed candidates.

In addition, it must be borne in mind that, after the approval of the lists of candidates for magistrates, the National Executive Branch proposes one of the three candidates to the House of Senators of the Nation, for their election. .

Finally, the Chamber of Senators of the Nation has an intervention of its own, where, naturally, the candidate proposed by the National Executive Branch, who had previously been selected from among three candidates proposed by the Judicial Council, may be elected or rejected.

On another hand, the removal of a magistrate occurs through another process of exception, in which, in order for the accusation of a judge to be approved and for the beginning of an impeachment trial, an absolute majority of the total number of members of the Council is also required -9 votes on its 13 members-, gathered in Plenary session.

In addition, in this scenario, the Judicial Council is not the body in charge of the removal of judges -the council only accuses-, it is the Jury for Prosecution of Magistrates of the Nation the body that has that function. It is worth clarifying that both organs are completely independent with different integrations.

The aforementioned Jury, in charge of the impeachment trial, is composed of 7 members: two federal court judges, one from the City of Buenos Aires (as it is the Federal District) and another from any other province of the country, and who are chosen by draw; four legislators, two from the Chamber of Deputies of the Nation and two from the Chamber of Senators of the Nation, who are elected by their respective chambers; and a lawyer, from anywhere in the country, who is chosen by draw.

In order for the Impeachment Jury to decide the removal of a magistrate, according to article 25 of law 24.937 and its amendments, the decision must be taken by two thirds of its integration, that is, 5 votes of its 7 members.

Therefore, it is understood that the removal of a magistrate occurs through an exceptional process, where aggravated majorities are required for their removal, in two separate and independent bodies.

In either of the two bodies the political representatives can make decisions without the presence of the votes of professionals, academics or magistrates.

A clear example of this is the fact that, since the creation of the Council of the Judiciary of the Nation - in the year 1999-, only 36 impeachment trials were opened, from which 18 removals were resolved. On 5 occasions the accusation was rejected by the jury and, in the rest of the cases, the magistrates resigned their position before the jury was issued on the accusation⁹⁰.

If no action has been taken to implement this recommendation, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken

Text of recommendation 6(b):

6. With regard to **judicial and prosecutorial independence**, the Working Group recommends that Argentina:

(b) take urgent steps to ensure the independence of the Offices of the federal Attorney General and Public Prosecutors, including by protecting the appointment, transfer and dismissal of the Attorney General and

⁹⁰https://www.pjn.gov.ar/02_Central/ViewDoc.Asp?Doc=6915&CI=INDEX100;
https://www.pjn.gov.ar/02_Central/ViewDoc.Asp?Doc=6914&CI=INDEX100;
https://www.pjn.gov.ar/02_Central/ViewDoc.Asp?Doc=6913&CI=INDEX100;
https://www.pjn.gov.ar/02_Central/ViewDoc.Asp?Doc=6912&CI=INDEX100;
https://www.pjn.gov.ar/02_Central/ViewDoc.Asp?Doc=6911&CI=INDEX100;
https://www.pjn.gov.ar/02_Central/ViewDoc.Asp?Doc=6910&CI=INDEX100;
https://www.pjn.gov.ar/02_Central/ViewDoc.Asp?Doc=6909&CI=INDEX100;
https://www.pjn.gov.ar/02_Central/ViewDoc.Asp?Doc=6908&CI=INDEX100;
https://www.pjn.gov.ar/02_Central/ViewDoc.Asp?Doc=6907&CI=INDEX100;
https://www.pjn.gov.ar/02_Central/ViewDoc.Asp?Doc=6906&CI=INDEX100;
https://www.pjn.gov.ar/02_Central/ViewDoc.Asp?Doc=6904&CI=INDEX100;
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https://www.pjn.gov.ar/02_Central/ViewDoc.Asp?Doc=42671&CI=INDEX100;
https://www.pjn.gov.ar/02_Central/ViewDoc.Asp?Doc=48983&CI=INDEX100;
https://www.pjn.gov.ar/02_Central/ViewDoc.Asp?Doc=82598&CI=INDEX100;
[https://www.pjn.gov.ar/02_Central/ViewDoc.Asp?Doc=113280&CI=INDEX100](https://www.pjn.gov.ar/02_Central/ViewDoc.Asp?Doc=113280&CI=INDEX100;)

prosecutors from political influence (Convention Article 5 and Commentary 27; 2009 Recommendation Annex I.D);

Action taken since the date of the follow-up report to implement this recommendation:

Although the report of phase 3 bis (of 2017) had raised serious concerns about the lack of independence of the Attorney General (AG) and the Public Prosecutors Office (PPO), such concerns have faded since the former AG voluntarily submitted her resignation in December 31th, 2017. Even between October and December 2017, the former AG requested a special leave because of some matters related to her health.

The current officer, Mr. Eduardo Casal, who since November 21th 2017 is temporarily in charge of the AG's Office, is a high level officer, with an extended career both in Judiciary and in the PPO. His first appointment in Judiciary was in the year 1982, and in 1992 was appointed as the Prosecutor before the National Supreme Court of Justice. He assumed the conduction of the AG's Office by Resolution No. 3405/17, in accordance with the institutional mechanisms provided in the Organic Law for the Public Ministry (Articles 11 of Law No. 24 946 and 12 of Law No. 27 148). By that time Mr. Casal held the highest career position and was the most senior in that function. Therefore the current situation of the AG and the PPO is far of any risk of political influence.

Meanwhile, accordingly with the constitutional independence of the PPO (Article 120 of the National Constitution) and that body's legal framework (Laws No. 24,946 and 27,148), in 2018 the Executive Branch sent to the National Senate the proposal of a candidate to hold the position of AG. Complying with the requirements for appointment, before having the agreement by the vote of two thirds of the members of the Senate, this candidate was presented at the hearing scheduled on July 31, 2018 before the Senate Agreements Committee.

To date, the Chamber of Senators of the Nation has not dealt with the proposal and, according to public statements made by representatives of the opposition, with a majority in that Chamber, there would be no consensus for its approval⁹¹.

For this reason, the current PPO holder is still in charge of the organization on a regular basis and in accordance with the Constitution and the laws in force.

Disciplinary Regime

As regards with the observation of alleged arbitrary use of disciplinary procedures to influence the functions of the prosecutors responsible for investigating and promoting criminal action in cases of transnational bribery, it should be noted that the PPO has an adequate regulatory framework, with objective and pre-established criteria. Only with fulfilment of this regime the AG is able to apply sanctions to its magistrates, officials and employees who violate the duties and prohibitions established in the Organic Law of the MPF (laws 24,946 and 27,148) and in the "Regime of Officials and Employees of the Public Prosecutor's Office of the Nation" , approved by Resolution PGN No. 128/2010.

⁹¹ https://www.clarin.com/politica/oficialismo-insistira-pj-senado-pliego-ines-weinberg-roca_0_M-3lmM7V3.html
<http://www.parlamentario.com/noticia-108306.html> <https://www.infobae.com/politica/2018/03/21/los-senadores-del-pj-no-aseguran-la-aprobacion-del-pliego-de-la-candidata-de-macri-a-la-procuracion/>
<https://www.ncn.com.ar/fuentes-en-contra-del-pliego-de-weinberg-de-roca-no-es-una-persona-que-por-su-trayectoria-garantice-el-equilibrio/>

This regime, in addition to ensuring the due administrative process and the possibility of defence for accused officials, guarantees their legality and impartiality.

In this regard, current disciplinary rules establish in a prior, objective and clear manner, the applicable sanctions, the criteria for the graduation of sanctions, the grounds for their application, the procedure and the rights of the officers under investigation.

This normative framework recognizes the right to adjective due process, as an essential guarantee that protects both magistrates and the general interest of society as a whole, so that the sanctioning power cannot be exercised in an arbitrary manner and is only aimed at preserving the adequate service of justice. These goals are also achieved through the reduction of vagueness in the determination of behaviours that may constitute disciplinary faults.

By adjusting the actions of the AG and the organs of the AG's Office dedicated to the analysis of possible disciplinary faults to the guidelines of the pre-established procedure, any type of interference or any type of misuse intended to pressure or protect prosecutors is avoided. This, despite the fact that in some cases some sector of society, public opinion, or political sectors can claim actions or responses other than the steps and procedures that the disciplinary regime requires.

Below is a description of the disciplinary regime, to better understand the principles of impartiality and objectivity that guide it.

Disciplinary regime for prosecutors

The disciplinary regime for PPO prosecutors, in all instances, jurisdictions and territories, is governed by the provisions of Chapter 3, Title V, Law 27,148, Articles 65 to 80, and its regulations provided by Resolution PGN N ° 2627/15⁹², of August 27, 2015.

In accordance with article 67, the disciplinary power is headed by the AG, as the highest authority of the PPO, who can partially delegate the powers related to the disciplinary procedure in the Secretariat of Discipline, Technique and Human Resources, and with the previous Intervention prior of an Evaluation Board, in those cases in which the content of the complaint is not evidently irrelevant (Article 73).

Articles 68, and 69 lists those that are considered serious and minor crimes, respectively, in the following terms.

"Article 68. Serious faults. It shall be considered serious faults:

- a) Abandon the work on a prolonged or repeated basis and without justification.*
- b) Repeatedly disregard the tasks or functions assigned in the area where they perform, in accordance with the mission of the Public Prosecutor's Office of the Nation.*
- c) Repeated failure to comply with general instructions, when the breach was unfounded and no objection was expressed or when the objection was expressed, the nature of the instruction did not allow for delays.*
- d) Violating the rules of confidentiality regarding the matters that require it and in which the Public Prosecutor's Office acts, or extract, duplicate, exhibit or transmit documentation that should remain confidential, jeopardizing the functions of the Public Prosecutor's Office of the Nation.*
- e) Act with serious negligence in the attention of entrusted matters or in compliance with the assumed obligation.*

⁹² <https://www.mpf.gov.ar/resoluciones/pgn/2015/PGN-2627-2015-001.pdf>

f) *Not inform or refuse to inform unjustifiably to the victim or his representative, as appropriate, when they require it regarding the circumstances of the process and this affects their right of defense in court.*

g) *Execute events or incur omissions that result in the loss of proceedings or the obstruction of the process or the justice service.*

h) *Not to be excused within the time that corresponds, knowing that there are reasons for their withdrawal.*

i) *Interfere in judicial proceedings in which there is no official intervention.*

j) *To unreasonably and repeatedly fail to comply with the procedural deadlines.*

k) *Exercise the legal profession or the representation of third parties in court, except in their own affairs or their spouse, ascendant or descendant, or when doing so in compliance with a legal duty.*

l) *Perform a profession, public or private employment, even on an interim basis, without prior authorization from the Attorney General of the Nation, except for the exercise of teaching and research and academic study commissions, as long as the practice does not hinder the fulfillment of their duties.*

m) *Advise or evacuate consultations outside the cases inherent to the exercise of their function.*

n) *Receive gifts, concessions or gratuities of any kind for the performance of their functions, as far as they are important in their material assessment.*

ñ) *Failure to submit the sworn assets disclosures and its updating in a timely manner.*

o) *Accumulate more than five (5) minor offenses committed in the same year.*

p) *Exercise physical, psychological or verbal abuse in the exercise of their duties”.*

“ARTICLE 69. - Minor faults. The following are considered minor faults:

a) *Failure to comply with assigned tasks or functions in the area where they perform, in accordance with the mission of the Public Prosecutor's Office of the Nation.*

b) *Failure to comply with general instructions, when the breach is unfounded and no objection has been expressed or when it has been expressed, the nature of the instruction does not allow for delays.*

c) *Fail to work without notice or just cause, usually arrive late or absent without authorization.*

d) *Act disrespectfully in relation to the parties or any person who intervenes in a proceeding in which the magistrate acts or who goes to the respective offices.*

e) *Neglecting the use of furniture and other elements provided for the exercise of the function. ”*

The applicable sanctions for prosecutors and officials of the PPO are provided for in article 70 of law 27,148 and consist of:

a) Warning.

b) A fine of up to twenty percent (20%) of their monthly remuneration.

c) Suspension for up to thirty (30) days without pay.

d) Dismissal.

Article 71 establishes in which cases each type of sanction can proceed and what are the criteria for its graduation, requiring as a general rule that there be proportionality between the offense committed and the sanction actually imposed.

With regard to the procedure for the application of sanctions, the processes of removal must be distinguished from those substantiated by the other sanctions.

In both cases, a prior intervention of an evaluating board is required, which must issue a non-binding opinion on the purpose of the proceedings.

Warning, fine and suspension.

Chapter 3 of Title V of Law 27,148, defines the general guidelines for the determination of the disciplinary regime, and prescribes in articles 74 and 80 that the procedure applicable to cases of disciplinary offenses, administrative appeals and proceedings before the Jury of the PPO.

This regulation was provided by Resolution PGN No. 2627/15⁹³, of August 27, 2015.

This regulation defines and determines the scope of each of the sanctions provided; sets the guidelines for its graduation, the rules of the procedure; establishes the timeframe, the way to compute the deadlines and the terms of prescription and expiration.

Any decision on the opening of an administrative sanctioning procedure, as well as the final resolution of this procedure must have the prior opinion of an Evaluating Board. This is composed of five general prosecutors, whose function is to advise the AG through non-binding opinions on the subject of complaints against prosecutors.

The Evaluating Board must refer to the merit and the course of action to be followed, and may suggest the dismissal of the complaint, the initiation of an administrative summary or the opening of the instance before the Jury (Tribunal de Enjuiciamiento). If, after the opinion of the Evaluating Board, the AG decides to initiate an administrative proceeding, he must designate who will be the investigator of the summary, and any official of the technical-legal grouping of the PPO may be elected. He/she in turn, may have a secretary to assist in his/her duties.

Once the summary has begun, the regulation provides for the conditions for the production of evidence and the merit reports that the investigating officer must prepare. Once the investigation and defense stage of the accused is completed, that stage will be closed and sent back to the Evaluating Board and the Legal Advice of the AG's Office to express their opinions on the subject of the summary.

After this intervention of that necessary organs, the AG must issue a resolution in which he/she may: dismiss the procedure, impose the corresponding sanction, or decide to open the petition before the Jury of the PPO, if the facts investigated constitute grounds for dismissal.

Against this resolution, the regulation provides for hierarchical appeal, reconsideration and complaint appeals before the Jury, in favor of the prosecutor who has been summarily examined.

Dismissal

⁹³ <https://www.mpf.gov.ar/resoluciones/pgn/2015/PGN-2627-2015-001.pdf>

The assumptions of removal, proceed only in cases of serious misconduct and this procedure is distinguished in turn from the removal of the AG, from the rest of the prosecutors of the PPO.

Regarding the mechanism of removal of the AG, article 76 of law 27,148, establishes that he / she can only be removed for the reasons and through the procedure established in articles 53 and 59 of the National Constitution, which regulate the mechanism of impeachment for the President and Vice President of the Nation, the chief of cabinet of ministers, the ministers and the members of the Supreme Court, because of their poor performance of functions. The impeachment can only be promoted by the Chamber of Deputies before the Senate of the Nation, which must resolve with a majority of two thirds of its members.

The rest of the prosecutors must be removed from their positions only by the Jury (Tribunal de Enjuiciamiento), which must evaluate the reprehensible conduct and determine the origin of its removal or the application of other sanctions (articles 74, second paragraph and 76 of Law 27,148).

The procedure of removal is foreseen in articles 76 to 80 of law 27.148 and regulated, in what the law does not provide, in articles 60 to 81 of the Sanctions Regimen approved by Resolution PGN No. 2627/15, mentioned above.

Article 77 of Law 27.148, regulates the integration of members of the Jury, composed of 7 members, who last three years in their functions. Its conformation is of a multi-sector composition, with three members appointed by the Executive Branch (1), by the majority of the Chamber of Senators (1) and by the National Interuniversity Council (1), respectively; two vocal federal enrollment lawyers appointed by the Argentine Federation of Bar Associations and by the Public Bar Association of the Federal Capital; and finally two members chosen by draw among the PPO's prosecutors. Once integrated, the court will designate its president by draw. The presidency will rotate every six months, according to the order of the draw.

The procedure before the Jury for dismissal must respect due process and the right of defense, as well as the guarantees and principles safeguarded by the CPC, and comply with the procedure set forth in Article 80 of Law 27.148.

Regime for prosecutors' appointments

Another of the concerns pointed by the WGB dealt with the possible manipulation of the designation regime. This system was seen as a situation that could negatively affect the independence of the PPO. Faced with this, it should be informed that in recent years the PPO has worked to ensure greater transparency and objectivity in its system of contests for the appointment of prosecutors.

As will be seen in the detail of Recommendation 6 (e), along with these improvements and guarantees in the process of selection of prosecutors, a lot of work was also done to accelerate the call for tenders, to cover as many vacancies as possible.

In a briefly manner it can be mentioned that in June 2017 by Resolution No. 1457/17 the PPO adopted a new mechanism for selection and appointment of prosecutors, which regulates the provisions of the organic law for the PPO. This new mechanism is aimed to improve the guarantee of objectivity in the selection of magistrates. The selection is made through the system of public competition of opposition and background, governed by the principles of objectivity, equality of opportunities, transparency and celerity which guarantees the selection of the best professionals.

In each competition an evaluating jury, composed of four magistrates of the PPO and a guest jurist (professor of a national university), must be appointed by public drawing⁹⁴. This mechanism for the selection of the evaluating jury's members ensures the independence and impartiality of the evaluators. To be more objective also, the members of the selection jury shall preferably perform in the jurisdiction or area of specialization of the position to compete. The composition of the jury will seek to guarantee the geographic, functional and gender diversity of those who integrate it.

Accordingly with the new standards for the public competition the selection process is depersonalized since it cannot include personal interviews. The selection consists of a written opposition test, on subjects and / or cases chosen by previous drawing, and evaluated through a system that guarantees anonymity. If the written test is passed, a test of public oral opposition is taken, also on subjects and / or cases chosen by previous drawing.

In terms of transparency each relevant step of the selection process must be published. For example the call must be immediately published in the Official Gazette, in a newspaper with national approach, also through the institutional PPO's web site and PPO's social media, in the public offices of the PPO and prosecutors' offices, in the notice boards in the law courts buildings, attorney's associations, universities, and other public or private institutions. There must also be published the list of participants, the members of the evaluation jury –selected by public drawing– and the list of competitors with the qualifications obtained.

In terms of objectivity, the jury must specify the evaluation criteria applied in the examinations assessments. The new regime for selection also provides pre-established guidelines for the evaluation of the candidates' backgrounds. And the final consideration of the selection jury is mandatory for the AG in order to send to the Executive Branch the final list of three candidates where one of the three candidates is proposed to its following approval within the scope of the Senate of the Nation.

The administrative management of the competitions is carried out by the Competition Secretariat, dependent on the Disciplinary and Technical Secretariat of the PPO (<https://www.mpf.gob.ar/secretaria-concursos/>).

After the stage of the public opposition and background competition, the AG raises the list of three candidates to the Executive Branch of the Nation, through the Ministry of Justice and Human Rights. In this instance, the process of selection of prosecutors is governed by the provisions of Decree No. 588/2003 and the Regulations of the Honorable Chamber of Senators of the Nation.

According to articles 4 and 5 of the regulatory decree, in order to give wide knowledge about who are the candidates, who obtaining the best grades, are included in the list of three candidates, a new stage of public dissemination is carried out. The shortlists must be disseminated on the website of the Ministry of Justice and Human Rights, indicating the position to be filled, the integration of the respective list, the scores obtained by the professionals proposed in the completed evaluation stages, and the Curriculum Vitae of each candidate. Simultaneously, this information must be published in the Official Gazette and in two newspapers of national circulation. When the position to be filled has a seat in the Provinces, the aforementioned publication must also be made in a circulation newspaper in the jurisdiction that corresponds.

⁹⁴ In 2013, the then Attorney General rescinded resolutions 74 and 76 of 2012, deciding that the juries of each contest would designate them without an arbitrary draw. FEDERAL ADMINISTRATIVE CONTENTIOUS CHAMBER - ROOM II at the expte. No. 43.286 / 2015 "HUGHES, P.L. c / EN-GENERAL PROCUREMENT OF THE NATION s / AMPARO LAW 16.986 ", on May 10, 2016 declared the unconstitutionality of that decision. The new Interim Attorney restored the regulation of draws:<https://www.infobae.com/2016/05/17/1812298-la-justicia-freno-la-posibilidad-que-alejandra-gils-carbo-designe-fiscales-a-dedo/>

Decree 588/2003 also establishes a mechanism for citizen participation, setting a deadline for individuals, professional associations, associations that bring together sectors related to judicial work, human rights and other organizations that by their nature and actions have Interest in the subject may convey, in writing and in a well-founded and documented manner, the observations, objections, positions and other circumstances that they consider of interest to express in relation to one or more of the candidates terminated, together with an affidavit of his own objectivity with respect to the proposed professionals. They may also be invited to express their opinion to professional entities, the Judiciary and social organizations that they consider pertinent in relation to each position to be filled (articles 6 and 7).

Decree 491/2018 —passed on May 29, 2018— amends Decree 588/03 and stipulates that same procedure for selecting candidates for the Supreme Court of Justice (Decree 222/03) shall be applied for appointing officials of the Attorney General's Office, among others.

As in the case to cover the position of AG, each of the nominated candidates must also submit an assets disclosure that may be consulted by the interested parties, and the Ministry of Justice may request from the Federal Administration of Public Revenue (AFIP), a report on the fulfillment on the part of the nominated candidates of their tax and social security obligations.

After these procedures, the Ministry of Justice must elevate the proceedings to the President, who will decide the sending of the respective proposal to the Senate of the Nation, in order to obtain the pertinent agreement by its members with simple majority.

Appointment for the rest of the officials of the PPO

The PPO also has a mechanism for selecting and appointing the rest of its officers and employees that guarantee transparency and equal opportunities. This process presents objective and equitable admission parameters.

The main objective is to ensure that vacancies are covered through a procedure that includes advertising, competition, equality and transparency.

The regime to enter the PPO was regulated through Resolution PGN No. 507/14⁹⁵ and its amendment (Resolution PGN 3329/16). This regime includes the permanent and non-permanent staff of the groupings "Auxiliary Services", "Administrative Technician" and "Legal Technician". It seeks, thus, to favor the judicial career within the PPO. In this resolution it was determined that one of the minimum and elementary requirements to procure an adequate service of administration of justice is to have suitable mechanisms for the selection of its personnel.

In this way, entry into the career positions within the PPO is governed by objective and equitable admission parameters. First, the Regulation is based on the principle of equal opportunities, being open, public and based on the objective parameter of suitability. A procedure has been designed that contemplates open calls, endowed with the greatest possible publicity, in order to favor that all interested persons can apply.

There is also the support of software so that all instances of the process, including the registration, submission of documentation and necessary presentations, are carried out on the PPO website, leaving

⁹⁵ <https://www.mpf.gov.ar/resoluciones/pgn/2014/PGN-0507-2014-001.pdf>

aside the asymmetries of geographical sustenance and preventing the distances attempt against the factor inclusive of the law.

The administrative management of the procedures for selecting officials and employees of the PPO is carried out by the Disciplinary, Technical and Human Resources Secretariat of the PPO and all the relevant information on them is published on the institutional site (<https://www.mpf.gob.ar/ingreso-democratico/que-es-ingreso-democratico/>).

If no action has been taken to implement this recommendation, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 6(c):

6. With regard to **judicial and prosecutorial independence**, the Working Group recommends that Argentina:

(c) ensure that prosecutors who conduct foreign bribery cases are not subjected to political or other undue interference, including through the use of actual or threatened disciplinary action, the application of the opportunity principle, and the AG's power of supervision and general direction over prosecutors (Convention Article 5 and Commentary 27; 2009 Recommendation Annex I.D);

Action taken since the date of the follow-up report to implement this recommendation:

In this respect, the explanations given regarding the norms that guide the disciplinary and appointment regimes, detailed in recommendation 6(b), should be reiterated.

With regard to the possible incidence of the AG in a particular case, it should be noted that, as a principle, this official is responsible for the proper functioning of the PPO throughout the national territory in the federal level (Article 11 Law 27.148). This principle of general order means that the action of the AG can not affect the decisions that each prosecutor, within its framework of functional autonomy, must adopt in each case. Its scope of action in particular cases, is given exclusively in the processing of the resources that come to the attention of the Supreme Court of Justice.

Among other functions, Article 12 of Law 27.148, grants the Attorney General with the attribution to: design and set the general policy of the PPO and, in particular, the policy of criminal prosecution that allows the effective exercise over public criminal action; develop and implement the necessary regulations for the organization of the various units of the PPO; arrange joint or alternative action of two or more members of the PPO when the importance or difficulty of a criminal case or phenomenon makes it advisable; and to give instructions of a general nature that allow the best performance of the service, optimizing the results of the management with observance of the principles that govern the operation of the PPO. As you can see, these are faculties of a general nature.

In the phase 3 bis evaluation, the WGB had expressed its concern about the implications of the judicial map scheme for districts and coordinating prosecutors, about which specialists and prosecutors had exposed during the on-site visit, which functioned as a control and interfering mechanism in their independent work.

As was informed to the WGB in the written follow-up report of March 2018, the new Attorney General, through Resolution PGN No. 11/2018 of February 6, 2018, left without effect Resolutions PGN No. 2739/13, 2760/13, 475/14, 985/14, 2721/14, 453/15, 1873/15, 3309/15, 3310/15, 3311/15 and 3916/15, relating to the appointment of magistrates of the PPO to fulfill district coordination tasks.

Based on actions and decisions after 2017, no well-founded allegations have been received about undue interference with the independence of the PPO or prosecutors, either directly or through the improper use of the sanctions regime (see in this regard the explanation given in recommendation 6 b).

If no action has been taken to implement this recommendation, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 6(d):

6. With regard to **judicial and prosecutorial independence**, the Working Group recommends that Argentina:

(d) raise awareness of Article 5 of the Convention among investigative judges and prosecutors, to ensure that foreign bribery investigations and prosecutions are not influenced by considerations of national economic interest, the potential effect upon relations with another State, or the identity of the natural or legal persons involved (Convention Article 5 and Commentary 27; 2009 Recommendation Annex I.D);

Action taken since the date of the follow-up report to implement this recommendation:

In line with this recommendation, the trainings for Judicial System of the Anti-Corruption Office and the Unit for Assistance to the Criminal Procedural Code Reform⁹⁶ and the courses offered by the PPO mentioned in recommendation 5 (g), ensure the standards of the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and related instruments, including Article 5 of the Convention, as well as the recommendations by the Working Group on Bribery in International Business Transactions.

In respect with investigations and prosecutions, nowadays several of them based on corruption facts are being carried out before the federal criminal matters courts in the City of Buenos Aires. Those cases represents alleged corruption facts of great institutional relevance, both because of the relevance of the facts and the criminal schemes, and for the power and the importance that the defendants of public and private sector held.

For one side there are under investigation and prosecution the higher officers of the former national administration, including the former President of the Nation, ministries and secretaries. On the other side, from the private sector many of the greatest executives and businessmen, responsible of the greatest companies of the country in the, engineering, constructions and public works sector are also under prosecution.

⁹⁶ See Annex 25 - Training sessions for Judicial System, Anti-Corruption Office and the Unit for Assistance to the Criminal Procedural Code Reform

In such cases on behalf of the PPO the prosecutors are carrying out their duties with absolutely normality, without existing any kind of pressure or undue interference from the AG nor the AG's Office; this despite the political and economical power of the companies and the defendants⁹⁷.

If no action has been taken to implement this recommendation, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 6(e):

6. With regard to **judicial and prosecutorial independence**, the Working Group recommends that Argentina:

(e) take additional measures to substantially reduce the number of judicial vacancies and surrogate judges, and increase continuity of investigative personnel for particular cases, including judges and prosecutors, to the greatest degree possible (Convention Article 5 and Commentary 27; 2009 Recommendation Annex I.D).

Action taken since the date of the follow-up report to implement this recommendation:

1.1.1. Action taken as of the date of the follow-up report to implement this recommendation:

In addition to the bill to amend the Organic Law of the Judicial Council, Argentina has taken steps forward to make current procedures more transparent and swifter, focusing on improving the situation regarding surrogate judges, and on initiatives for open government and access to public information.

Current regime to integrate courts by using **surrogate judges** in cases of leave, suspension, vacancy, removal or other impediment of a judge in charge of a court is regulated under Law 27.439⁹⁸, published in the Official Gazette on June 6, 2018.

In general terms, the law stipulates that appointment of a surrogate judge of a lower court must be made by the Court of Appeals that acts as its superior court. In accord with the regulation, the vacancy must be filled in following order:

- With a judge of same subject-matter and territorial jurisdiction or, on the contrary, with same territorial jurisdiction and similar subject-matter jurisdiction or, when that

⁹⁷https://www.clarin.com/politica/odebrecht-gobierno-apelo-falta-merito-primo-macri-contrato-soterrar-tren-sarmiento_0_dIISfyjCf.html; https://www.clarin.com/politica/cuadernos-coimas-carlos-stornelli-pidio-detenciones-paolo-rocca-juan-manuel-abal-medina_0_kabplBSme.html; <https://www.lanacion.com.ar/politica/cuadernos-camara-federal-confirmando-procesamiento-prision-preventiva-nid2204316>

⁹⁸ <http://servicios.infoleg.gob.ar/infolegInternet/anexos/310000-314999/311248/norma.htm>

were not possible, with a judge of the nearest territorial jurisdiction, except for those judges who suffer significant delays in the cases they handle;

- With an associate judge from the list compiled pursuant to section 8 and 9 of the law; in that case, the relevant Court of Appeals will favor those associate judges that reside in the territorial jurisdiction of the court in question.

As it may be observed, the new regime of subrogations only accepts that the positions to be subrogated are occupied by judges, who have been appointed as such following the constitutional procedure.

The other aspect of this law is the fact that the subrogation judges are now elected by the Chamber of Appeals of the jurisdiction in which the vacancy occurs and no longer by the Magistracy Council of the Nation. Subrogation judges are judges elected by other judges, without political interference.

The appointment must be done by the Court of Appeals through a public drawing of lots. Section 7 confers the power, once the priority order has been complied with, to call judges in charge of a court, designated by the National Executive Branch with confirmation from the Senate, who are not fulfilling their functions because they are members of a non-operative tribunal or court and with similar subject-matter jurisdiction or, retired judges who have not reached 75 years of age.

As to the list of associate judges, section 8 stipulates that the Judicial Council will compile a list of associate judges for every national or federal court of appeals to act in such court of appeals and in every court that is under its purview. The lists of associate judges must be approved by the plenary meeting of the Judicial Council by a majority vote of two-thirds (2/3) of members present. Once approved, the lists must be sent to the National Executive Branch, which shall appoint, out of them and with confirmation from the Honorable Senate of the Nation, between ten (10) and thirty (30) associate judges for every national or federal court of appeals, in accord with the needs of relevant jurisdictions.

Candidates who are interested in being part of the lists of associate judges must be registered with the Committee for Selecting Judges and the Judicial School of the Judicial Council, which will establish the occasion and relevant procedure.

The surrogation regime will last until the reason that made it necessary ceases. Nevertheless, the term must not exceed one (1) year as from the appointment, which can be extended for same period, as long as there is a justified cause, and when such extended period ends, the appointment will terminate by operation of law and any subsequent act shall be invalid.

In another order, it should be noticed that, regarding the guarantee of stability in their position of the judges, Law 27,439 has established a formal process for the removal of surrogate judges. Article 12 establishes that: "Disciplinary procedures and removal of surrogates shall be carried out in the same terms as those established for the titular judges."

With this, the same guarantee is given to the judge who carries out a subrogancy with which he has his natural position. Thus, the only grounds for removal for the surrogate judge are those provided for in article 25 of law 24,937 and article 53 of the National Constitution⁹⁹.

⁹⁹ <http://servicios.infoleg.gob.ar/infolegInternet/verNorma.do?id=48231>

Then, the surrogate judge ceases in that function by the passage of time for which he was appointed or by his removal through the common procedure of removal of magistrates.

Regarding Judicial Vacancies, a greater number of vacancies was generated as of 2017 for the 75-year limit for the exercise of jurisdiction (Article 99 inc. 4th SC), which the CSJN declared operational and full-fledged. During **2017, 45 vacancies** were generated. That amount scaled up to **60 for 2018**.

Total positions in National and Federal Justice	977
Positions in the National Justice	527
Positions in the Federal Justice with seat in the Capital	98
Positions in the Federal Justice with seat in the Interior	312
Positions with jurisdiction over the whole country	40

Total vacancies with contest in process	87
Vacancies with contest in process for authorized courts	78
Vacancies with contest in process for non-authorized courts	9

Total vacancies in the Senate	93
Vacancies for enabled courts	81
Vacancies for non-enabled courts	12

Total vacancies in the National Executive Branch without a request for Agreement	68
Vacancies for enabled courts	64
Vacancies for non-enabled courts	4

COMPARATIVE STATISTICS¹⁰⁰

Statistics - Management						
CALCULATION OF RESIGNATIONS		SHORTLISTS SUBMITTED			MORE THAN 75 YEARS	List of associate judges
Year	Resignations	Sent	Executive Branch	Appointments		
2015	25	22	21	33		
2016	41	38	32	22		
2017	45	95	62	50		
2018	60	154	135	69	8	33 AC y 14 appoint.
Total	171	309	250	174	8	33AC y 14 appoint.

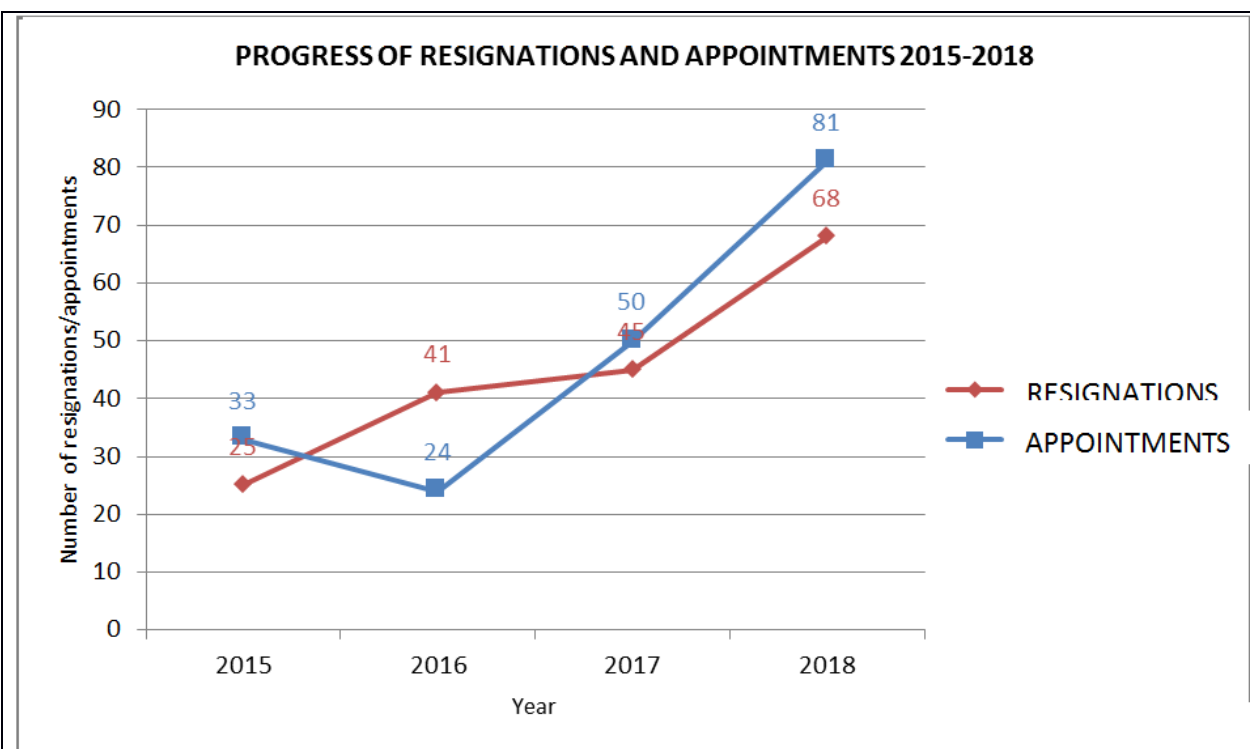
Source: Judicial Council

¹⁰⁰ Differences in the figures of the Judicial Council and the Ministry of Justice and Human Rights regarding the number of appointments arise from:

As to 2016 appointments, there is a difference of 2 (two) since the Ministry of Justice and Human Rights includes appointments of judges of the Supreme Court of Justice; procedure for these appointments differs from the rest, since as they are not subject to open competitions, the Judicial Council has no participation.

A difference in the total number of appointments during 2018 arises from different cut-off dates set by the Ministry of Justice and Human Rights and the Judicial Council.

Taking into account the total number of executive orders signed by December 31, 2018, there is an increase of 12 (twelve) appointments as from the cut-off date set by the Judicial Council; therefore, 81 judges were appointed in year 2018.

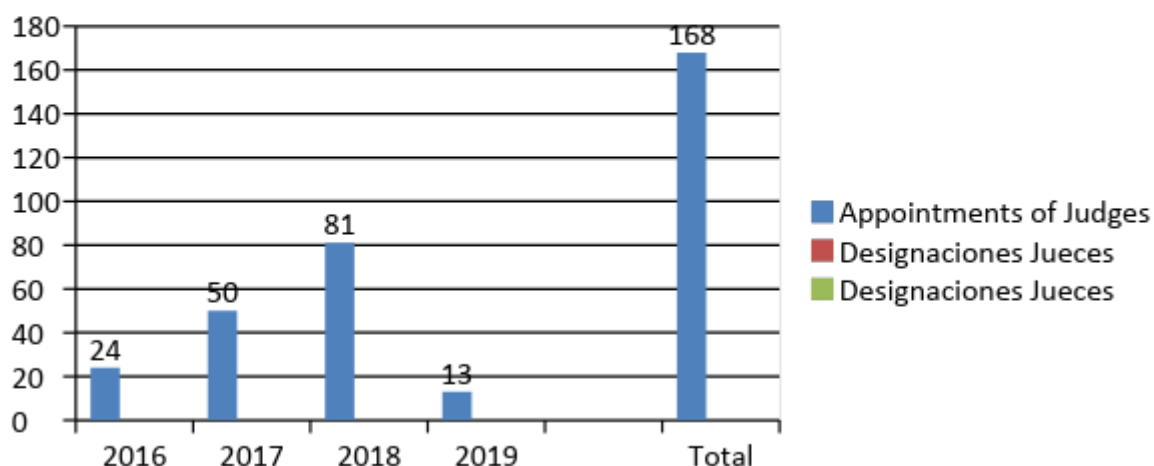


Source: Judicial Council and Ministry of Justice and Human Rights

Source: Judicial Council and Ministry of Justice and Human Rights

According to data from the Ministry of Justice and Human Rights, during the period between year 2016 and January 2019, that is to say, during current administration, 168 is the total number of appointments. The total number of appointments between the first year (2016) and the last year (2018) has increased by 237%.

Appointment of judges during current administration



Source: Ministry of Justice and Human Rights

Number of open competitions conducted by the Judicial Council

Open competitions for appointing judges		
	Open competitions	Vacancies
2016	18	38
2017	20	80
2018	43	108
Total	81	226

In addition, average time from oral and written exams until shortlists are submitted to the Executive Branch has been significantly reduced; even, in some cases, the regulatory term of 90 judicial working days has been complied with for the total duration of the selection process. (Example: Open Competition no. 404, Federal Lower Court no. 2 of Mendoza, Mendoza province, lasted 88 judicial working days).

26% is the **percentage of vacancies** in the Judiciary as at January 2019. That fact that resignations of judges have also increased significantly is, in part, the reason why this

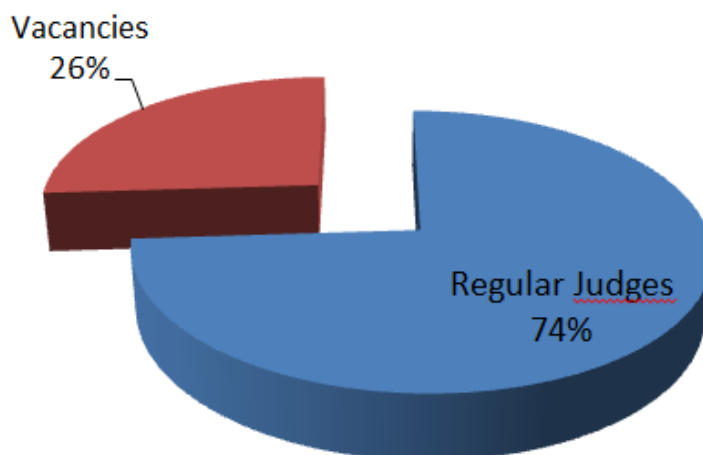
figure remains high despite the exponential increase in the number of appointments during last years.

During the period 2015-2018, the number of resignations of judges has increased by 140%, which exceeds the increase in the number of appointments (109% during same period).

If the analysis is limited to the Federal Justice of Capital Federal, wherein 40% of the corruption-related cases of the country¹⁰¹ are handled, including the most widely-known and complex cases, the percentage of vacancies stands at 19%. And, if the analysis is limited even more, focusing on single-judge Courts and Courts of Appeals in Criminal and Correctional Matters of such jurisdiction, the percentage of vacancies declines by 17%.

Vacancies in the Judicial Branch of the Nation are detailed below¹⁰²:

Percentage of Vacancies as of January 2019



Source: Ministry of Justice and Human Rights

Vacancies and Surrogations						
National Justice System of Capital Federal						
Courts of Appeals	Number of posts of Courts of Appeals	Vacancies	Number of posts - Oral 3-judge Courts	Vacancies	Number of posts - Lower Courts	Vacancies

¹⁰¹ According to data from the audit on corruption-related cases handled by federal courts in criminal matters nationwide, wherein a national public official has been charged, during the period 1996-2016, detailed in response to Recommendation 5(e) herein.

¹⁰² Figures and statistics included under this recommendation have been provided by the Judicial Council and the Ministry of Justice and Human Rights

Civil	39	8	x	x	110	27
Commercial	18	3	x	x	31	5
Criminal and Correctional	16	2	x	x	71	11
Labour	30	7	x	x	80	28
Court of Appeals in Criminal and Correctional Matters	10	4	93	31	5	0
Consumer Protection	6	6	x	x	8	8
Subtotal	119	30	93	31	305	79
Total of Posts	517					
Total of Vacancies	140					
Federal Justice System of Capital Federal						
Courts of Appeals	Number of posts of Courts of Appeals	Vacancies	Number of posts - Oral 3-judge Courts	Vacancies	Number of posts - Lower Courts	Vacancies
Court of Appeals in Criminal Matters	13	0	x	x	x	x
Economic Criminal Matters	6	2	9	0	11	0
National Electoral Court of Appeals	3	1	x	x	x	x
Social Security	9	4	x	x	10	2
Administrative	15	0	x	x	18	6
Civil and Commercial	12	4	x	x	11	5
Criminal and Correctional	6	2	24	4	12	1
Subtotal	64	13	33	4	62	14
Total of Posts	159					
Total of Vacancies	31					
Federal Justice System of the provinces						
Courts of Appeals	Number of posts of Courts of Appeals	Vacancies	Number of posts - Oral 3-judge Courts	Vacancies	Number of posts - Lower Courts	Vacancies
Federal Court of Appeals Bahía Blanca	5	0	6	3	4	1
Federal Court of Appeals Comodoro Rivadavia	3	0	9	2	8	2
Federal Court of Appeals Córdoba	6	0	12	7	8	1
Federal Court of Appeals Corrientes	3	0	3	0	4	1
Federal Court of Appeals General Roca	3	0	6	3	6	0
Federal Court of Appeals La Plata	9	3	9	7	10	3

Federal Court of Appeals Mar del Plata	3	1	3	1	8	2
Federal Court of Appeals Mendoza	6	1	12	4	9	3
Federal Court of Appeals Paraná	3	0	6	1	7	3
Federal Court of Appeals Posadas	3	0	3	1	5	2
Federal Court of Appeals Resistencia	3	0	6	3	7	5
Federal Court of Appeals Rosario	6	2	12	1	10	2
Federal Court of Appeals Salta	6	1	9	1	7	3
Federal Court of Appeals San Martín	6	2	15	2	14	3
Federal Court of Appeals Tucumán	5	2	9	2	7	2
Federal Court of Appeals San Justo	3	1	x	x	2	0
Federal Court of Appeals Comandante Luis Piedrabuena	3	3	x	x	x	x
Subtotal	76	16	120	38	116	33
Total of Posts	312					
Total of Vacancies	87					
Total of Posts	988					
Total of Vacancies	258					

Source: Ministry of Justice and Human Rights

Prosecutors

In relation to this recommendation, it is necessary to highlight that since 2017 there were no changes of prosecutors or vacancies in any case of transnational bribery.

Beyond the transfers informed in Recommendation 6(b), in which a group of prosecutors was reassigned in the jurisdictions in which they were originally appointed, the acting AG did not adopt any measures to annul, dismiss or change any prosecutor in charge of foreign bribery prosecutions.

Nor did he eliminate or modify the structure of any of the specialized support units. Regarding PROCELAC, however, it should be mentioned that by Resolution No. 282/2018, of December 4, 2018, the AG, decided to change the designation of one of its co-chairs, the prosecutor Gabriel Pérez Barberá. This decision was due to issues of a purely operational nature, since there are many vacancies before the economic criminal jurisdiction of the City of Buenos Aires, in which the open and public competitions have already been called. Given those vacancies in that specific jurisdiction, and that Prosecutor Pérez Barberá is the head of the Prosecutor's Office General before the Chamber of Appeals of that jurisdiction, the AG reassigned him in his office of the prosecutor, at the same time to designate him temporarily in charge of another of the vacant prosecutor's office for economic crime.

n his replacement, prosecutor Mario Alberto Villar was appointed in PROCELAC. Mr. Villar is the public prosecutor of one of the Prosecutor's Offices before the Federal Chamber of Criminal Cassation and, due to his large career and experience in economic crime and money laundering, has the necessary requirements to lead PROCELAC, together with Mrs. Laura Roteta.

With regard to vacancies in the rest of the prosecutors throughout the country, in the various instances and jurisdiction of the PPO, between August 2017 and February 2019, 17 new prosecutors were appointed, and began to exercise their functions. These appointments were the result of 7 public competitions convened in previous periods

Contest N°	Position	Prosecutor designate	Date of oath	Resolution	Designation
61	Fiscal ante los Juzgados Federales de 1era Instancia de Santa Fe - Prov de Sta. Fe - Fiscalía N° 1	ONEL, Gustavo Jorge	14/08/2017	MP 2115/2017	DEC. PEN N° 564/17
89	Fiscal General ante los Tribunales Orales en lo Criminal Federal de Córdoba, Provincia de Córdoba - Fiscalía N° 3	CASAS NOBLEGA, Carlos María	13/10/2017	PGN 2804/2017	DEC. PEN N° 755/17
93	Fiscal General ante la Cámara Federal de Casación Penal - Fiscalía N° 1	VILLAR, Mario Alberto	10/08/2018	MP 162/2018	DEC. PEN 643/18
100	Fiscal de la Procuración General de la Nación	CASTANY, María Luz	20/10/2017	PGN 2805/2017	DEC PEN 758/17
100	Fiscal de la Procuración General de la Nación	ROLDAN, Santiago	29/06/2018	MP 133/2018	DEC. PEN 563/18
103	Fiscal ante el juzgado	BRINGAS, Sebastián	10/08/2018	MP 162/2018	DEC. PEN 660/18

	Federal de Campana, provincia de Buenos Aires.	Alberto			
103	Fiscal ante los Juzgados Federales en lo Criminal y Correccional de San Isidro, provincia de Buenos Aires, Fiscalía N°1.	IUSPA, Federico José	10/08/2018	MP 162/2018	DEC. PEN 659/18
103	Fiscal ante los juzgados Federales de Bahía Blanca, provincia de Buenos Aires, Fiscalía N°2.	MARTINEZ, Santiago Ulpiano	31/10/2018	MP 246/2018	DEC. PEN N° 932/18
103	Fiscal ante los Juzgados Federal de San Rafael, provincia de Mendoza	SABÁS, Ignacio Ariel	11/02/2019	MP 10/2019	DEC. PEN 1195/2018
104	Fiscal General ante los Tribunales Orales en lo Criminal y Correccional de la CABA - Fiscalía N° 29	ABRALDES, Sandro Fabio	13/10/2017	PGN 2804/2017	DEC. PEN N° 767/17
104	Fiscal General ante los Tribunales Orales en lo Criminal y Correccional de la CABA - Fiscalía N° 11	AMELOTTI, Nicolás	13/10/2017	PGN 2804/2017	DEC. PEN N°766/17
104	Fiscal General ante los	FERNANDEZ BUZZI, Juan	13/10/2017	PGN 2804/2017	DEC. PEN N° 769/17

	Tribunales Orales en lo Criminal y Correccional de la CABA - Fiscalía N° 5	Manuel			
104	Fiscal General ante los Tribunales Orales en lo Criminal y Correccional de la CABA - Fiscalía N° 3	FISZER, Fernando Ignacio	13/10/2017	PGN 2804/2017	DEC. PEN N° 770/17
106	Fiscal General Adjunto de la Procuración General de la Nación	GONZÁLEZ DA SILVA, Gabriel	20/10/2017	PGN2805/2017	DEC. PEN N° 771/17
106	Fiscal General Adjunto de la Procuración General de la Nación	HEIM, Héctor Andrés	11/12/2017	MP3583/2017	DEC. PEN N° 972/17
106	Fiscal General Adjunto de la Procuración General de la Nación	AGÜERO ITURBE, José Luis	29/06/2018	MP133/2018	DEC. PEN N° 549/18
106	Fiscal General Adjunto de la Procuración General de la Nación	MOLA, Sergio Néstor	15/02/2019	MP 27/2019	DEC. PEN 1193/2018
7		17			

Also, between August 2017 and February 2019, the AG's Office called 17 new public competitions, to fill 44 vacancies of prosecutors (only 38 with criminal jurisdiction), of 41 prosecutorial units in 12 jurisdictions, which are in process before the Secretariat of Competitions, dependent on the Disciplinary and Technical Secretariat of the AG's Office is in process, according to the detail that is presented in the following table.

Contest N°	Jurisdiction	Dependence	Vacancies	Announcement	Date
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111	Jujuy	Fiscal ante los Juzgados Federales (Fiscalías 1 y 2)	2	PGN 2028/2017	2017-08-03
112	Chubut	Fiscal General ante la Cámara Federal de Apelaciones de Comodoro Rivadavia	1	PGN 2026/2017	2017-08-03
112	Salta	Fiscal General ante la Cámara Federal	1	PGN 2026/2017	2017-08-03
113	CABA (PIA)	Fiscal de Investigaciones Administrativas	2	PGN 2027/2017	2017-08-03
114	Corrientes	Fiscal ante el Juzgado Federal de Paso de los Libres	1	PGN N° 21/2018	2018-02-23
114	Misiones	Fiscal ante los Juzgados Federales de Posadas (Fiscalía 2)	1	PGN N° 21/2018	2018-02-23
114	Santa Cruz	Fiscal ante el Juzgado Federal de Río Gallegos	1	PGN N° 21/2018	2018-02-23
114	Santa Fe	Fiscal ante los Juzgados Federales de Rosario (Fiscalía 2)	1	PGN N° 21/2018	2018-02-23
115	CABA	Fiscal ante los Juzgados Nacionales en lo Criminal y	9	PGN N° 42/2018	2018-04-27

		Correccional (Fiscalías 3, 7, 27, 35, 43, 45, 49, 55 y 60)			
116	CABA	Fiscal ante los Juzgados Nacionales del Trabajo (Fiscalías 1, 3, 4 y 7)	4	PGN N° 43/2018	2018-05-08
117	CABA	Fiscal General Adjunto ante la Cámara Nacional de Apelaciones del Trabajo	1	PGN N° 44/2018	2018-05-08
118	CABA	Fiscal General ante la Cámara Nacional de Apelaciones del Trabajo	1	PGN N° 45/2018	2018-05-08
119	CABA	Fiscal General ante los Tribunales Orales en lo Criminal y Correccional (Fiscalías 9, 10, 27 y 30)	4	PGN N° 46/2018	2018-05-08
120	Chacho	Fiscal General ante la Cámara Federal de Apelaciones de Resistencia	1	PGN N° 62/2018	2018-06-22
120	Corrientes	Fiscal General ante la Cámara Federal de Apelaciones de Corrientes	1	PGN N° 62/2018	2018-06-22
121	CABA	Fiscal General ante la Cámara Nacional de Apelaciones en	1	PGN N° 105/2018	2018-10-11

		lo Criminal y Correccional de la CABA			
122	Entre Rios	Fiscal ante el Juzgado Federal de Gualeguaychú	1	PGN N° 119/2018	2018-11-27
123	CABA	Fiscal ante los Juzgados Nacionales en lo Criminal y Correccional Federal de la CABA (Fiscalías 8 y 12)	2	PGN N° 120/2018	2018-11-27
124	CABA	Fiscal ante los Juzgados Nacionales en lo Penal Económico (Fiscalías 1, 3, 4 y 6)	4	PGN N° 123/2018	2018-12-04
125	CABA	Fiscal General ante los Tribunales Orales en lo Penal Económico de la CABA (Fiscalías 2 y 4)	2	PGN N° 124/2018	2018-04-12
126	Mendoza	Fiscal ante los Juzgados Federales de Mendoza (Fiscalía 2)	1	PGN N° 06/19	2019-02-11
127	Mendoza	Fiscal General ante los Tribunales Orales en lo Criminal Federal de Mendoza	1	PGN 7/2019	2019-02-11

		(Fiscalía 1)			
127	San Luis	Fiscal General ante el Tribunal Oral en lo Criminal Federal de San Luis	1	PGN 7/2019	2019-02-11
17	12	41	44		

In all the selection processes indicated, important steps have already been carried out; the convening resolutions were issued; the registration forms were drawn up; the documents for publication in newspapers of national circulation and for the widest distribution of the calls through the institutional social networks, the website "contests" and by means of communications via email and postal.

All information about public competitions to cover prosecutor's positions is kept up-to-date on the website (<https://www.mpf.gob.ar/secretaria-concursos/concurso/>). For example, it should be noted that in Competition No. 115 four hundred and six (406) candidates registered to participate, being the historical record since the implementation of the competition system in 1999. The previous maximum was 237 people (Competition No. 103).

In several of these processes public draws were already held for the election of the members of the Evaluating Committee; the stages available for the removal or objection of those members were substantiated and the respective resolutions were issued, determining the integration of the Committees. The constitution meetings of the evaluating committees of the Competitions No. 111 and 112 were held and organized and work is underway to organize the written opposition examinations of both magistrates selection processes.

If no action has been taken to implement this recommendation, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 7(a):

7. Regarding **mutual legal assistance**, the Working Group recommends that:

(a) investigative judges and prosecutors in foreign bribery cases use all available means to secure MLA, in particular through contact with foreign authorities via informal channels and through the Working Group (Convention Article 9(1); 2009 Recommendation XIII.v);

Action taken since the date of the follow-up report to implement this recommendation:

Ministry of Foreign Affairs and Worship (MFA).

In the Argentine Republic, international legal cooperation on criminal matters, such as the request and delivery of MLA, extradition, freezing and confiscation of criminal proceeds, are channelled through the Ministry of Foreign Affairs and Worship -International Legal Assistance Directorate (DAJIN, for its acronym in Spanish), which is the Central Authority, designated for most Mutual Legal Assistance Treaties (MLAT), except for requests to or from the United States, which are channelled through Ministry of Justice and Human Rights.

Legal assistance is governed by the bilateral and multilateral MLA and extradition agreements to which Argentina is Party and, in the absence of a bilateral or regional treaty or the provisions of a multilateral instrument, the Law on International Cooperation in Criminal Matters (Law 24.767) applies, subject to the principle of reciprocity.

To strengthen the legal basis for international cooperation, whether for mutual legal assistance or extradition, 2 treaties on MLA and 4 extradition treaties have been signed, and 34 bilateral draft treaties are currently being negotiated by the Central Authority. Treaties have many benefits for investigative judges and prosecutors in foreign bribery cases where MLA is needed. Firstly, treaties oblige the parties to cooperate with one another under international law. Secondly, they allow designating Central Authorities to receive requests for mutual legal assistance and to transmit them to the competent authorities for execution. Treaties also provide investigative judges and prosecutors certainty and clarity to draft MLA requests, which minimize the risks of rejection and delay.

In 2018 a Framework Agreement for the Disposition of Confiscated Property of Transnational Organized Crime was signed in MERCOSUR.

Furthermore, after a request of the judicial authorities, the Argentine Republic signed in 2019 an agreement to become Part of a preexistent Joint Investigative Team which had been created between the Spanish and Italian authorities to investigate an organized criminal group which develop criminal activities in the territory of the three countries. The MFA participated in the negotiations of the agreement.

In this vein, in 2019 a bilateral framework agreement on the disposition of confiscated assets was signed with Uruguay. The object of this treaty is to enhance the effectiveness of international cooperation. It establishes mechanisms of cooperation and negotiation between the Parties for the disposition of confiscated property. This agreement can be applied for the crimes contemplated by the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, the United Nations Convention against Transnational Organized Crime and the United Nations Convention against Corruption.

Beside this, a working group which is coordinated by the Ministry of Foreign Affairs and Worship and which is integrated by other authorities who participate in the execution of different mechanisms of international legal cooperation, both formal and informal, is currently analyzing the necessity of the amendment of Law 24.767.

Informal consultations and assistance are also carried out by the experts of the Central Authority to facilitate international cooperation for investigative judges and prosecutors in foreign bribery cases. This practice could play an important role in ensuring adequacy and clarity of the execution of MLA requests. This previous informal contact could minimize the risk of its refusal, or delay. In some cases, it may consist in assisting in drafting the letters rogatory or in drafting the additional information whenever

requested. Counseling regarding the drafting of the requests of mutual legal assistance to judges and prosecutors is part of the daily work of the Central Authority (DAJIN).

DAJIN also promotes the use of channels for informal contact, so as to improve both quality and celerity of the rogatory letters. In addition, contact details of the relevant judge or prosecutor's office are provided to foreign authorities, if so requested. Moreover, several videoconferences between legal authorities and foreign authorities are held as to achieve the effective enforcement of MLA regarding files linked to transnational bribery.

It is relevant to highlight that informal cooperation, where the crime under investigation concerns financial crimes and involves asset recovery, such as foreign bribery cases, is vital. In such scenarios, the collaboration of units which undertake informal ways of cooperation, such as law enforcement authorities which share criminal intelligence and financial intelligence is widely valued and highly recommended in the previous steps of the formal legal assistance procedure (MLA) and during the preliminary stage of criminal proceedings.

The different ways of informal cooperation are widespread among the investigative judges and prosecutors through Training and Disseminations activities which are organized by DAJIN. For instance, the Seventh Seminar on International Cooperation in Criminal Matters was targeted to legal officers, judges, prosecutors and other practitioners, who daily deal with transnational organized crimes and financial crimes cases. It was focused on the distinction and complementarity between international cooperation through informal channels, such as Interpol and the Egmont Group and requests submitted through Central Authorities.

To secure the execution of MLA in an effective, efficient, and expeditious way, legal officers of the Central Authority classify the incoming and outgoing MLA requests taking into account the urgency and the nature of measures of evidence requested. After that classification, the experts analyze the documentation and proceeds to its completion. Whenever it is necessary, they contact personally to the requested/requesting authority for clarifications. The Central Authority uses electronic means to transmit requests for mutual legal assistance with certain countries, and in cases of urgency. In this regard, online processing of requests for mutual legal assistance has greatly improved, being submitted by countries such as Chile, Peru, Paraguay, United States of America and Canada, and together with the current digitization of files on a national scale, will also make judicial procedures far more expedite.

In this regard, legal officers of DAJIN worked actively in the Draft Treaty on the Electronic Transmission of Requests for International Legal Cooperation. The objective of this agreement is to expedite the processing of MLA requests by electronic means through a secure transmission platform.

The Directorate on International Legal Assistance of the Ministry of Foreign Affairs and Worship has made a list about requests for legal assistance in criminal matters issued under the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions with the intention of keeping the information updated and promoting the follow-up of the requests (Annex 31 and 31(II)).

MFA - Training and dissemination initiatives for Judges and Prosecutors.

The personnel of the Central Authority participate in regular training, working groups, forums, programmes and workshops to strengthen their capacities, share information, exchange their practical experiences and consolidate their practice with other Central Authorities. This practice has led to enhancing bonds of trust among Central Authorities and has a positive impact in the execution of MLA requests.

For instance, representatives of the Central Authority have participated in activities carried out by the Europe Latin America Assistance Programme against Transnational Organized Crime (EL PAcCTO).

Furthermore, the Central Authority actively participates in the Working Group on Legal Cooperation in Criminal Matters —the hemispheric forum created by the Meeting of Ministers of Justice or other Ministers or Attorneys General of the Americas (REMJA)—. The Working Group is composed of central authorities, international legal cooperation authorities, and other governmental experts with responsibilities in this area.

In 2017, legal officers of the Central Authority attended the 10th Practitioners' Workshop on the Return of Illicit Assets of Politically Exposed Persons (Lausanne X), organized by Switzerland in close cooperation with the International Centre for Asset Recovery (ICAR) of the Basel Institute on Governance and with the support of the World Bank/UNODC Stolen Asset Recovery (StAR) Initiative.

In the past years, legal officers of the Central Authority have attended different meetings of the Working Group on International Cooperation of the United Nations Convention against Transnational Organized Crime (UNTOC). It is noteworthy to say that UNTOC can be used to cooperate at both informal and formal levels for bribery cases.

Moreover, legal officers of the Central Authority have participated as participants and speakers in several meetings of the Ibero-American Network of International Legal Cooperation (IberRed). The Members of IberRed are Contact points, Central Authorities, Liaison officers and any other appropriate judicial or administrative authority with responsibilities for judicial cooperation in criminal and civil matters, whose membership -in IberRed- is considered desirable by its members. This platform offers support to improve coordination between authorities with responsibilities for judicial cooperation in criminal matters and aims to obtain greater efficiency in their actions. This Network facilitates the interaction with foreign authorities via informal channels.

Several training and dissemination activities regarding international cooperation were held in recent years, such as: a "Seminar on Transnational Bribery" which took place on the 4th and 5th of April of 2017 (Annex 32 and 32(II)), as well as, a "Workshop on the OECD Anti-Bribery Convention" held on October of 2017 (Annex 33 and 33(II)), a "Conference on How to Enforce the OECD Anti-Bribery Convention" which took place on 1 March 2018 (Annex 34). It is expected that these workshops and work meetings continue to be held throughout 2019.

Judges and prosecutors who take part in cases of foreign bribery were encouraged to participate in the workshops held during October 2017 and March 2018. The main purpose of these meetings were to exchange common experiences and offer some practical training. Additionally, both meetings were held in order to strengthen cooperation between different bodies which take part in the requests and responses of rogatory letters regarding offenses covered by the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions.

The Ministry of Foreign Affairs and Worship of Argentina, jointly with the Department of Justice of the United States of America, organized the above mentioned "Seminar on Transnational Bribery", with the purpose of sharing tools and experiences, in addition to debating over the current challenges that deal with corruption on an international scenario. The head of the seminar was Mr. Kevin Gringas, a trial attorney working for the Department of Justice of the United States of America – "Foreign Corrupt Practices Act" Unit- who investigates and prosecutes corporations and individuals that infringe the laws of transnational bribery.

Moreover, considering that the Seventh Seminar on International Criminal Cooperation, held in 2016, was extremely successful, the Ministry Foreign Affairs and Worship is currently promoting the Eighth Seminar on International Criminal Cooperation which will probably take place during 2019. The main topic of this seminar will be the enforcement of the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions. Also, the aforementioned Seminar will be aimed at public servants working in the judiciary, the Attorney General's Office and foreign Embassies and Consulates.

As for diffusion activities, the website developed by the Directorate of International Cooperation on Criminal Matters of the Ministry of Foreign Affairs and Worship of Argentina is regularly updated (www.cooperacion-penal.gov.ar). This website contains information about all the MLA and Extradition treaties (bilateral and regional) and all the multilateral conventions that apply to a specific group of offences, such as the UN and oAS treaties and the OECD Anti-Bribery Convention. It also contains templates of MLA and extradition requests, jurisprudence from the Supreme Court of Justice, a concise and clear explanation on the main subjects related to international cooperation in criminal matters, an update of all the activities that the Central Authority carries out, links of interest, news concerning international cooperation in criminal matters, such as the entry into force of new treaties and the possibility to contact officials from the Directorate in order to ask questions, clarify doubts or send by e-mail a draft of a MLA or extradition request for its previous correction, before sending it by regular mail.

The second edition of a compendium of bilateral and multilateral MLA and extradition agreements to which Argentina is Party was published and distributed for free to prosecutors and judges. This book also included the Law on International Cooperation in Criminal Matters (Law 24.767) and an Introductory Chapter on the main characteristics of the cooperation on criminal matters in Argentina. The pdf version of the book is available at (http://www.cooperacion-penal.gov.ar/userfiles/Compendio%20de%20leyes%202008-10_0.pdf)

Ministry of Justice and Human Rights

The Ministry of Justice and Human Rights is the Enforcement Authority for Mutual Legal Assistance Treaties (MLAT) only with the United States. The Ministry of Justice and Human Rights can also transmit and receive letters rogatory within the framework of the Convention between Argentina and Uruguay on equality procedural treatment and letters rogatory.

The National Division of International Affairs (DNAI, for its acronym in Spanish) of the Ministry of Justice and Human Rights assists the US Department of Justice and local judges and prosecutors in promptly obtaining evidence asked in requests for assistance. Informal channels of communication — phone or email queries—are used in order to provide such assistance. Draft requests for assistance are also received via email to control them before they are sent to the Requested Authority, and, if necessary, observations or suggestions are made or clarifications are asked, which are also sent via email.

When processing an assistance request, queries from Argentine judges and prosecutors about the status of a request are constantly received. An official or a formal letter is not required by DNAI in order to ask or provide information on a given request; receiving a phone call or an email is enough for DNAI to ask a Foreign Central Authority or the Argentine judges or prosecutors —depending on the case— about the status of a request.

During year 2017, informal communications were as follows:

- 360 phone queries were received from and made to national courts and prosecutor's offices and foreign authorities relating to the status of a legal assistance request, the guidelines to be considered and the Treaty requirements applicable for wording a request.
- 831 emails were received from and sent to national courts and prosecutor's offices, the US Department of Justice and the Central Authority of International Legal Cooperation of the Ministry of Education and Culture of the Oriental Republic of Uruguay for the purposes of exchanging information and answering queries.

During 2018, informal communications were as follows:

- 440 phone queries were received from and made to national courts and prosecutor's offices and foreign authorities about the processing status of letters rogatory and how to prepare them.
- 510 emails were received from and sent to courts and national prosecutor's offices, the US Department of Justice and the Central Authority of International Legal Cooperation of the Ministry of Education and Culture of the Oriental Republic of Uruguay for the purposes of exchanging information and answering queries.

Additionally, two teleconferences have been held between authorities from the Office of International Affairs (OIA) of the US Department of Justice with officials from the Ministry of Justice and Human Rights, the Ministry of Foreign Affairs and Worship and the Attorney General's Office of Argentina.

The first teleconference was conducted at the Ministry of Foreign Affairs and Worship on February 14, 2017 and was attended by members of the US Department of Justice, officials from the Ministry of Justice and Human Rights and prosecutors from the Prosecutor's Unit for investigating the attack on the A.M.I.A. building. On that occasion, the issues discussed were related to the investigation status of six requests for assistance processed by the Ministry of Justice and Human Rights, the Ministry of Foreign Affairs and Worship and the Attorney General's Office.

The second teleconference was held at the Ministry of Justice and Human Rights on June 22, 2017 and was attended by members of the Office of International Affairs (OIA), FBI officials from the US Department of Justice and prosecutors responsible for the A.M.I.A. case. The main goal of the teleconference was to discuss how to process a particular evidentiary measure.

In addition to these informal exchanges, in every formal communication that is sent to the authorities involved in the processing of a request, phone numbers and emails of staff members are provided in order to speed up the communication.

Furthermore, the letters that are received from the US Department of Justice indicate the contact details of the official signing the letter and is responsible for processing the request; thus, Argentine prosecutors or courts can always contact such official to submit a query. Likewise, contact details of the relevant judge or prosecutor's office are provided to a foreign authority, if so requested.

The DNAI has fluid contact with the foreign Central Authority, whether through various informal channels or, in some cases, via face-to-face meetings.

As an example of these face-to-face meetings, in Washington on July 2017, the Ministry of Justice and Human Rights organized a meeting attended by Argentine judges and prosecutors and the US Department of Justice. Such meeting aimed at informally exchanging information between judges, prosecutors and investigators about various judicial cases related to Odebrecht company.

During the year 2018, the US Department of Justice re-introduce this initiative and decided that the Ministry of Justice and Human Rights acts as the contact point between the US “Foreign Corrupt Practices Act Unit” and Argentine judges, prosecutors and investigators that are involved in those cases.

The DNAI of the Ministry of Justice and Human Rights has received from the US Department of Justice a sample confidentiality form —essential for handling the information to be exchanged— and sent two copies to the twelve National Federal Criminal and Correctional Courts. Those judges interested in receiving the information offered by the US had to fill out such form —submitting a copy to DNAI and keeping a copy to give it afterwards to the US agency— and provide their contact details and those of the case, accepting in this way the terms of the confidentiality form.

By December 10, 2018 —deadline agreed by consensus with the foreign agency— four acceptances have been received: two from the National Prosecutor’s Office in Criminal and Correctional Matters No. 6, since it is responsible for part of the investigation of two cases related to Odebrecht; one from the National Federal Court in Criminal and Correctional Matters No. 2; and the other one from the Anti-corruption Office of the Ministry of Justice and Human Rights.

The list of interested parties was sent to the Chief of Foreign Corrupt Practices Act Unit in December 2018 and DNAI, in its capacity as contact point, has kept a copy of the form. Abovementioned official will contact the interested parties for the purposes of arranging the returning of the form and initiating the contact between the officials of both countries.

In addition, the Ministry of Justice and Human Rights has actively worked in a “Draft Treaty for the Electronic Transmission of Legal Requests for Assistance between Central Authorities” —negotiated during the Conference of Ministries of Justice from Latin America Countries (COMJIB, for its acronym in Spanish)— and such assistance requests would be processed through Iber@. The text of the draft treaty was validated by all COMJIB Ministers of Justice during an extraordinary meeting conducted on January 2018 in La Antigua, Guatemala. Currently, the draft treaty must be signed and ratified by every member country at national level in order to come into force.

Ministry of Justice and Human Rights - Training and dissemination initiatives for Judges

In October 2018, the DNAI participated in a Training Seminar on International Legal Cooperation organized by the Association of Judges. During the seminar various practical aspects of international legal cooperation were discussed, including the specific requirements to fulfill depending on the evidentiary measure asked in an assistance request. Approximately 20 officials and judges from the criminal jurisdiction attended, for instance, from Courts of Original Jurisdiction and Federal Courts of the provinces.

Ministry of Justice and Human Rights - Internal Procedure

In May 2018, the DNAI joined the “Quality Programme of the Ministry of Justice and Human Rights” and in September 2018, within the framework of such programme, the “Letters Rogatory Process” was certified pursuant to the IRAM Standard, - ISO 9001:2015 approved by the Argentine Institute of Standardization and Certification [IRAM, for its acronym in Spanish]. (Annex 35).

This process was chosen —among the other tasks carried out by the DNAI— since requests received are related to criminal investigations, which merit processing them quickly and preserving the confidentiality of the investigations and those involved.

The activities conducted allowed detecting problems, thinking about proposals for improvement, making self-assessments, identifying risks, adopting corrective measures and, mainly, measuring the satisfaction

of Argentine judges, prosecutors and foreign authorities. All these activities have been beneficial for them as users of the “Letters Rogatory” process (Requests for Legal Assistance).

Thus, during 2018 a satisfaction survey was conducted aiming at the twenty-nine (29) officials that interact with the DNAI in matters of legal international cooperation, among them, the US Department of Justice (Central Authority), judges from the economic-criminal and the federal criminal-correctional jurisdictions and the Attorney General’s Office. The attached Excel spreadsheet shows the questions asked and the responses received from nineteen (19) judges and prosecutors by January 2019 (Annex 36).

The results of the satisfaction survey on the DNAI performance are positive for all the items surveyed and some of them are mentioned below:

- Speed and confidentiality in processing letters rogatory have been both rated with a VERY GOOD level of satisfaction by 78% of those surveyed;
- Efficacy when assisting with the information that must be contained in a letter rogatory was rated with a VERY GOOD level of satisfaction by 73% of those surveyed.
- Answering enquiries on the status of a request within a reasonable time was rated with a VERY GOOD level of satisfaction by 57% of those surveyed;

As part of the certification process, an Operating Procedure was adopted for the purposes of establishing clear and uniform parameters that enable unifying criteria to preserve confidentiality when handling received documentation and information, in order to process assistance requests more efficiently and quickly. Among other issues, the Procedure stipulates that the communication and transmission of documents must be conducted through informal channels but a written record of such communications must be kept. It also stipulates the need to standardize communications and meetings with foreign Central Authorities and Argentine judges and prosecutors (Annex 37).

Public Prosecutor's Office (PPO)

The General Directorate for Regional and International Cooperation (hereafter DGCRI) of the Public Prosecutor's Office (PPO) is accentuating the work of disseminating international cooperation as a useful and efficient tool for the purpose of investigating and prosecuting crime in general, especially transnational organized crime, and positioning the DGCRI as a reliable area to work together in any situation of international cooperation that may be necessary, as a part of the challenge.

In this sense, the role that the PPO has in this system of international cooperation becomes relevant, in accordance with the Law of International Cooperation in Criminal Matters. For that reason, and continuing with the work carried out during the year 2017, the DGCRI has enhanced efforts so that Directorates and, especially the Prosecutor’s Offices, know the possibilities offered by international cooperation and have the DGCRI as a source of consultation and permanent collaboration.

As can be seen in the statistics that will be detailed below, there has been great progress in the assessment of international cooperation and the work of this DGCRI.

To that end, a special website was created and on the PPO Intranet on the subject, diffusion seminars and training activities were held and the compendium on Extradition 2016 - 2017 was published.

With regard to the site in the PPO Intranet, the DGCRI developed and published a model form for the request of mutual legal assistance, as well as a series of practical guides that provide information and advice about specific tools of international cooperation. Among these tools are Guides available on:

- the exchange of information and remission of spontaneous information;

- spaces of articulation and regional legal cooperation, in which the possibilities of cooperation offered by the Ibero-American Association of Public Prosecutors (AIAMP) and the Meeting of Public Prosecutors of Mercosur (REMPM) are described;
- joint investigation team (JIT);
- Computer-Based Electronic Evidence

The Intranet web site also has links to access international conventions or foreign laws on international cooperation, assistance in the translation of applications, useful information for conducting videoconferences, a guide to frequently asked questions and the possibility of consulting online.

Currently, the area is working on the new compendium on Extradition 2018, as well as on specific Guides on the subject and on the range of possibilities offered by international cooperation.

For the purposes of a better description of the 2018 balance of the DGCRI, an analysis divided into four parts will be carried out, according to the work areas of the DGCRI.

From the **International Forums area**, the participation of the PPO is monitored at the Meeting of Public Prosecutors of Mercosur (REMPM) and Ibero-American Association of Public Prosecutors (AIAMP).

In the course of 2018, the DGCRI attended the XXVI General Ordinary Assembly of the AIAMP, held on September 5 to 7 in Mexico City. On the other hand, the General Directorate also participated in the XIII the Meeting of Public Prosecutors of Mercosur (REMPM) in Asunción, Paraguay in April and June 2018 and in the XXIV REMPM in Montevideo, Uruguay, during November 2018.

The DGCRI is responsible for the follow-up and review of the Work Plans of the different Groups and Networks of the AIAMP, as well as that of the Commissions and Subcommittees of the REMPM.

Finally, the participation of Prosecutors was coordinated in meetings organized by the United Nations, oAS, OECD, MERCOSUR and the PAcCTO Programme, among others.

Within the framework of said competences, the DGCRI proposed to the AIAMP, through the International Cooperation Group, the signing of the Inter Institutional Cooperation Agreement of the Ibero-American Association of Public Prosecutors, which was signed by the Acting Attorney General during the last General Assembly of Mexico together with the Public Prosecutors of Panama, Spain, Cuba, Bolivia, Ecuador, Brazil, El Salvador, Chile, Guatemala, Colombia, Honduras, Mexico, Portugal, Paraguay, Dominican Republic, Peru and Uruguay. This subscription has been a turning point in terms of the commitments of the Public Ministry of the region regarding international cooperation, highlighting the possibilities of alternative ways to legal cooperation and the importance of promoting them.

All these international forums offer opportunities for cooperation, both formal and informal.

From the **Project Development area**, we work with the different management areas of the PPO with assistance needs in the formulation of projects and in the search for technical or financial cooperation of their proposals.

During 2018, work was carried out jointly with UNISA analyzing technical cooperation alternatives for the implementation of the new Federal CPC. To that end, the DGCRI participated in the promotion of various requests for technical and financial assistance before the Inter-American Development Bank (IDB), especially in relation to the provision of experts, as well as in the development and promotion of a proposal for technical cooperation.

In addition, periodic meetings were held with different organizations of the international scene in order to identify joint work actions and possibilities for cooperation. In this regard, the signing of the Framework Cooperation Agreement between the International Organization for Migration (IOM) and the PPO was

coordinated and negotiated with the IOM, which will allow a stable cooperation framework to develop joint actions.

Joint work was carried out with the General Directorate of International Cooperation (DGCIN) of the Ministry of Foreign Affairs and Worship, in order to follow the schedule of meetings of Mixed Commissions, to promote proposals for technical cooperation within the framework of the Horizontal Cooperation Fund (FoaR). Due to the next Joint Commission Meeting with Colombia, a project proposal was developed from the PPO, together with the Ministry of Justice and Human Rights (MINJUS), for the exchange of good practices related to the CPC 2019 implementation process.

Finally, the work of the DGCRI in the specific areas of **international legal cooperation** (Mutual Legal Assistance and Extradition) should be highlighted.

In relation to the area of **Mutual Legal Assistance**, between January 1 and December 10, 2018, a total of **264 interventions were carried out** (among serving of active and passive mutual legal assistance requests, direct cooperation with other Public Ministries and spontaneous information management), whereas during the year 2017 a total of 225 interventions were made, registering **a total of 820 requests and answers of legal assistance in the period 2015-2018**. The increase of interventions is clearly seen from the numbers of interventions in 2016 (185 interventions) and 2015 (146 interventions).

DGCRI Interventions in Mutual Legal Assistance

Year	Amount
<i>2015</i>	<i>146</i>
<i>2016</i>	<i>185</i>
<i>2017</i>	<i>225</i>
<i>2018</i>	<i>264</i>
<i>Total</i>	<i>820</i>

To these formal interventions of the DGCRI must be added the consultations made daily by phone or email by the Prosecutor's Offices.

In relation to the enhancement of international cooperation, and the intention to show it as an effective tool, as well as the positioning of the PPO as a reference in the matter, on November 6, 2018, the “Specific Cooperation Agreement between the Public Prosecutor’s Office and the Public Prosecutor’s Office of Mendoza” was signed, where the DGCRI is designated as a focal point for the coordination of the activities to be implemented, which was registered by Resolution PGN No. 110/2018 dated 8 November 2018. This agreement will allow collaboration with the AG’s Office of Mendoza and coordinate actions on issues that are of interest to both institutions.

On the other hand, seminars on cooperation in border areas in the cities of Oberá (Province of Misiones) and Concepción del Uruguay (Province of Entre Ríos) were held in 2018, in order to discuss the challenges facing collaboration in these border areas and try to find solutions. During the working days, the various challenges facing international cooperation in the border area against transnational organized crime and possible solutions to the obstacles that arise were discussed.

Finally, and in reference to the **Extraditions area**, which has had an exponential growth during this year, between January and December of 2018, **287 requests for intervention** were received, and in 2017, 201 intervention requests were received. As in mutual legal assistance, these years have greatly exceeded previous ones, having processed 150 requests for intervention in 2016 and 81 in 2015.

DGCRI interventions on Extraditions.

Year	Amount
<i>2015</i>	<i>81</i>
<i>2016</i>	<i>150</i>
<i>2017</i>	<i>201</i>
<i>2018</i>	<i>287</i>
Total	719

This way, the DGCRI has participated in the different stages of the judicial process of passive extraditions (including participating in extradition proceedings), as well as the drafting of active extradition requests. To those numbers of formal interventions must be added the collaboration and assistance provided to Prosecutors directly, either by phone or by email.

It should be mentioned that, within the 287 interventions in 2018, the DGCRI has collaborated in 26 cases through resolutions of the Acting Attorney General, based on the specific requirements of the Federal Prosecutors, to provide a more active collaboration during the entire procedure of extradition, examining extradition requests and presentations, answering judicial requests, drafting of reports and, even, with an active role during the extradition trial. In that sense, the DGCRI participated in 10 extradition trials in 7 different provinces, which shows the variety of prosecutors who have requested assistance in extradition proceedings.

Procedural

The DGCRI has worked during a large part of 2018 with different Organizations in a proposal to amend the Law on International Cooperation in Criminal Matters (Law No. 24767), in order to update certain procedures on legal assistance matters and extradition, taking into account especially the implementation of the accusatory system.

Beyond the important role that the Law assigns to the PPO, which represents the interest in international cooperation, it is estimated that it could seek more precision regarding the assigned participation and a clearer regulation on certain issues, especially regarding mutual legal assistance.

Currently, a working group has been set up, convened by the Ministry of Foreign Affairs and Worship, in which, in addition to the PPO, the Ministry of Justice and Human Rights and the Ministry of Security participate.

Working Table in Odebrecht case

The operations in Argentina of the Brazilian company ODEBRECHT and the broader framework of companies linked to the Lava Jato operation in Brazil, gave rise to a series of judicial investigations in the federal criminal jurisdiction.

Since the creation of a Joint Investigation Team by the Public Ministries of the Region in 2017, and the Mutual Legal Assistance (MLA) requests that the judges and prosecutors intervening in these cases sent to the Brazilian authorities, through the central authorities of both countries, the Brazilian MPF proposed a special agreement for cooperation in these cases.

The Brazilian PPO answered each of the requirements informing that, in order to access the spontaneous communication of the information and evidence derived from the protected whistleblower agreements of the collaborators before that country, it was necessary to previously subscribe a commitment of limitation of the use of the evidence and of observance of the doctrine of speciality.

According to the wording of the original version of the agreement, some of the Argentine prosecutors understood that they could not sign that agreement because, according to their criteria, it meant a commitment, on behalf of the entire State, not to use the testimonies of the collaborators of the Brazilian justice, as well as not instructing criminal, civil or administrative actions in this jurisdiction, for the facts revealed in Brazil.

The proposed agreement was made taking into account the provisions of the UN Convention against Corruption (Mérida), the Inter-American Convention on Mutual Legal Assistance in Criminal Matters, and the Protocol of Mutual Legal Assistance in Criminal Matters of MERCOSUR (San Luis).

Given the opinion of the Argentine prosecutors, the Public Prosecutor's Office set up a working group, to look for an alternative that could be adapted to the international standards subscribed by both States and the internal legislation.

Of the table involved prosecutors participated in the most representative cases, representatives of the Ministry of Foreign Affairs and Worship, as the central authority, and the Anti-Corruption Office of the Ministry of Justice, as the authority responsible for promoting compliance with international conventions on fight against corruption.

Based on the positions agreed by the participants of the working group, the PPO initiated a process of bilateral communications with the Brazilian PPO, to try to reach a new wording of the commitment model that would allow international cooperation, respecting the laws of both countries and follow the standards of signed international conventions. The main concern of the participants of the work group was to ensure that the collaboration or leniency agreements celebrated in Brazil, and the exchange of information produced as a result of those agreements, did not prevent or hinder other actions that may be exercised in the country.

In this process of bilateral dialogue, a new version of the commitment model was agreed upon. This model conserved the two fundamental principles: limitation in the use of the information received and speciality. Regarding the first requirement, the requesting authority may not use the information that a collaborator has voluntarily contributed to the Brazilian authorities. But this principle was not extended to a commitment that prevents pursuing the subjects reached in a criminal, civil or administrative way. Regarding the doctrine of speciality, the commitment about using the information and evidence obtained only in criminal investigation in which they are requested, was maintained.

Based on the agreement reached and the legal analysis arising from the work of the working group, the Acting Attorney General, considered that it was legally feasible for the representatives of the Argentine PPO to sign the limitation commitment on the use of information, under the agreed conditions, to access international cooperation proposed by the Brazilian PPO. However, according to the functional autonomy

of each prosecutor in Argentina, the decision to subscribe to the agreed compromise model and access the information available in Brazil corresponds to each one of the acting prosecutors, according to the strategy of investigation in each case.

This bilateral dialogue with the Brazilian authorities allowed consensus on the terms of a compromise model that clears the way for prosecutors and can be used as a tool at their disposal so that in their investigations they have access to the information and evidence revealed in Brazil for the people who decided to collaborate with the investigation carried out in that country through leniency agreements or award-winning denunciation.

The final approved text respects the standards derived from international agreements that the two States have signed, the domestic legal principles and norms of each country and at the same time in keeping with the terms of the collaboration agreements that the companies and people involved have celebrated in Brazil. This, in addition to not preventing or hindering the actions that may be exercised in the country.

Eurojust

Currently, Argentina has three points of contact before the European Union's Judicial Cooperation Unit (EUROJUST). In 2018, the Secretary of Institutional Coordination of AG's Office was designated as one of those contact points.

From that link, in December 2018, the Attorney General's Office received a request for assistance from the Swiss liaison prosecutor before EUROJUST, requesting, on behalf of the Zurich prosecutor, information on two Argentine citizens who were being tried in that country for economic crimes.

Given the formal need of the requesting authority to prosecute the request through the Central Authority, the Argentine PPO produced the necessary information with the intervention of PROCELAC and coordinated with the Central Authority, belonging to the Ministry of Foreign Affairs and Worship to respond formally at the request of the Swiss authorities.

This way, within a period of two weeks, the request for mutual legal assistance was formally answered. It must be noted, in one hand that in this cooperation the authorities fostered both informal and formal avenues complementarily in order to make legal assistance more effective. In the other hand, the collection of the needed information carried out by PROCELAC, and the informal advance of such information provided by the AG's Office was reached in less than 48 hours. This short time was possible because of the consultation of personal and criminal records through the digital tools provided by COIRON (described above in the PPO's resources section).

PROCELAC

On the other hand, PROCELAC, through the Administrative Area, is an operational contact point in the Asset Recovery Network (RRAG) of the Financial Action Group of Latin America (GAFILAT), whereby the requests for information that come from both the Federal Public Ministry and the provincial Public Ministries, the Judicial Branch of both the federal and local courts are channeled.

It should be remembered that GAFILAT is a regional intergovernmental body, created following the guidelines and objectives of the Global Network whose core is the Financial Action Task Force (FATF).

The RRAG is an informal cooperation network, whose objective is to exchange information as a tool for legal assistance prior to the use of formal cooperation channels. It is used mainly with the purpose of identifying, tracing and recovering assets and exchanging information of natural and legal persons during the investigation process.

The countries with contact points designated in the RRAG are Andorra, Spain, France, Italy, Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Cuba, Ecuador, Guatemala, Honduras, México, Nicaragua, Panamá, Paraguay, Peru, Dominican Republic and Uruguay.

In turn, RRAG is linked to other networks of similar characteristics in the exchange of information, in case of needing the use of other networks at a global level (for example CARIN, EUROPOL, ARIN-Asia Pacific, among others) through the Technical Secretary of GAFILAT, the contact can be obtained to request information regarding these Networks' member countries.

There are seven regional networks that interact with each other to facilitate the exchange of information of an operational nature, including the CARIN network (Camden Assets Recovery Interagency Network) which includes most of the countries of Europe, the US and Turkey, among others, the ARIN-AP Network that integrates countries of the Asia Pacific region, the ARINSA, ARINWA and ARI-EA Networks that bring together the countries of the regions from the south, west and east of Africa respectively and, finally, the recently created ARIN-CARIB that brings together the countries of Central America that make up the GAFIC system.

To guarantee the security of the information exchanged, the network uses an electronic platform and the information is transmitted encrypted, the information transfer system is confidential and allows the secure delivery of information between the countries that make up the RRAG.

All this makes the RRAG an extremely useful tool in the investigation processes not only of transnational bribery but also of economic criminality in general, which, as is known, are global in nature and involve, in most investigations, more than one jurisdiction.

As an informal channel of international cooperation, the RRAG network does not substitute, but complements the formal cooperation channel requested through a warrant issued in the framework of a multilateral or bilateral treaty and allows obtaining information that may result in a local investigation.

During the last two years, the use of the platform has increased considerably and with good results. The information provided by the contact points has allowed us to detect assets in other countries, orienting and enabling formal legal cooperation to be successful.

In addition, PROCELAC is also the contact point in the Ibero-American Network of International Legal Cooperation (Iber@), composed of central authorities and referents of the Ministries of Justice, Public Ministries and Judicial Branches of the countries of the Ibero-American Community of Nations and the Supreme Court of Puerto Rico whose main objective is to optimize criminal and civil legal cooperation among Ibero-American countries.

During 2017, PROCELAC worked on a total of 165 requests for international cooperation, of which 74 were requests for passive international cooperation, and 91 active requests for cooperation.

Of 165 requests worked, 3 were formal information requirements; in other words, requests for cooperation through international warrants, and 162 informal information requests, of the latter 102 were channeled via the Asset Recovery Network of GAFILAT (RRAG), 56 by INTERPOL and 4 by IberRed.

In 2018, a total of 143 international cooperation requests were processed, of which 27 were passive international cooperation requests and 116 active cooperation requests.

Of 143 requests worked, 5 were formal information requirements; that is, through requests for cooperation through international warrants, and 138 informational requirements of an informal nature, of the latter 130 were channeled via the GAFILAT Asset Recovery Network (RRAG), 4 by INTERPOL, 2 by IBERRED and 2 by institutional cooperation agreements between Public Prosecutor's Offices.

Informal cooperation mechanisms are a tool used to investigate cases of transnational bribery. In most of them, before the formalization of requests for formal cooperation, exhortations, PROCELAC, in

coordination with the DGCRI, maintained informal communications with authorities of other countries to gather elements that reinforced the criminal hypothesis. Such was the case of information received from Brazil and Italy, in a case of bribery of Brazilian officials by an Argentine company, to Peru in the case of the construction of an airport, among others.

OECD LAC LEN

Besides the above mentioned cooperation networks, in 2018 the Latin American and Caribbean Law Enforcement Network (LAC LEN) of the OECD was launched. The inaugural meeting was held in Buenos Aires in October 2018 and was co-organized by the OECD Anti-Corruption Branch and the Argentine PPO, with the support from the British Embassy in Argentina.

This meeting joined more than 50 prosecutors and law enforcement officials from 14 countries. Representatives from the Organization of American States (oaS), the Inter-American Development Bank (IADB), and the Ibero-American Association of Public Ministries (AIAMP) also participated.

The LAC LEN was designed exclusively for prosecutors and law enforcement officers in the Anti-corruption law field, and among its objectives are establishing links and foster the creation of networks between practitioners among the region aimed to encourage the rapid exchange of information and strategies in the fight against corruption.

In recognition of the work carried out by the Argentine PPO for the launch of the LAC LEN, during its inaugural meeting the co-chair of PROCELAC, Ms. Laura Roteta, was elected as Chair of this group until the next meeting.

Some concrete results of this first meeting can be mentioned. First, thanks to the LAC LEN, Argentine prosecutors were able to meet directly with prosecutors from another country to share information about a foreign bribery investigation with actions committed in both jurisdictions.

Secondly, a foreign prosecutor traveled to meet with an Argentine colleague to talk over and exchange information about a case of foreign bribery with implications in both jurisdictions, and they are currently analyzing the possibility of working together in a new case of transnational bribery.

Finally, it is important to highlight that PROCELAC's co-chair prosecutor has been participating since 2016 in the meetings of the Working Group on Bribery (WGB) and in its Meetings of Prosecutors and Law Enforcement Officers, among other meetings, all organized within the framework of the OECD. This has contributed greatly to strengthen the relationship with prosecutors from other countries and has resulted in a greater capacity of PROCELAC to detect new cases of foreign bribery, make direct requests to prosecutors in other countries in charge of investigations of this type and exchange practices about the prosecution of this offense.

An example of this is the exchange of information between Italian and Argentine prosecutors in a case of foreign bribery and the referral from Italy of spontaneous information that PROCELAC used to make the complaint about a possible payment of bribes in Brazil for the award of public works.

Specialized Anti-Corruption Network (AIAMP)

In 2017, the Argentine PPO organized the XXV Ordinary General Assembly of the Ibero-American Association of Public Prosecutors Offices (AIAMP), held on November 15 and 16, 2017, in the city of Buenos Aires. In this event, the Attorney Generals, members of AIAMP, decided to strengthen the fight against corruption that was being promoted in this regional area and agreed to convert the "Working Group to combat Corruption" into the "Specialized Network of Prosecutors against Corruption" (the Network).

According to AIAMP's statutes, the Specialized Networks are permanent groups, formed by a representative of each Party; and, among its missions, the promotion of best practices of the prosecutors in the scope of their functions and the exchange of operational information within legal limits, are the key role of this group.

In August 2018, the PPO of Brazil hosted the First Meeting of AIAMP's Specialized Anti-Corruption Network, held in the city of Brasilia. Prosecutors and representatives from Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Ecuador, Mexico, Panama, Paraguay, Portugal, the Dominican Republic, and Uruguay attended the meeting. In this Network Argentina is represented by the head of the PIA and a representative from the Secretariat for Institutional Coordination within the AG's Office.

In this meeting, the debate was developed on various aspects related to "International legal cooperation as an instrument to fight against corruption in countries: experiences, events, challenges: "International legal cooperation as an instrument to fight against corruption in countries: experiences and challenges".

During the Brasilia meeting in 2018, the contact points signed the "Declaration of the Ibero-American Network of Prosecutors against Corruption", where the participants decided to reaffirm the importance of international cooperation as a tool to fight against corruption. They also agreed to promote the Ibero-American Network of Prosecutors against Corruption, as a space for international cooperation, recognizing the importance of joint work in this area, to promote the development of a constituent document of the network where the principles and objectives of the network are expressed, establishing the topics on which it will work.

In addition, they decided to support the drafting of an Action Plan for the initial impulse and the development of the objectives and actions that are expected from the Network. In this sense the group urged members of AIAMP to sign bilateral agreements defining clear rules on the recovery of assets linked to corruption, and committed to reinforce the formation of joint investigation teams, according to the limits established in the treaties and norms in force, with a view to giving greater speed and practicality in the prosecution of crimes of corruption.

In addition, the participants decided to systematize a list of good practices adopted by each country, such as the compilation of jurisprudence and documents related to the fight against corruption at the domestic and regional levels.

During 2019, from March 20 to 22, the second meeting of the contact points of the Specialized Anti-Corruption Network (AIAMP), in Brasilia, under the coordination of the Public Prosecutor's Office of Brazil. The most important aspects of this second meeting were the discussion and approval of two documents: the act or statute of the network, and its work plan. In addition, progress was made in consolidating the good practices document that gathers the experiences of the different countries in the fight against corruption.

Cooperation agreements with other Public Prosecutors' Office

Another of the actions developed to improve international legal assistance was the negotiation of inter-institutional cooperation agreements with other PPO, both bilaterally and multilaterally, to provide cooperation on different matters, including the exchange of information and the preparation of guidelines to expedite cooperation.

In relation to inter-institutional agreements, the fight against corruption was one of the matters in which the Argentine PPO committed to work more closely with its foreign counterparts. Based on the guidelines set by the United Nations Convention against Corruption (UNCAC), the agreements signed during 2017 with Brazil, Peru and Portugal included special chapters on cooperation on corruption.

Recently, on March 29, the General Prosecutors of Argentina and Paraguay signed an inter-institutional cooperation agreement with the aim of working together in a coordinated manner to face the challenges posed by transnational organized crime. Through the agreement -which has as background the Inter-institutional Cooperation Agreement in June 2017- both PPOs will deepen the work they have been doing in the field of bilateral and multilateral cooperation, to collaborate in the investigation and prosecution of transnational crimes. This agreement was approved by AG's Resolution PGN N° 28/2019¹⁰³.

More information about inter-institutional cooperation agreements can be consulted in: <http://www.mpf.gov.ar/cooperacionjudicial/files/2017/11/Compilado-Convenios.pdf> (only in Spanish).

If no action has been taken to implement this recommendation, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken

Text of recommendation 7(b):

7. Regarding **mutual legal assistance**, the Working Group recommends that:

(b) the MFA work more closely with prosecutors and judges to pursue MLA requests in specific foreign bribery cases, include engaging Argentine embassies overseas to facilitate the execution of requests (Convention Article 9(1); 2009 Recommendation XIII.v).

As it was previously mentioned in response to the Recommendation 7a), several measures were taken in order for investigative judges and prosecutors in foreign bribery cases to use all available means to secure MLA, and also for the PPO to work more closely with prosecutors and judges to pursue MLA requests in specific foreign bribery cases, as this Recommendation 7.b) states.

Regarding the engaging of Argentine embassies, it is important to highlight that Argentine representations on foreign countries have been involved in the management of requests for international assistance on transnational bribery cases. In fact, in order to achieve a fluid and direct communication between the actors that intervene in the accomplishment of a request for international legal assistance, an updated list of the officials of the Directorate on International Legal Assistance of the Ministry of Foreign Affairs and Worship has been sent electronically to the Argentine Representations (Annex 31 and 31(II)).

In connection to workshop activities, personnel from the Directorate on International Legal Assistance of the Ministry of Foreign Affairs and Worship teach international cooperation in the Foreign Service Institute, to provide knowledge for the future members of the diplomatic corps of our country. In this course, the "OECD Anti-Bribery Convention" is highlighted and the duties that arise for the diplomatic corps of any member party of the Convention and the particular role that they have in detecting and reporting possible transnational crimes.

If no action has been taken to implement this recommendation, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

¹⁰³ <https://www.mpf.gov.ar/resoluciones/pgn/2019/PGN-0028-2019-001.pdf>

2. Recommendations for ensuring effective prevention and detection of foreign bribery

Text of recommendation 8(a):

8. With regard to **money laundering**, the Working Group recommends that Argentina:

(a) extend money laundering reporting, due diligence and record keeping obligations to lawyers, *síndicos* and other legal professionals (subject to appropriate qualifications) (Convention Article 7);

Action taken since the date of the follow-up report to implement this recommendation:

If no action has been taken to implement this recommendation, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Paragraph 109 of the Phase 3 bis Report states that Argentina has not included as mandatory reporting entities in the system of prevention and control of money laundering and financing of terrorism or legal professionals and, among them, the syndics.

At the date of this evaluation, numerous competences of the legal profession were incorporated into the system as subjects of control and reporting.

According to resolution 41/11, the directors and persons responsible for the registration of real property are affected by this measure.¹⁰⁴

Pursuant to resolution 2911/11, people subject of report are the owners and other persons responsible for public registers of commerce and corporate control.¹⁰⁵

In the same sense, resolution 172/12 included and defined the extension of the obligation on directors and people responsible for the registries of the automobile ownership and pledge credits.¹⁰⁶

Resolution 140/12 included the subjects linked to the trust agreements: Trustees, Administrators, Placement Agents and subcontractors in the initial placement of fiduciary securities; Agents of Deposit, Registration and / or Payment of Trust Securities; Intermediaries; Marketing Agents.¹⁰⁷

Previously, the legal professionals who practice as notaries or ascribed persons were included in the system (resolution 10/04 was repealed and replaced by resolution 21/11).

However, after the evaluation of phase 3 bis, two measures were adopted expanding the scope of professional lawyers included in the reporting and control system.

¹⁰⁴ <http://servicios.infoleg.gob.ar/infolegInternet/anexos/175000-179999/179222/texact.htm>

¹⁰⁵ <http://servicios.infoleg.gob.ar/infolegInternet/anexos/175000-179999/178591/texact.htm>

¹⁰⁶ <http://servicios.infoleg.gob.ar/infolegInternet/anexos/200000-204999/200025/texact.htm>

¹⁰⁷ <http://servicios.infoleg.gob.ar/infolegInternet/anexos/200000-204999/200723/texact.htm>

Resolution 28/18 of March 28, 2018, regulated the list of reporting subjects and operations to be reported in the provision of insurance and reinsurance services, reaching various professional advisory and intermediation competencies.

The provision reaches, among other natural and legal persons, Insurance Producers Advisors; Insurance Advisors Producer Companies; Institutional Agents and Reinsurance Intermediaries.¹⁰⁸

Furthermore, and based on the powers of the FIU to request reports from individuals, a control of the origin of the payments received by lawyers was provided for their work of advising and defending in court in certain cases (cases of corruption, money laundering, human trafficking and drug trafficking), according to press articles cited below.

https://tn.com.ar/politica/la-uif-investiga-el-origen-de-los-fondos-que-cobran-los-abogados-penalistas-vip_851881

<https://www.infobae.com/sociedad/policiales/2018/02/19/los-abogados-defensores-en-casos-de-lavado-y-corrupcion-deberan-informar-quien-les-paga-los-honorarios/>

<https://www.iprofesional.com/notas/263599-delito-denuncia-ley-apelacion-reforma-tributaria-Los-abogados-defensores-en-casos-de-lavado-y-corrupcion-deberan-informar-quien-les-paga-los-honorarios>

The competency of receiver also corresponds to the professionals of economic sciences. A precision corresponds to it.

Article 20, paragraph 17, of Law 25246 sets forth that certified professionals whose activities are governed by the Professional Councils of Economic Science shall be considered reporting entities; in turn, Article 2 of FIU Resolution 65/2011 sets forth that only accountants who conduct audits or who are *síndicos* shall comply with the obligations under AML/CFT regulations establishing that customers should comply with all the requirements listed in those regulations.

The mentioned article 20 states: “The following persons and entities have the obligation to report to the Financial Information Unit (FIU), pursuant to the provisions of article 21 hereof:

1. Financial institutions under the provisions of Law 21 526, as amended.
2. Institutions under the provisions of Law 18 924, as amended, and natural or legal persons authorized by the Argentine Central Bank to operate in the purchase and sale of currency in the form of cash money or cheques drawn in foreign currency, or by means of credit or debit cards or in the transfer of funds within the national territory and abroad.
3. Natural or legal persons habitually running games of chance.
4. Natural and/or legal persons registered with the National Securities and Exchange Commission (CNV) to act as intermediaries in markets authorized by said Commission and those investing in mutual funds or other collective investment products authorized by said agency. (*Paragraph replaced by article 200 of Law 27 440 Official Gazette 11 May 2018*)
5. Legal persons authorized by the National Securities and Exchange Commission (CNV) to act within the framework of collective financing systems through the use of websites or similar means, as well as other legal persons registered with said agency and in charge of opening customer profiles and customer identification so as to invest in the capital market. (*Paragraph replaced by article 200 of Law 27 440 Official Gazette 11 May 2018*)

¹⁰⁸ <http://servicios.infoleg.gob.ar/infolegInternet/anexos/305000-309999/308385/norma.htm>

6. Public Registries of Commerce, Legal Persons Control and Inspection Agencies, Real Estate Registries, Registries of Motor Vehicles, Registries of Chattel Mortgages, Registries of Vessels of Any Kind and Registries of Aircrafts.

7. Natural or legal persons devoted to the purchase and sale of works of art, antiques or other sumptuous goods, philatelic or numismatic investments, or to the export, import, manufacturing or industrialization of jewels or goods made with precious metals or stones.

8. Insurance companies.

9. Companies issuing traveler's cheques or operating with credit or purchase cards.

10. Armored transportation services companies.

11. Companies or concessionaires rendering postal services that carry out foreign currency transfers or remittances of different types of currency or notes.

12. Notaries Public.

13. Entities included in article 9 of Law 22 315.

14. Customs agents defined in article 36 and related articles of the Customs Code (Law 22 415 as amended).

15. Public Administration agencies and decentralized and/or autarchic entities exercising regulatory, control, supervisory and/or superintendency functions over economic activities and/or legal transactions and/or over holders of rights, whether individual or collective: the Argentine Central Bank, the Federal Administration of Public Revenue, the Office of the Superintendent of Insurance of the Nation, the National Securities and Exchange Commission (CNV), the Corporate Records Office, the National Institute of Associations and Social Economy, and the National Office for Fair Trading.

16. Insurance producers, advisors, agents, brokers, experts and adjusters whose activities are governed by Laws 20 091 and 22 400, as amended, and their supplementary and related provisions.

17. Licensed professionals whose activities are regulated by the Professional Councils of Economic Sciences.

18. Likewise, any legal person receiving donations or contributions from third parties shall have the duty to report.

19. Licensed real estate agents or brokers and companies of any kind whose purpose is real estate activities, composed of and/or managed exclusively by licensed real estate agents or brokers.

20. Mutual and cooperative associations governed by Laws 20 321 and 20 337 respectively.

21. Natural or legal persons whose regular activity is the purchase/sale of cars, trucks, motorcycles, buses and minibuses, tractors, farm and road machinery, vessels, yachts and similar vessels, aircrafts and aerodynes.

22. Natural or legal persons acting as trustees, in any kind of trust and natural or legal persons holders of, or related directly or indirectly to, trust accounts, trustors and trustees under trust agreements.

23. Legal persons performing organizational and regulatory functions of professional sports.

(Article replaced by article 15 of Law 26 683 Official Gazette 21 June 2011)

Said local regulation is in line with FATF Recommendations, which consider that accountants' activities fall within the category Designated Non-Financial Businesses and Professions (DNFBPs). They are designated as State collaborators in the fight against ML and TF because of their technical knowledge, the advisory services they provide or the type of customers they are engaged with.

Chapter III of FIU Resolution 65/2011 considers increasing the due diligence measures reporting entities should implement with regard to their customers.

Regarding ML/TF transaction reporting, the corresponding provisions can be found in Chapter IV of the FIU Resolution mentioned above.

With respect to information and document preservation, Article 19 of said Resolution sets forth that reporting entities shall keep the documents listed below for TEN (10) years as from the last auditing or accounting report, so that they can be used as evidence in any ML and TF investigation:

- a) Regarding the identification of the customer: the copies of the documents required.
- b) Regarding both national and international transactions: the copies of the original documents, as well as paperwork of the task developed by the relevant professional, and;
- c) Record of the analysis of reported suspicious transactions.

With regard to the objective guidelines which should be specially taken into account to detect unusual situations which can be reported in STRs, the regulation governing this sector establishes, in a merely declarative manner, the following:

“Article 21 — Suspicious Transaction Report. Pursuant to Article 21, paragraph (b), of Law 25246 as amended, reporting entities shall report all unusual transactions which, based on their capacity and the analysis they conduct, are regarded as suspicious of money laundering and terrorist financing.

The following circumstances should be specially assessed, including but not limited to:

- a) Amounts, types, frequency and nature of transactions conducted by customers which are unrelated to their economic background and activity;
- b) Unusually high amounts, complexity and unusual transaction procedures conducted by customers;
- c) Transactions of similar nature, amount, procedure or simultaneity which suggest that a transaction has been fragmented so as to avoid the implementation of procedures to detect and/or report transactions;
- d) Continuous gains or losses in transactions repeatedly conducted between the same parties;
- e) Customers who refuse to provide information or documents requested by the reporting entity or where it is detected that the information provided by them is false or has been altered;
- f) Customers who try to evade compliance with this resolution or other relevant legal regulations in force;
- g) Evidence of the illegal source, handling or destination of the funds used in a transaction, which cannot be explained by the reporting entity;
- h) Customers who show an unusual lack of concern over risks assumed and/or the cost of transactions is not consistent with the customer's economic profile;
- i) Transactions involving countries or jurisdictions regarded as “tax havens” or non-cooperative by the FINANCIAL ACTION TASK FORCE;
- j) Where different legal persons have the same domicile or the same natural persons are the authorized and/or legal representatives of various legal persons, and there is no economic or legal reason for that, in particular where any of the companies or organizations is based in tax havens and mainly conducts offshore activities.
- k) Where the professional intervention reveals the presence of:

1. Assets provided as financial collateral to entities operating in countries or areas internationally considered as tax havens or non-cooperative jurisdictions by the FINANCIAL ACTION TASK FORCE, accounting for TWENTY PERCENT (20%) of the entity's total assets.
2. The establishment of companies or trusts without apparent business or similar purposes.
3. Use of financial and other consultants to appear as directors or representatives, with little or no participation at all in the business.
4. Purchase and sale of negotiable securities in unusual circumstances—as compared to the normal transactions conducted by the entity—for total amounts that altogether account for TWENTY PERCENT (20%) of the sales revenue for the fiscal year.
5. Request for business management in countries or areas internationally considered as tax havens or non-cooperative jurisdictions by the FINANCIAL ACTION TASK FORCE.
6. Transactions with branches, subsidiaries or related companies registered in countries or areas internationally considered as tax havens or non-cooperative jurisdictions by the FINANCIAL ACTION TASK FORCE.
7. Payments for non-specified services that altogether account for TEN PERCENT (10%) of purchase payments for the fiscal year.
8. Loans to company's consultants or personnel whose average annual balances amount to TEN PERCENT (10%) of the entity's total assets.
9. Purchase and sale of goods and services at prices that were significantly higher or lower than market prices.
10. Unusual transactions—as compared to the normal transactions conducted by the entity—with companies registered abroad.
11. Payment to commercial or financial creditors or holders of negotiable securities, in cash, bearer checks or through transfers to numbered bank accounts, for amounts that altogether amount to TWENTY PERCENT (20%) of the total payments for the fiscal year.
12. Inflow of funds from indebtedness, in cash or through transfers made from bank accounts with no identifiable account holder or from countries or areas internationally regarded as tax havens or non-cooperative jurisdictions by the FINANCIAL ACTION TASK FORCE.
13. Capital contributions or contributions to be capitalized, received in cash or through transfers from bank accounts with no identifiable account holder or from countries or areas internationally regarded as tax havens or non-cooperative jurisdictions by the FINANCIAL ACTION TASK FORCE.
14. Investment in physical assets or projects for amounts that account for TWENTY PERCENT (20%) of the entity's total assets, allocated to activities whose fund generation is not enough to justify them financially.
15. Customers who provide assets located in offshore centers as financial collateral.
16. Advance collection of commercial and financial loans granted by the entity for amounts that account for TWENTY PERCENT (20%) of the total loans.
17. Customers showing a sudden change in the way they conduct transactions or irregularities in the type of transactions conducted.
18. Early debt settlement for amounts that altogether account for TWENTY PERCENT (20%) of the company's annual average indebtedness for the last fiscal year.
19. Transactions carried out with counterparts organized as trusts without the possibility of identifying natural or legal persons.
20. Sales commissions or fees paid to agents that seem to be excessive as compared to those regularly paid by the entity.
21. Purchase of negotiable securities preserved by the financial advisor on behalf of the customer, for amounts that account for TEN PERCENT (10%) of the entity's total assets.
22. Recovery of assets under management, assets involved in a legal proceeding or impaired assets for amounts that account for TWENTY PERCENT (20%) of the customer's annual revenue.

23. Partnerships in which the customer directly or indirectly has a share over TWENTY PERCENT (20%) of the capital stock, with registered offices in countries or areas internationally regarded as tax havens or non-cooperative jurisdictions by the FINANCIAL ACTION TASK FORCE.
24. Request to conduct any financial transaction on behalf of the customer, without a justified cause.
25. Purchase and sale of precious metals and works of art, for amounts that account for TEN PERCENT (10%) of the customer's assets.
26. Overseas wires which are unrelated to the customer's regular commercial transactions, for amounts that account for TEN PERCENT (10%) of the annual sales revenue.
27. Deposits in bank accounts of large sums of cash related to the customer's regular transactions or of funds received in unusual transactions.
28. Wire transfers which are not made through a financial entity, for amounts that account for TEN PERCENT (10%) of the annual sales revenue.
29. Purchase and sale of assets which are unrelated to the customer's main business activity, for amounts that account for TEN PERCENT (10%) of total assets.
30. Purchase of single premium life insurance policies on account of the company's profits, with subsequent early cancellation and surrender.
31. Purchase of life insurance policies for low-income people at a high price and on account of the company's profits.
32. Purchase of single premium life insurance policies for directors on account of the company's profits, with subsequent early cancellation and surrender against the company's profits.

Link to FIU Res. 65/2011:

<http://servicios.infoleg.gob.ar/infolegInternet/anexos/180000-184999/182611/texact.htm>

Likewise, in the case of notaries and ascribed, Law 25246 on concealment and money laundering establishes that notaries are reporting entities (Article 20.12). In turn, FIU Resolution 21/2011 rules on the measures and procedures that notaries should observe to prevent, detect and report the facts, actions, transactions or omissions related to the commission of the crimes of money laundering and terrorist financing.

Said local regulation is in line with FATF Recommendations 23 and 28, which consider that notaries' activities fall within the category Designated Non-Financial Businesses and Professions (DNFBPs). They are designated as State collaborators in the fight against ML and TF because of their technical knowledge, the advisory services they provide or the type of customers they are engaged with.

In this regard, the legislator considered it necessary to include notaries among the reporting entities listed in article 20 of Law 25246 as amended, so that they can help prevent money laundering following international standards and parameters, and taking into account the seriousness of this crime to protect the public interest. Given the relevance of their function, they may get to know, as a result of their profession, transactions which may involve money laundering maneuvers.

In this regard, it should be mentioned that apart from the aforementioned regulations which consider that notaries are reporting entities, this idea has been confirmed by the case law as follows: *"(...) The legal definition of suspicious transaction in this case is based exclusively on notaries' work experience; custom and practice as well as competence are terms which ultimately refer to their experience. In turn, such experience is what enables notaries to be included among the reporting entities under the aforementioned law (Article 20, paragraph 12, notaries), and not only because different transactions which might involve money laundering pass through their hands—both Directive CE 2001-97 and the FATF 40 Recommendations, international guidelines on the offense of money laundering, include notaries as control agents—but also because, as a result of that, it is precisely they that due to their experience are*

able to determine, within their sphere of jurisdiction, which activities depart from custom and practice and which activities are unusual or uncommon. Having adopted the legal subject as article 20.12 does, it is strange to think which other professional could have been able to determine those characteristics apart from notaries themselves.”¹⁰⁹

Similarly, in the case “Association of Notaries of the Province of La Pampa v. FIU”, the Federal Court of Appeals of Bahía Blanca argued the following: *“The regulations which are in conflict do not confer on notaries the status of detectives or police officers or impose unbearable burdens on them. They only make reference to their experience and require them to be actively aware to detect complex and intricated transactions, which often go unnoticed even by the most insightful eyes ... It is true that certain inconvenience or discomfort may arouse, but this is not enough to invalidate the regulation, taking into account that the National Constitution is at the peak of the legal pyramid and that it has to do with that kind of personal qualities which, according to the eminent figure Marienhoff, are essential to human coexistence.”*

Recently, the National Supreme Court of Justice had the opportunity to comment on the court decision “Association of Notaries of the Province of Buenos Aires v. the National Executive Branch on summary proceeding,” dated 09/04/2018, indicating that: *“The regulations imposing on notaries, under penalty of fine, the obligation to report to the FIU the existence of “suspicious ML/TF transactions” (article 20, paragraph 12; article 21, paragraph b), and article 24 of Law 25246 and article 2, paragraph e), of FIU Resolution 21/2011) are compatible with the principle of legality established in articles 18 and 19 of the National Constitution, since the recognition of attributions left to the reasonable discretion of the executive body should not be considered invalid given the peculiar, distinct and variable nature of the matters that does not allow legislators to foresee how these matters will actually come about.”*

In addition, within the framework of the notaries’ registration campaign, in 2017/2018, the FIU initiated a total of 238 administrative enforcement proceedings against those notaries who were not registered. As a result of the campaign, by the end of 2018, 68% (162) of the notaries who had been subject to an administrative proceeding were already duly registered.

Link to FIU Resolution 21/2011: <http://servicios.infoleg.gob.ar/infolegInternet/anexos/175000-179999/178265/texact.htm>

Other considerations on reporting entities and the powers of the FIU

Furthermore, it should be noted that the FIU has powers to supervise compliance with the AML/CFT regulatory framework by the reporting entities listed in article 20 of Law 25246. This is complemented by the power the FIU has to impose sanctions on reporting entities when they fail to comply with some of the obligations established by Law 25246 or by the rules that regulate them.

In this regard, the record of sanctions is available on the FIU website, including the sanctions applied to both the financial sector and the Designated Non-Financial Businesses and Professions (DNFBPs), such as notaries and accountants.

Link to the record of sanctions kept by the FIU: <https://www.argentina.gob.ar/registro-de-antecedentes-de-sumarios>

¹⁰⁹ “Association of Notaries of the Province of Río Negro v. the National State and other on ordinary proceeding,” sentence dated 5/10/12. Federal Court of First Instance of General Roca.

As a corollary, in line and in accordance with the regulation and the police powers exercised by the FIU, the Judiciary has confirmed the legitimacy of the regulation and the determination and graduation of the sanctions applied by the FIU, according to:

- “Sergio Villella SA and others v. the FIU on Criminal Code: Law 25246 – Decree 290/07 article 25 National Court of Appeals in Federal Administrative and Contentious Matters (CNCAF), Courtroom II, dated 08/18/2018.
- “Orbis Compañía Argentina de Seguros S.A. v. FIU on Criminal Code - Law 25246 – Decree 290/07 article 25”, judgment by Court of Appeals in Federal Administrative and Contentious Matters (C.A.C.A.F.), Courtroom V, dated 09/19/2017”
- “Musso, Walter v. Argentine Coast Guard”, judgment by Court of Appeals in Federal Administrative and Contentious Matters (C.A.C.A.F.), dated 05.27.97;
- “Alles, Gerónimo v. Argentine Coast Guard” judgment by the Court of Appeals in Federal Administrative and Contentious Matters (C.A.C.A.F.), Courtroom III, dated 02.03.1998;
- “Travaglia, José O. and others v. the Argentine Central Bank (BCRA)” – Resolution 109/2012 – Case file 100.045/94 Financial Enforcement Proceeding 893- judgment by the Court of Appeals in Federal Administrative and Contentious Matters (C.A.C.A.F.), Courtroom V, dated 07.19.2006; and
- “Transatlantico S.A. Caja de Cambio and others v. the Argentine Central Bank (BCRA)” - Resolution 419/11 – Case File 100.661/04, Financial Enforcement Proceeding, among others.
- Court Decision of the National Supreme Court of Justice (CSJN), “Association of Notaries of the Province of Buenos Aires v. the National Executive Branch on summary proceeding,” dated 09/04/2018: The regulations which impose on notaries, under penalty of fine, the obligation to report to the FIU the existence of “suspicious ML/TF transactions” (article 20, paragraph 12; article 21, paragraph b), and article 24 of Law 25246, and article 2, paragraph e), of FIU Resolution 21/2011) *are compatible with the principle of legality established in articles 18 and 19 of the National Constitution, since the recognition of attributions left to the reasonable discretion of the executive body should not be considered invalid given the peculiar, distinct and variable nature of the matters that does not allow legislators to foresee how these matters will actually come about.*”
- Court Decision of the National Court of Appeals in Federal Administrative and Contentious Matters (CNACAF), “Hipódromo Argentino de Palermo S.A. and others v. FIU on Criminal Code, Law 25246,” dated 05/21/2015: The Resolution through which the Financial Information Unit imposed a fine on a racecourse and its directors for their lack of due diligence in not identifying the winners of prizes (of amounts equal to or over ARS 10,000), their deficient Transaction Database, their lack of identifying data and, consequently, their failure to submit systematic transaction reports should be confirmed since there was no violation of the principle of consistency and they were able to exercise their right of defense, especially where such breach is also supported by a regulation that is not objectionable from the point of view of its formal legality.

Text of recommendation 8(b):

8. With regard **to money laundering**, the Working Group recommends that Argentina:

(b) further enhance AML measures for financial transactions involving PEPs, including by adding important political party officials to the definition of PEPs; ensuring that due diligence of former PEPs is based on an assessment of risk and not on prescribed time limits; and issuing guidelines on the handling of PEPs (Convention Article 7; 2009 Recommendation III.i);

Action taken since the date of the follow-up report to implement this recommendation:

Based on the recommendations made by the OECD to our country on the need to strengthen due diligence measures in contractual relations with PEPs, FIU Resolution 134/2018 (Annex 38) was issued; replacing FIU Resolution 11/2011 (this resolution has been effective from March 2019).

Among the most relevant modifications introduced by this new Resolution, it is worth mentioning:

The new categories of PEPs in our country. It was elaborated taking into account the functions formerly or currently performed by the PEP, and where appropriate, if they are family members or close associates of the persons performing public functions. This list includes the authorities, legal representatives, candidates or relevant members of political parties or electoral alliances, either at the international, national or district level, as well as other public officials who perform public functions at the subnational and local level.

The duty to conduct due diligence on PEPs using a risk-based approach rather than a time-related criterion. (*Article 6- f. Term of office; two years after the termination of public functions, the situation of the customer or beneficial owner should be assessed through a risk-based approach, taking into consideration the relevance of the function performed, the power to dispose of and/or administer funds, and the length of service, among other relevant risk assessment factors.*)

The relationship with a customer who no longer performs a prominent public function is now based on a risk assessment rather than on a pre-established time limit.

If no action has been taken to implement this recommendation, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 8(c):

8. With regard **to money laundering**, the Working Group recommends that Argentina:

(c) provide better feedback to entities who file STRs to improve the quality of these reports (Convention Article 7; 2009 Recommendation III.i);

Action taken since the date of the follow-up report to implement this recommendation:

In order to raise awareness about the importance of improving the quality of the reports submitted by reporting entities to the FIU, three feedback exercises were targeted to the private sector (financial sector, securities and insurance sectors) to show the results of the assessment of the quality of the Suspicious Transaction Reports (STRs) conducted by the FIU's Strategic Analysis Division. These exercises were specifically conducted with those entities which submitted the largest number of reports. It should be highlighted that the three sectors mentioned account for 66% of the total of STRs received in 2017 (Annex 39). It is worth mentioning that the three exercises were conducted by the Head of the Argentine FIU and the heads of each of the regulatory agencies.

Different round tables, conferences, training sessions and joint actions have been developed with different stakeholders of the AML/CFT system in order to clarify regulatory expectations, guide the regulated entities in the implementation of the risk-based approach, strengthen mutual trust in their capacity as information providers to the FIU, and to achieve a better and more efficient compliance culture in terms of AML/CFT. The FIU has participated and coordinated different events, with the participation of international and local experts. With this, the FIU seeks to diversify the knowledge among the different reporting entities of the AML/CFT system and expand the feedback nationwide (Annex 39 (II)).

If no action has been taken to implement this recommendation, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 8(d):

8. With regard **to money laundering**, the Working Group recommends that Argentina:

(d) raise awareness about foreign bribery as a predicate offence to money laundering, including by preparing typologies on foreign bribery-related money laundering (Convention Article 7; 2009 Recommendation III.i);

Action taken since the date of the follow-up report to implement this recommendation:

During 2017, in order to raise awareness among the different stakeholders about the need to work in a coordinated and responsible manner to tackle the challenges posed by the crimes of money laundering and bribery, the FIU conducted three seminars on the fight against foreign bribery. Judges, prosecutors and compliance officers nationwide participated of these events. The topics addressed in those seminars were i) best practices to prevent the laundering of the proceeds of domestic and foreign bribery, and ii) transparency and beneficial ownership (Annex 40).

During 2018, the FIU elaborated and later disseminated to local reporting entities and certain relevant designated foreign countries (through the Egmont Secure Web) a confidential document containing money laundering typologies involving commercial transactions with a foreign country. This document includes different warning indicators to detect generalized public corruption structures, as well as recommendations to reporting entities and different jurisdictions on being alert and avoid being used by government officials to launder the proceeds of corruption.

<https://www.lanacion.com.ar/2211787-la-uif-pide-informacion-fondos-provengan-del>

<https://www.lanacion.com.ar/2216022-sanciones-venezuela>

<https://www.lanacion.com.ar/2215537-el-gobierno-analiza-actividades-petrolera-venezolana-pdvsa>

In March 2018, the Argentine FIU and the Anti-Corruption Office, together with international experts of the World Bank's StAR Initiative, organized a one week seminar. The objectives of this seminar were to analyze best practices in terms of forfeiture worldwide and to share experiences about mechanisms to facilitate the identification, seizure and forfeiture of assets of illegal origin, including specific international cooperation techniques. Agents from UIF-AR, the Anti-Corruption Office, the National Treasury Attorney General's Office, the Attorney General's Office and the Judiciary participated in such seminar. Among other issues, they shared cases where the proceeds of foreign bribery had been forfeited successfully (Annex 41).

In 2018, the British Embassy in Buenos Aires sponsored a project to enhance FIU capabilities. The goal of this project was to provide the private sector with best practices and guidance in order to protect the financial system from being used to launder the proceeds of corruption. The project consisted of a seminar given by a British expert with knowledge in anti-corruption issues, including typologies, red flags and alerts that may prevent serious offences. During that seminar, the private sector—particularly financial institutions—was encouraged to participate and share their experience (Annex 42).

In 2019, among other documents, the FIU disseminated a set of indicators for corruption-related cases to the different stakeholders (Annex 43).

UIF-AR also provided feedback to the AML/CFT stakeholders by disseminating documents recently approved by the Egmont Group and the FATF, relevant to their duties and responsibilities.

Document	Addressees	Communication channel
CONCEALMENT OF BENEFICIAL OWNERSHIP	All reporting entities under article 20 of Law 25 246; Ministry of Security; Office of the Chief of Staff; and Anti-Corruption Office.	All reporting entities through the Online Reporting System (SRO) and formal notification through the electronic document management system (GDE) to the Ministry of Security, Office of the Chief of the Cabinet of Ministers, Anti-Corruption Office and Company Registry Office.
FINANCIAL FLOWS FROM HUMAN TRAFFICKING	All reporting entities under article 20 of Law 25 246 and the Ministry of Security.	All reporting entities through SRO and formal notification through GDE to the Ministry of Security.

PROFESSIONAL MONEY LAUNDERING	All reporting entities under article 20 of Law 25 246 and the Ministry of Security.	All reporting entities through SRO and formal notification through GDE to the Ministry of Security.
INDICATORS OF CORRUPTION	All reporting entities under article 20 of Law 25 246 and Anti-Corruption Office.	All reporting entities through SRO and formal notification through GDE to the Anti-Corruption Office.
FATF PUBLIC STATEMENT	All reporting entities under article 20 of Law 25 246.	All reporting entities through SRO.

If no action has been taken to implement this recommendation, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 8(e):

8. With regard **to money laundering**, the Working Group recommends that Argentina:

(e) continue to ensure that UIF processes and forwards relevant information contained in STRs to law enforcement without undue delay (Convention Article 7; 2009 Recommendation IX.i).

Action taken since the date of the follow-up report to implement this recommendation:

The following information reveals the permanent improvements made by the FIU in terms of efficiency and effectiveness when it comes to the prevention of and fight against ML/TF and related predicate offences:

-Internal information handling procedures were improved through FIU Resolution 18/2016 (this regulation is not available to the public). The aim of this resolution is to streamline the internal procedures to analyze suspicious transaction reports (STRs) by not involving the Legal Affairs Division, the then General Executive Secretariat and the Advisory Council in the process. Thus, in order to promptly communicate the cases to the Attorney General's Office, this FIU decided that only the Analysis Division (through the elaboration of an intelligence report) and the Head of UIF-AR (through the intervention of the Dispatch Division) should intervene in such process. This resulted in a significant increase in the number and quality of the intelligence reports produced. These new procedures make it possible to streamline FIU's internal procedures to ensure a prompt dissemination of reports (Annex 44).

In 2016, the FIU was transferred to the scope of the National Ministry of Finance (currently, National Ministry of Treasury). This transfer strengthened FIU's autonomy and enabled it to act in a jurisdiction which is more consistent with its sphere of competence and to work alongside other agencies which govern the financial system. In line with this, FIU Resolution 152/16 as amended defines the new FIU's

organizational chart to adapt its organic and operational structure to the new needs of the agency, in accordance with relevant international standards.

FIU Resolution 152/2016:

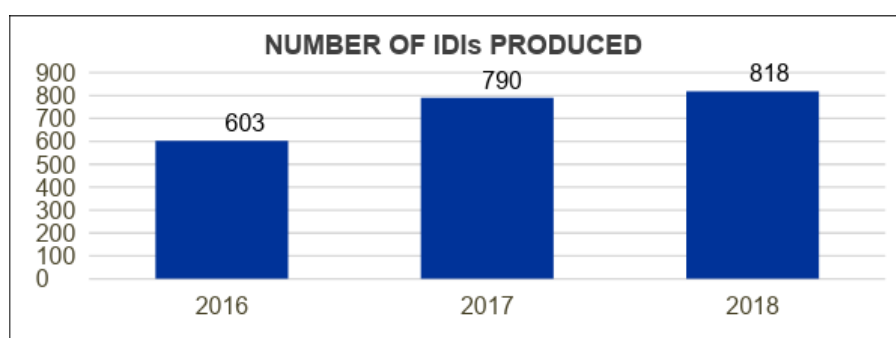
<http://servicios.infoleg.gob.ar/infolegInternet/anexos/265000-269999/268283/texact.htm>

Amendment: FIU Resolution 13 E/2017:

<http://servicios.infoleg.gob.ar/infolegInternet/anexos/265000-269999/268283/texact.htm>

In 2018, and in line with the main responsibilities and actions provided for under the aforementioned resolutions, the FIU decided to draft the Operational Procedures Manuals for each FIU's Division and Regional Agencies (these internal procedures are confidential).

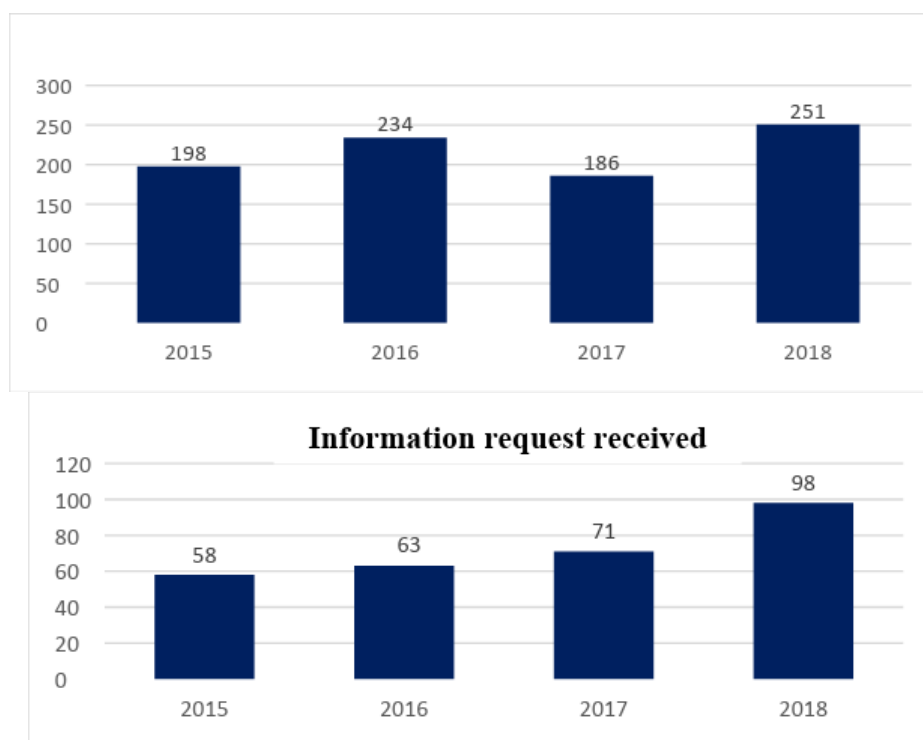
The number and quality of the intelligence reports produced has increased significantly. Whereas in 2017 and 2016 the FIU elaborated 790 and 603 intelligence reports respectively, in 2018 it elaborated 818 intelligence reports (cooperation with the Attorney General's Office and the Judiciary within the framework of different ongoing criminal cases and specific intelligence reports).



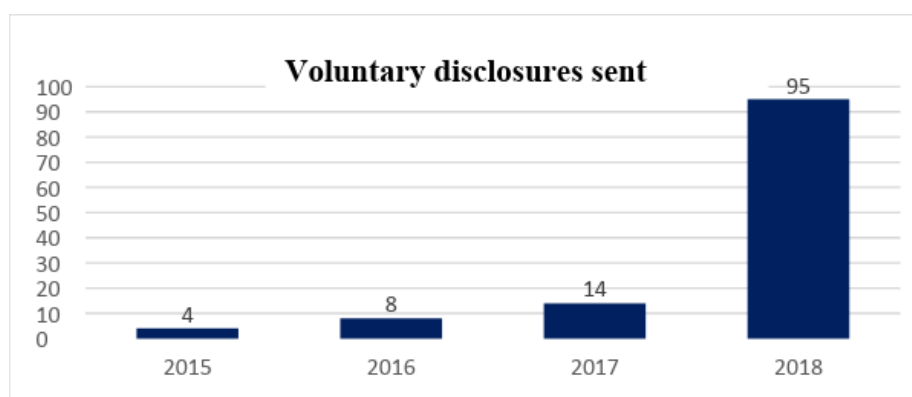
At present the FIU is acting as co-plaintiff in 156 criminal cases pending in 18 provinces, of which 34% involve crimes against the public administration. It is worth mentioning that there was a reduction in the times for submitting to court corruption and money laundering cases (the duration of the pre-trial stage—formerly 15 years—is now of 2 years).

Information exchange with other FIUs has increased significantly as compared to 2017. In 2018, 251 information requests were sent by this FIU to foreign counterparts, whereas 98 information requests were received from other FIUs.

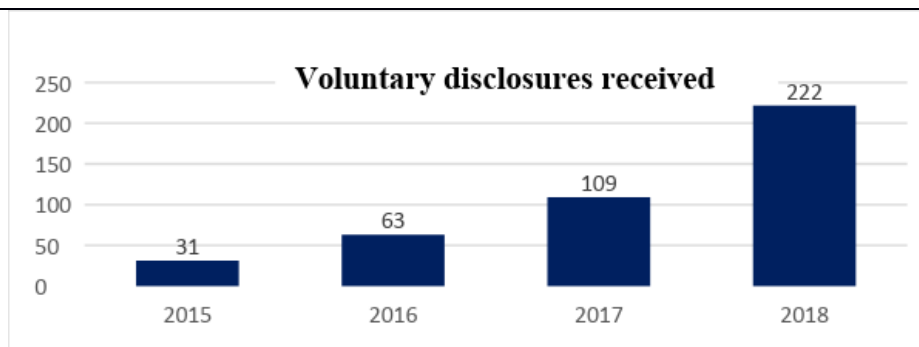
During 2017, the total of information requests sent to foreign counterparts was 186, whereas our FIU received 71 requests from other FIUs.



There was an increase in the number of voluntary disclosures sent by this FIU. In 2018, this FIU sent 95 voluntary disclosures, whereas in 2017 it sent only 14. This type of disclosures are sent when the analysis conducted reveals relevant data which is linked to the jurisdiction of foreign FIUs.



The number of voluntary disclosures received has also increased. In 2018, the FIU received 222 voluntary disclosures, whereas in 2017 it only received 109. This type of disclosures are spontaneously sent by foreign FIUs based on links detected with our country within the framework of ongoing investigations.



The FIU actively participated in numerous judicial investigations, cooperating with the Judiciary and the Attorney General's Office. In order to improve the assistance provided to the Judiciary and to enhance information sharing, on March 15, 2017, the FIU and the National Supreme Court of Justice signed the *Agreement for Cooperation to combat money laundering, terrorist financing and other crimes against the economic and financial order*. This Agreement is mainly aimed at strengthening and increasing effectiveness in the cooperation relationship between the FIU and the Judiciary, providing a framework of greater agility and swiftness with regard to the dissemination of intelligence information, and at the same time, ensuring the confidentiality and appropriate handling of such information.

<https://www.argentina.gob.ar/noticias/la-uif-firma-convenio-de-colaboracion-con-la-corte-suprema-de-justicia-para-combatir>

On January 10, 2018, Decree 27/2018 was issued. Such Decree modified Articles 13 and 19 of Law 25,246, expanding the possibility of disseminating information about suspicious transactions directly to the judge (when, after having conducted a thorough analysis, the suspicious nature of such transactions is confirmed) whenever the transaction is linked to an ongoing investigation conducted within the framework of a criminal case. The rationale behind this Decree is to streamline the direct dissemination of intelligence information to the judge who is already in charge of a specific investigation. It is worth noting that in our legal system, it is the judge that is in charge of criminal proceedings rather than prosecutors.

<http://servicios.infoleg.gob.ar/infolegInternet/anexos/305000-309999/305736/norma.htm>

In order to enhance the FIU's performance in the whole country, two regional agencies were strategically established in the northern border to reinforce prevention and judicial cooperation in the region. Through these agencies, the FIU achieved the goal of federalizing the institution, decentralizing its activity and bringing its functions close to the north of the country. In fact, the establishment of said regional agencies in those places with higher ML/TF risks—namely the northeast and northwest of Argentina—has allowed the FIU to be closer and take actions regarding ML/TF prevention and supervision in those regions, as well as to have greater presence in terms of cooperation with the Judiciary.

<https://www.argentina.gob.ar/noticias/la-uif-inaugura-agencia-regional-en-el-litoral-del-pais>

<https://www.argentina.gob.ar/noticias/la-uif-inaugura-en-salta-su-primera-agencia-regional-del-norte-del-pais>

With the aim of strengthening FIU's financial intelligence capabilities, cooperation agreements and other information exchange agreements were signed with different government agencies. Among those agreements, it is worth mentioning the agreements the FIU signed with the National Registry of Persons (RENAPER), National Superintendence of Insurance (SSN), National Social Security Administration (ANSES), and the Tax Administration of the Province of Chaco, the Public Registry of Commerce of Chaco, the National Ministry of Security, and the National Directorate for Criminal Intelligence. The

signing of these agreements has entailed the possibility of getting rapid access to a greater amount of information held by other agencies, thus enriching the analysis process.

It should be highlighted that in 2018 the Head of UIF-AR and the Head of the Anti-Corruption Office entered into an agreement to strengthen the mechanisms to prevent and detect money laundering and corruption, as well as to establish cooperation mechanisms with the Judiciary in criminal investigations involving money laundering and corruption. Both UIF-AR and the Anti-Corruption Office have stated their mutual commitment to implement communication channels as well as cooperation and coordination mechanisms to improve efficiency, and to strengthen cooperation in terms of prevention and criminal punishment for the crimes of money laundering and corruption.

<https://www.argentina.gob.ar/noticias/acuerdo-de-cooperacion-entre-la-unidad-de-informacion-financiera-y-la-oficina-2>

<https://www.argentina.gob.ar/noticias/convenio-de-colaboracion-y-asistencia-tecnica-entre-la-ssn-y-la-uif>

In 2017, the FIU acquired the technological tool “Business Intelligence/Analytics”. This tool makes it possible to exploit and analyze data at large scale in a better and more efficient manner (Big Data technology/machine learning), and to implement a reporting method and control panels for a more efficient information management. Furthermore, this tool is crucial for the intelligence tasks conducted by this FIU because it allows FIU analysts to obtain, compile and link information rapidly and effectively. The FIU is currently customizing this tool, which is scheduled to be active by mid-2019 (Annex 45).

If no action has been taken to implement this recommendation, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 9(a):

9. With regards to **accounting and auditing, corporate compliance, internal control and ethics**, the Working Group recommends that Argentina:

(a) continue to strengthen accounting standards, such as by allowing all unlisted companies and SOEs to choose IFRS (Convention Article 8; 2009 Recommendations X.A.i and iii);

Argentina continues taking measures to extend the application of IFRS.

As specified in previous assessments, endorsing this recommendation implies changing regulations, accounting practices, financial information, and control systems in relation to a universe of enterprises which includes companies in general, publicly traded companies, corporations, partnerships and mutual associations providing insurance, credit and microcredit, service and labour cooperatives, and financial entities subject to control by the Central Bank.

As was informed, this task was started upon the advice and work of the Argentine Federation of Professional Councils in Economic Sciences (FACPCE). The Federation set up an Inter-institutional Committee and amended some of its technical resolutions. This technical committee is presided over by FACPCE and made up of representatives of the Central Bank of the Argentine Republic, the Argentine

Superintendency of Insurance, the Corporate Records Office of the City of Buenos Aires [Inspección General de Justicia], the Argentine Securities and Exchange Commission, and the National Institute for Cooperativism and Social Economy.

As a result, at present all companies are authorized to apply IFRS and most of those which are in regulated sectors have the obligation to conform the presentation of their financial statements to IFRS.

Firstly, on 26 June 2018 the Corporate Records Office of the City of Buenos Aires (IGJ) issued General Resolution IGJ 4/2018¹¹⁰, through which it authorized all companies under its control to submit their financial statements in accordance with Technical Resolution No. 26 of the Argentine Federation of Professional Councils in Economic Sciences (FACPCE), the "International Financial Reporting Standards" (IFRS), as amended. Thus, regulated companies were authorized to apply IFRS in their Financial, Accounting and Income Statements.

The abovementioned resolution establishes the replacement of Section 305, paragraph 7, of General Resolution No. 7/2015 by the following provision:

“companies may submit their individual financial statements to this Corporate Records Office of the City of Buenos Aires in compliance with Technical Resolution No. 26 of the Argentine Federation of Professional Economic Science Councils - “International Financial Reporting Standards (IFRS)”- as amended, pursuant to Section 10 hereof.”

Notes. The first financial statements submitted in accordance with this Section shall include a note specifying reconciliation of “Owners’ Equity” and “Other Comprehensive Income”, pursuant to paragraph 16, subparagraph d), of Technical Resolution No. 26, amended by Technical Resolution No. 29, and apart from the relevant reports that accompany their financial statements, companies shall also submit detailed auditing reports and reports made by the company's supervisory body.

Balance difference. Reserve. Additionally, during the first fiscal year in which entities adopt the International Financial Reporting Standards (IFRS), they shall consider the positive differential amount between the initial balance of the "retained earnings" account, included in the financial statements at the beginning of said fiscal year as compared with the "retained earnings" account as of the same date under the previously applied accounting standards, allocating such amount to a reserve account, which may not be distributed in cash or in kind to the company's shareholders. Such reserves may be released only in the following cases:

- a. for their capitalization; or*
- b. to absorb any negative balance of the "Retained Earnings" account.*

The provisions of the preceding paragraph shall be a specific item on the agenda of the shareholders' meeting dealing with financial statements and duly included in the notes to such statements.

Revaluation Model. Entities adopting the International Financial Reporting Standards (IFRS) pursuant to this Resolution may use the revaluation model provided for in International Accounting Standard (IAS) 16 and the fair value model provided for in IAS 40 of the IFRS -or as amended in the future-, subject to the requirements concerning corporations and reporting to the Corporate Records Office of the City of Buenos Aires imposed in Sections 319 and 320 herein."

¹¹⁰ http://www.jus.gob.ar/media/3296667/rg_igj_4-2018.pdf

Therefore, all companies may present their Financial Statements in accordance with Technical Resolution No. 26. Before such amendment, the option of applying Technical Resolution 26 was limited to controlled, parent, subsidiary or affiliated corporations which make public offerings of their stock or debentures.

Regarding controlled sectors of companies with special schemes, it is worth explaining the following.

In the case of banks and companies covered by the Law of Financial Institutions, through the provisions of Communication A-5541¹¹¹ of February 12, 2014, the Central Bank of the Argentine Republic (BCRA) established that, from January 1^o, 2018, all the annual and quarterly financial statements of financial entities must be prepared in accordance with International Standards. of Financial Information (IFRS).

Communication "A" 6324¹¹² was subsequently issued on September 19, 2017, by which the changes to be adopted in the preparation and presentation of Financial Statements from the exercises starting on 1/1/18, date of beginning for the entities in the application of the accounting framework based on the IFRS were made known.

Through Communication "A" 5635¹¹³, of September 22, 2014, the BCRA disclosed the content and formalities that the Implementation Plan for the convergence towards the International Financial Reporting Standards (IFRS) should meet, which it had to be submitted before 03/31/2015. Through the provisions of Communication A-6114¹¹⁴ of December 12, 2016, the BCRA stated an exception in the application of International Financial Reporting Standards (IFRS) for financial entities, corresponding to point 5.5 "Impairment of Value" of IFRS 9 "Financial Instruments". The exception, in accordance with the provisions of Communication A-6430 (Annex 46) of January 12, 2018, will apply from exercises beginning on January 1, 2020.

Such provision shall not modify the integrity or transparency of accounting and financial information, neither shall it restrict the general application of international standards nor reduce the capacity to detect irregularities and fraud.

As regards entities controlled by the Argentine Superintendence of Insurance (SSN), on 15 May 2018 the SSN and the US Department of the Treasury, directed by the Office of Technical Assistance (UST/OTA), set Terms of Reference (Annex 47) establishing the general aim of increasing the capacity of SSN's oversight systems.

The industry was informed of the decision that the SSN adheres to IFRS by means of a gradual adoption plan divided into Phases. Such plan provides for the full implementation of international standards (with the exception of IFRS 17) for the fiscal year starting in July 2021 and for the implementation of IFRS 17 for the fiscal year starting in July 2022.

The first version of the work plan that the SSN is implementing upon the advice of Ernst & Young, which has several key elements for the design of an IFRS convergence plan, is attached hereto (Annex 48).

The OTA gives advice to the SSN in reviewing the existing regulatory framework in terms of its modification needs in order for new regulations to be within the purview of IFRS international principles.

¹¹¹ <http://www.bcra.gov.ar/Pdfs/comytexord/A5541.pdf>

¹¹² <http://www.bcra.gov.ar/pdfs/comytexord/A6324.pdf>

¹¹³ <http://www.bcra.gov.ar/pdfs/comytexord/a5635.pdf>

¹¹⁴ <https://www.bcra.gob.ar/Pdfs/comytexord/A6114.pdf>

Also, provide comprehensive training activities to all members of the SSN's oversight process (analysts from the Assessment Office [GE], the Technical and Regulatory Office [GTYN], and inspectors).

With the aim of ensuring that convergence to IFRS takes place in a systematic and comprehensive manner and upon international technical advice for the development of an appropriate regulatory framework, Objective 4 of the Terms of Reference describes the work plan to be implemented for such purpose:

“Objective 4 — Assist in the planning and training on the compliance with the International Financial Reporting Standards (IFRS) framework of rules, policies, and procedures for the implementation of IFRS in the insurance industry.

International Financial Reporting Standards (IFRS) is a relatively new approach in insurance accounting in Argentina. There are a number of important preparatory steps that are important to develop the successful compliance of IFRS which needs to be designed and implemented as a new valuation process encompassing financial statement components for both supervision and the insurance companies. IERS places strong emphasis on understanding and assessing the value of each company's financial”.

Tasks and activities	Start Date	Finish Date
Shift the insurance industry to IFRS accounting process		
Review the existing and newly proposed regulatory framework of IFRS	Jan 2018	Mar 2019
Assist OTA IFRS Expert in the first quarterly training of SSN financial supervisory Staff	Mar 2019	Mar 2019
Assist OTA IFRS Expert in the second quarterly training of SSN financial supervisory Staff	Jun 2019	Jun 2019
Assist OTA IFRS Expert in the second quarterly training of SSN financial supervisory Staff	Sep 2019	Sep 2019
Assist OTA IFRS Expert in the second quarterly training of SSN financial supervisory Staff	Dec 2019	Dec 2019
Assist with the finalized schedule of IFRS implementation and compliance with the Insurance Industry	Jan 2020	Jun 2020

As a general rule, publicly traded (listed) companies prepare their financial statements in compliance with IFRS. Only some small and medium-sized companies are exempted from full application of IFRS due to their size and low risk.

The governing regulations follow a chronological order:

On 29 December 2009, the Argentine Securities and Exchange Commission (CNV) issued General Resolution No. 562/2009 on "Adoption of International Financial Reporting Standards" (Annex 49) on the basis of a binding recommendation made by the International Organization of Securities Commissions (IOSCO) regarding the adoption of the International Financial Reporting Standards (IFRS), issued by the International Accounting Standards Board (IASB), for the preparation and submission of financial statements by entities authorized to make public offering of their negotiable securities.

At that time, the Argentine Chamber of Corporations and the professional entities in the field of economic sciences requested that such accounting standards be adopted; therefore, as a result of the abovementioned recommendation and request, and with intervention by the Technical Accounting Coordination Committee, the CNV began to analyze the possibility of adopting the new accounting standards.

Section 1 of the aforementioned General Resolution provides as follows:

"SECTION 1.- For fiscal years beginning on or after 1 January 2012, the title and text of Annex I "Rules relative to the presentation and valuation criteria of financial statements", Chapter XXIII -Periodical Information Regime- of the RULES (N.T. 2001) shall be superseded by Annex I attached to this General Resolution.

SECTION 2 - The following section shall be incorporated into Chapter XXXI -Transitory Provisions- of the RULES (N.T. 2001), effective as of the date of publication of this General Resolution: -

"SECTION 114.- For fiscal years beginning on or after 1 January 2012, entities issuing stock and/or negotiable bonds shall present their financial statements in accordance with Technical Resolution No. 26 of the ARGENTINE FEDERATION OF PROFESSIONAL COUNCILS IN ECONOMIC SCIENCES, which provides for the adoption of the International Financial Reporting Standards (IFRS), issued by the International Accounting Standards Board (IASB), as amended. Early application shall be allowed for fiscal years beginning on or after 1 January 2011.

Issuing companies currently preparing information under the International Financial Reporting Standards may present, as supplementary information, their financial statements in compliance with said standards for fiscal years beginning on or after 1 January 2010.

Small and medium companies shall be exempted from the obligation imposed by the first paragraph of this Section, as instructed by the UNDERSECRETARIAT FOR SMALL AND MEDIUM-SIZED ENTERPRISES AND REGIONAL DEVELOPMENT (SEYME) or pursuant to the broad definition of SMEs provided by Section 36 of Chapter VI -"Initial Public Offering"- of the RULES (N.T. 2001, as amended), which offer their shares and/or negotiable bonds under the simplified regime provided for in Sections 23 to 39 of the abovementioned Chapter VI of the RULES (N.T. 2001)".

At present, a total of one hundred and seventeen (117) SMEs are under the public offering regime (out of which 43 are subject to the SME CNV Regime and 74 are Guaranteed).

The increase occurred in the recent past was due to the launch of the SIMPLE or GUARANTEED NEGOTIABLE BOND. The Simple Negotiable Bond is a debt instrument in the capital market that is 100% backed by guarantee entities. It is a federal instrument since SMEs may submit their applications in fully digital form, which favours federalization of the capital market.

Before the implementation of this regime there were 51 issuing SMEs but, since September 2017, 74 SMEs have been obtaining financing through this instrument.

The purpose of SIMPLE NEGOTIABLE BONDS is to grant issuers the opportunity to extend financing terms, from the 5/12 months of deferred-payment cheques and negotiable promissory notes to about 30 months, the average term of SIMPLE NEGOTIABLE BONDS.

Additionally, since they are 100% backed by a guarantee entity, investors are ensured that in the event an SME is unable to make any payment of principal or interest, its guarantor (i.e. a bank, a reciprocal guarantee company or a guaranty fund approved by the CNV shall be responsible for making such payment. Its issues being backed by a guarantee entity, an SME may offer better conditions and rates since investors note that the "SME" risk is substituted by the "GUARANTEE ENTITY" risk. It is a virtuous credit scheme and a financing alternative to the banking system, as well as to the cheque and promissory note discount.

In this regard, these small and medium-sized companies are for now exempted due to the low risk posed by their secured credit operations and to the difficulties involved in the adoption of the above mentioned rules (an annual presentation after 120 days have elapsed, higher costs that might affect their development).

However, the relevant technical area of the CNV is working together with the Federal Administration of Public Revenue (AFIP) and the Argentine Ministry of Production to harmonize criteria and to implement a normalization/regulatory standardization framework.

Yet no rule prohibits these entities from applying IFRS, which may be voluntarily adopted by companies.

The National Institute for Cooperativism and Social Economy (INAES), adopted Resolution No. 3073/2018 of the Board of Directors, which provided for the creation of a Special Committee for the purpose of implementing OECD's recommendations in respect of entities under the supervision and control of said organization. The adoption of this resolution entails that the Committee shall, at a first stage (May-June 2019), assess the existing circumstances and define different scopes of work mainly on the basis of the risk its activities may pose regarding transnational bribery possibilities. Specifically, the difference with other legal structures that may be used, to a greater extent, for such actions shall be explored. The second stage (October-November 2019) comprises the issuance of the relevant Resolution and the setting of an implementation period.

Resolutions No. 806 and 974/2018, impose the requirement to provide information quarterly, for statistical purposes, aimed at learning about the number of Suspicious Operations Reports (ROS) submitted to the Financial Information Unit (FIU) by the entities required to do so.

In view of the provisions of Argentine Law No. 27430, Resolution 3074/2018 provides for the possibility of revaluing, for accounting purposes, the goods entered on the assets side of the relevant entity. This resolution was supplemented by Resolution No. 3683/2018 (Annex 50) with the aim of clarifying that the adoption of the revaluation regime entails that the resulting amount may not be distributed and shall be allocated to a specific reserve pursuant to the abovementioned Law.

Despite the foregoing, the Organization is currently evaluating -for subsequent consideration by the Board of Directors- the use of constant currency in the preparation of their financial statements, for fiscal years ending on or after 31 December 2018, one of the ways of facilitating assessment of the application of IFRS.

If no action has been taken to implement this recommendation, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 9(b):

9. With regards to **accounting and auditing, corporate compliance, internal control and ethics**, the Working Group recommends that Argentina:

(b) take measures to enforce the accounting fraud offence and accounting requirements more effectively in bribery cases; increase applicable sanctions where appropriate; and ensure that the Corporate Liability Law, if enacted, applies to foreign bribery-related accounting misconduct (Convention Article 8; 2009 Recommendations X.A.i and iii);

Action taken since the date of the follow-up report to implement this recommendation:

Argentine Law No. 27401 establishes a system of criminal liability of legal persons, whether they are domestically or foreign-owned, with or without State participation, which commit any of the following crimes: bribery and influence-peddling, negotiations incompatible with public office, extortion, unjust enrichment by government officers and employees, and aggravated falsification of balance sheets and reports.

Section 300 bis of the Argentine Criminal Code, as amended, establishes the crime of "aggravated falsification of balance sheets and reports", committed with the aim of concealing the commission of bribery or influence-peddling:

"Section 300 bis.- Where the offences provided for in section 300(2) have been committed for the purpose of concealing the commission of the offences included in sections 258 and 258 bis, a prison term of one (1) to four (4) years and a fine amounting to two (2) to five (5) times the amount altered in the documents and acts referred to in the abovementioned subsection shall be imposed."

(Section added by Section 37 of Law No. 27401 Official Gazette 01/12/2017) Entry into force: ninety (90) days after its publication in the Official Gazette of the Argentine Republic).

Within the framework of the abovementioned law and regarding accounting fraud, in respect of which measures have been required, it is worth noting that if the IGJ found -on the basis of the accounting information of the legal persons under its control- irregularities that might indicate that any of the offences included in the abovementioned criminal law has been committed, it may report the case to the judicial authority with jurisdiction over the application of the law on criminal liability of legal entities.

Indeed, Section 6, subsection D, of Argentine Law No. 22315¹¹⁵ (Charter of the IGJ), provides that the Corporate Records Office of the City of Buenos Aires shall, in the exercise of its supervisory function, have the power to "report cases to the competent judicial, administrative and police authorities where the facts it has become aware of may result in the exercise of criminal action. It may also directly request

¹¹⁵ <http://servicios.infoleg.gov.ar/infolegInternet/anexos/20000-24999/21159/norma.htm>

prosecutors to institute the relevant legal proceedings in cases of violation or breach of public order provisions".

Law No. 22,315

SECTION 6. – In order for the Corporate Records Office of the City of Buenos Aires to exercise its supervisory function, it shall have the following powers in addition to those conferred in specific cases:

- a) request any information and documents it deems necessary;
- b) conduct investigations and inspections, for which purpose it may examine corporate books and documents, request reports from corporate authorities, managers, staff, and third parties;
- c) receive and deal with claims brought by interested parties who promote the exercise of its supervisory functions;
- d) report cases to the competent judicial, administrative and police authorities where the facts it has become aware of may result in the exercise of criminal action. It may also directly request prosecutors to institute the relevant legal proceedings in cases of violation or breach of public order provisions.
- e) enforce its decisions, to which end it may request any of the following from a court with jurisdiction over civil or commercial matters:
 - 1) assistance from law enforcement authorities;
 - 2) raids on and closure of premises;
 - 3) seizure of books and documents;
- f) declare irregular and ineffective for administrative purposes all acts subjected to its supervision, where they are contrary to the law, its bylaws or regulations.

The foregoing powers shall not exclude any other power granted by law to other organizations.

Under Law No. 22315, this organization has the power to impose the sanction of warning, published warning and payment of a fine, provided for by Law No. 19550, on any legal person which does not comply with the obligation to provide information, provides false data or otherwise fails to meet the obligations imposed by law, its bylaws or regulations, or which hinders performance of its functions.

Also, the IGJ has the power to request that the commercial court with jurisdiction over the legal person's offices impose the measures set forth in Section 303 of Argentine Law No. 19550, which provides for the suspension of resolutions issued by the corporation's organs, the intervention in corporate management, and even the dissolution and winding-up of the company. Finally, it should be noted that a draft bill is currently in process for an update of the highest penalty amount set forth in Law No. 19,550, Section 302 (3).

In the field of insurance entities, the Office of the Deputy Anti-Insurance Fraud Manager was created in 2018, within the scope of the Office of the Money Laundering and Terrorism Financing Prevention and Control Manager, Argentine Superintendency of Insurance (SSN) (February 2018). In the context of this office, a Work Plan (Annex 51) has been drafted in which critical aspects of high-risk entities or operators are analyzed (i.e. where a follow-up action is required as a result of ongoing implementation of a regularization and rehabilitation plan), prominently featuring issues relating to production, policy

issuance, reserve constitution (especially in connection with court claims), reinsurance, and insurance auxiliary personnel.

As regards the detection of false accounting data, the Inspection and Evaluation Offices are the most visible and the ones with more knowledge of companies' financial statements, and therefore the officials from said offices are the ones most likely to detect accounting fraud at an early stage. In this context, the Office of the Deputy Manager has cooperated on some specific cases in which such documents have been assessed. Its conclusions were reported in a timely manner to the requesting office, since the scope of cooperation is determined by the statements made by the office requesting cooperation from the Office of the Deputy Anti-Insurance Fraud Manager, or by the requests made by higher authorities. Accordingly, it is important to point out that the office of the deputy anti-fraud manager is working with various other areas on internal processes aimed at detecting signals of accounting fraud so as to design a standard procedure that requires the specialized anti-fraud office.

Without prejudice to the foregoing, it is noteworthy that since 2016, the Argentine Superintendency of Insurance has filed three criminal complaints for alleged events that may meet the description of Section 300 (2) of the Criminal Code, one of which complaints was filed after the Office of the Deputy Anti-Fraud Manager was created, without prejudice to its permanent availability to the other offices in the entity to cooperate on matters that may involve this kind of events. It should be noted that even if the figure may seem meagre, there are currently less than two hundred companies authorized to operate, so in fact this figure accounts for more than 1.5% of the regulated market.

In addition, for the purpose of expanding and streamlining oversight processes that enable early detection of potential fraud, whether associated with bribery or not, SSN Resolution 116/2018¹¹⁶ was issued, which vests the SSN with authority to design, manage, assess and monitor insurance fraud prevention and control processes, to which end the Resolution also establishes powers to put together teams and provide cooperation to other areas of the SSN in order to verify and/or analyze reports and/or any other matter of institutional relevance. This enables an analysis of economic and financial situations arising either from a request from offices with specific technical competence, as is the case of processes from the Inspection, Assessment or Technical and Regulatory offices, or in the context of anti-fraud inspections, whether on site or off site.

The abovementioned Resolution marks a turning point in public policy against fraud. It establishes a criminal policy that is part of an economic policy, given that insurance fraud (from insurance companies, reinsurance companies, authorized or unauthorized intermediaries, or the insured itself) is detrimental to transparency and, in the case of accounting fraud, to the solvency of the market the Argentine Superintendency of Insurance regulates.

The authority to design, manage, assess and monitor insurance fraud prevention and control processes is noteworthy, as it implies an analysis of this issue at a global scale in order to design specific processes to reduce fraud in this field.

The process is currently being designed, and meetings have been held with the Inspection, Assessment and Liquidation offices to determine the content of such warnings, and it is expected to be completed by October of this year. This is an inter-office process that may have an impact on the duties of the entity as a whole, but especially on those of the Inspection, Assessment, Liquidation, Technical and Regulatory, Legal Affairs, and Money Laundering and Terrorism Financing Prevention and Control offices, which leads the Office of the Deputy Anti-Fraud Manager to coordinate joint actions with all those offices, without prejudice to maintaining dialogues with officials from other agencies.

¹¹⁶ <http://servicios.infoleg.gob.ar/infolegInternet/anexos/305000-309999/306764/norma.htm>

It should be noted that the project has been reported to the Anti-Corruption Office in the context of the National Anti-Corruption Plan, since the impact of accounting fraud detection could potentially involve the aggravating factor set forth in Section 300 bis of the Criminal Code.

As regards financial entities, BCRA Guidelines for Risk Management in Financial Institutions¹¹⁷ have been in force since 2013, which require financial entities to have a comprehensive risk management process, including oversight by the Board and High Management in order to identify, assess, oversee, monitor, and mitigate all significant risks. This process must be proportional to the dimension and economic importance of the financial entity concerned, as well as to the nature and complexity of its operations. The comprehensive risk management process must be suitable, adequately verified, adequately documented, and periodically reviewed based on the changes in the entity's risk profile and in the market.

In the credit, services and worker cooperative sector, in order to reinforce oversight and monitoring activities, INAES and other entities have issued several resolutions. This has enabled the monitoring of activities directly and indirectly related to bribery and corruption risks, and the establishment of a first arrangement of the cooperative and mutual sector.

On the one hand, a Joint General Resolution (No. 4322/2018) was issued by the Federal Administration of Public Revenue and the National Institute for Cooperativism and Social Economy (Annex 52) where both agencies decided, in connection with cooperatives and mutuals, to share information, facts, circumstances and results verified or gathered in exercise of their respective inspection and monitoring duties, where the information received will be deemed valid, sufficient evidence of the circumstances that have been verified.

In the context of the Joint General Resolution, reciprocal usage of the information obtained by both agencies as a result of monitoring cooperatives and mutuals gave rise to the application of the penalty provided for in INAES Resolution No. 3916/18 (Annex 53) to 9 worker cooperatives in the Province of Buenos Aires, for distorting their legal purpose; 9 worker cooperatives in the Province of Buenos Aires, and for evading income tax in the amount of \$100 million, plus the relevant amount of unpaid social security resources.

With regard to the abovementioned Resolution, it was decided to expand the potential penalties resulting from the implementation of Resolution No. 1659/2016¹¹⁸, which will enable them to be more effective, efficient and proportional to the breaches detected, and may even result in withdrawal of the authorization to operate.

Indeed, in view of the extension of time periods under the existing summary procedure, INAES Resolution No. 1659/2016 was issued in 2016 enabling the implementation of preventive measures and actions to refrain from or suspend operations involving credit services in credit cooperatives, financial aid in mutuals, and loan processing in both cases, while the summary procedure is carried out—which, in addition, takes place in the context of an abbreviated process.

In 2017, the possibility of applying these preventive operation suspension measures and actions was extended to worker cooperatives by means of INAES Resolution No. 1221/2017, for cases in which it is presumed that the nature of the characteristics listed in Law No. 20,337, Section 2, have been distorted.

However, the special summary procedure described above did not allow for direct application of penalties to an entity's legal existence, but only to certain transactions. In order to strengthen public oversight tasks,

¹¹⁷ <https://www.bcra.gob.ar/Pdfs/Textord/t-lingeef.pdf>

¹¹⁸ <http://servicios.infoleg.gob.ar/infolegInternet/anexos/265000-269999/266238/norma.htm>

to preserve the genuine system, and for penalties to be more effective, efficient and proportional, Resolution No. 3916/2018 was issued in late 2018 (Consolidated Text of Resolution No. 1659/16, including aspects of Resolution No. 1221/17), which will make it possible, in addition to suspending the authorization to operate granted to credit or worker entities whose operation shows signs of distortion of cooperative or mutual standards, to conclude summary procedures with penalties of withdrawal or revocation of the authorization to operate in cases where distortion of the legal entity is verified.

In the above-described context, the experience of corruption cases under investigation has shown a number of weaknesses, and an attempt has been made to correct them. In a similar vein, Resolution No. 3107/2018 (Annex 54) was issued, whereby it was established that in worker cooperatives that receive funds transferred by bodies, entities and other legal structures from the Federal, Provincial and Municipal public sectors, the distributable excess amount corresponding to each member must be transferred from the cooperative bank account to the accounts that members will open with banks to such end, thereby avoiding the use of cash and enabling the tracing of funds, the monitoring of their destination, and the reporting of potentially suspicious transactions.

In terms of statistics on general penalties imposed on mutuals and cooperatives engaged in lending activities, we would like to point out the following:

- Withdrawal of authorization to operate: this penalty entails that the relevant entity must terminate its operations entirely and only take actions leading to liquidation. If such process is not initiated, the penalty is enforced by the Institute.
Since this Administration took office, the following number of withdrawals has been ordered:
Cooperatives (whose purpose involves lending activities): 150
Mutuals (with lending regulations): 34
- Suspension of the entity: this penalty was applied sua sponte by means of general INAES Resolution No. 3369/09, which completely suspended the activity of entities covered by this provision, as a result of non-compliance with re-registration as ordered in the same provision or of failure to file member meeting documents, at least since 2000.
Current status:
Cooperatives (whose purpose involves lending activities): 893
Mutuals (with lending regulations): 37
- Total suspension of operations for entities subject to an obligation: this penalty was applied sua sponte by means of general INAES Resolution No. 690/14, which completely suspended the activity of entities (mutuals or cooperatives that carry out lending activities and are subject to the obligation set forth in UIF Resolution No. 11/2012) that failed to file the information required under Resolution No. 5586/12-5588/12.
Current status:
Cooperatives (whose purpose involves lending activities): 30
Mutuals (with lending regulations): 256
- Suspension or refraining from lending activities: this penalty is set forth in INAES Resolution No. 1659/16, issued by the current administration, which enables, in parallel to the commencement of summary proceedings, the suspension, as a preventive measure, of activity in cases where unauthorized or suspicious transactions are observed in terms of money laundering and terrorism financing, or in cases where the entity is not found at the address reported to INAES or as a consequence of hindering oversight activities, in connection with the lending information system.
Since this Administration took office, this provision has been applied as follows:
Cooperatives with Board resolution: 41
Cooperatives with case file pending processing: 12

Mutuals with Board resolution: 49
Mutuals with case file pending processing: 16

The penalties described in the above paragraphs add up to a total of 1,126 Cooperatives and 392 Mutuals (Annex 55).

Finally, INAES has submitted to the Anti-Corruption Office the 2019-2023 National Anti-Corruption Plan, which includes matters inherent to fiscalization and oversight, among other matters.

If no action has been taken to implement this recommendation, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 9(c):

9. With regards to **accounting and auditing, corporate compliance, internal control and ethics**, the Working Group recommends that Argentina:

(c) work with the accounting profession to raise awareness of the foreign bribery offence, and encourage the profession to develop specific training on foreign bribery in the framework of their professional education and training systems (Convention **Article 8**; 2009 Recommendation III.i);

Action taken since the date of the follow-up report to implement this recommendation:

In 2017, the Argentine Federation of Professional Councils in Economic Sciences (FACPCE) drafted a training and awareness-raising on the accounting profession in order to develop specific capacities in the field of foreign bribery (Annex 1).

On April 11, 2019, in the city of Buenos Aires, with the support of the Anti-Corruption Office, the training session was held titled "*Training trainers in the context of the accounting profession on foreign bribery: aggravated falsification of balance sheets and reports (Section 300bis of the Argentine Criminal Code), the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (OECD), and the essential aspects of corporate responsibility for corruption (Law No. 27,401)*".¹¹⁹ The event featured 69 representatives of the accounting profession from more than 15 provinces (Annex 56). The training of trainers enables replication and dissemination.

The general objective of the event was to give tools to professionals for the enforcement of legal frameworks derived from the implementation of the Convention and the corporate criminal liability regime (Law 27.401), as well as for the risk and detection of accounting fraud and bribery as wholes, and within the jurisdictional framework of each Organism intervening in the commission.

The event had 3 modules with different themes:

Module 1: The Bribery in the Penal Code. Domestic Bribery and transnational bribery.

¹¹⁹ <https://www.facpce.org.ar/noticias/n-evento11-4-19-16-4.php>

- The Convention to Combat the Bribery of Foreign Public Servants in International Business Transactions
- The crime of bribery in the Argentine Criminal Code.
- Highlights of the Convention and recommendations (2009)
- Dogmatic and elements of crime
- Associated crimes: money laundering, tax evasion, accounting fraud
- Typology, detection and other compared models (cases)

Module 2: Criminal liability of the legal entity

- Models for the Liability of the legal entity
- Corporate responsibility for corruption in compared systems
- Law 27401 and corporate criminal liability for corruption in Argentina
- The Compliance Programme as a tool for prevention, reaction, defense and repair.
- Guide to good practices on internal controls, ethics and compliance.

Module 3: Accounting and auditing

- Accounting and Audit according to the OECD Convention
- Good Practice Guide on Controls, Ethics and Compliance
- The accounting offenses according to the Penal Code.
- Auditing standards related to the risk of fraud
- Principles of Corporate Governance of the OECD regarding fraud and bribery
- OECD recommendations on public companies and multinational companies
- Recommendations of the OECD Working Group and the Work Plan of the FACPCE

On the other hand, through the virtual training platform¹²⁰ of the National Institute of Public Administration (INAP), which leads training activities for all public administration officials, the SSN offered a course for professional and non-professional officials who perform duties with responsibility over regulatory, oversight, inspection and procurement activities at the SSN, for the purpose of developing and strengthening the skills and capacities to identify situations involving foreign bribery, in particular in connection with OECD agreements and commitments (Annex 57).

The SSN Institutional Affairs and International Relations Office requested that the offices and areas involved submit the list of participating staff members and comply with the delivery of recipient profiles to the Technical Training Coordination Unit for registration and accreditation on the online platform. The course was offered online, on the INAP platform, in October 2018. A total of 142 agents were registered, of which 127 passed, 13 were absent, and 1 failed the course (Annex 58).

On behalf of SIGEN the following training courses were offered (Annex 59):

- (1) Public Ethics;
- (2) Introduction to Corporate Syndic Functions;
- (3) Prevention of Money Laundering and Financing of Terrorism;
- (4) Regulations Actualization for corporate Syndics, Res. 7 IGI, Law for Commercial Partnerships, NIIF, NIA, BCRA, CNV, RSE;
- (5) Business Partnership Responsibility;

¹²⁰ <https://www.argentina.gob.ar/inap/campus>

(6) Quality Management (Standard ISO 9001, 14.001, 19.001, 26.000, 31.000, 37.001);

(7) Synergy between Ethics, Integrity and Internal Control;

(8) Transparency and Social Responsibility in the Public Sector.

If no action has been taken to implement this recommendation, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 9(d):

9. With regards to **accounting and auditing, corporate compliance, internal control and ethics**, the Working Group recommends that Argentina:

(d) clarify the entities that are legally required to submit to external audit; ensure full ISA implementation in Buenos Aires and all 23 provinces; and further improve audit quality standards, including with regard to certification of auditor qualifications and quality control of audits (Convention Article 8; 2009 Recommendations X.B.i and ii);

Action taken since the date of the follow-up report to implement this recommendation:

As assessed by the WGB, state-owned companies are subject to auditing by SIGEN, in charge, under Law No. 24,156, of internal oversight of the federal public sector.

Through the promulgation of Decree No. 72/2018¹²¹, a new system of internal control of the National Public Sector is established, coordinated by the General National Office of the Nation (SIGEN), with the objective of achieving higher levels of efficiency, quality, integrity and transparency in the exercise of the public function.

Based on the aforementioned Decree, the SIGEN is in charge of the appointment and removal of internal auditors, to determine the guidelines for structure and integration of the Internal Audit Units (UAI) and regarding the functioning of the Internal Control Committees as essential tool for the strengthening of the control system. In addition, the creation of a specialization degree was established in order to achieve greater professionalization of the Government Internal Auditors.

Also, SIGEN issued Resolution SIGEN No. 69/2018¹²² approving the profile and responsibilities of the Internal Auditor of all the Internal Audit Units that make up the National Public Sector with the scope established in Article 8 of the Law. No. 24.156 and its regulation of Decree No. 1344/2007. The objective of this standard is to provide greater professionalism to the Internal Auditors and is achieved by redefining the profiles, competencies and skills of those who will be appointed to the position of Internal Auditor, as

¹²¹ <http://servicios.infoleg.gob.ar/infolegInternet/anexos/305000-309999/306152/norma.htm>

¹²² <http://servicios.infoleg.gob.ar/infolegInternet/anexos/310000-314999/310568/norma.htm>

well as through a selection process and appointment that evaluates the candidates in their technical capacities and integrity and clearly determines their responsibilities.

In the set of good practices regarding audit and control, administrative decision 85/2018 presented the Good Governance Guidelines for Majority State Participation Companies, including the importance of having an independent and professionalized Internal Audit Unit:

"The auditing department must be headed by a professional with the qualifications required to carry out internal oversight of the company. In particular, it would be advisable to take into account qualities such as the absence of a conflict of interest in the relevant industry and with corporate senior management, and professional experience relevant to the position. The internal auditor should functionally report to the corporate Auditing Committee.

The internal audit department would also benefit from incorporating professionals with experience in various aspects of internal oversight, such as risk management and assessment, good corporate governance, internal and external corporate transparency standards, and management and regulatory impact assessments.

Technical Resolution No. 32 of the Argentine Federation of Professional Councils in Economic Sciences (FACPCE), issued on 30 November 2012, established that as from periods starting on 1 July 2013, audits of financial statements that are subject to an obligation to comply with International Financial Reporting Standards (IFRS) must also comply with International Standards on Auditing (ISA), in accordance with FACPCE Technical Resolution No. 26 of 20 March 2009.

That is to say, once corporations prepare their financial statements in full compliance with IFRS, external auditors must perform their work taking into consideration ISA provisions.

In accordance with this technical requirement, under CNV General Resolution No. 663¹²³ of 6 May 2016, auditors of companies that apply IFRS must apply ISA in their auditing work. Accordingly, and as previously stated, listed companies apply ISA, with the exceptions set forth in the preceding answers.

All companies listed on the main screen, as a result of which the public offering of their negotiable instruments is aimed at unqualified investors, must apply IFRS regardless of whether they are SMEs or large companies. Therefore, their financial statements must be audited according to ISA.

The preparation of financial statements of listed financial entities, insurance companies, cooperatives and mutuals is governed by the provisions established by relevant regulatory bodies. If such bodies require that their financial statements be submitted under IFRS, their auditors must apply ISA in their auditing work.

In addition, the CNV has a register of external auditors that provide services to controlled entities. Professional and specific auditing experience requirements are currently set forth in the regulations in force. General Resolution No. 762¹²⁴, issued on 10 September 2018, requires the submission of documents proving the exercise of the auditing profession for at least 3 years, in compliance with the respective recommendation of the Working Group on Bribery.

In effect, external auditors, and their professional associations, that provide external audit services to entities authorized to publicly offer their negotiable securities, whose financial statements must be issued in accordance with the International Financial Reporting Standards (IFRS), must establish and maintain a quality control system that provides reasonable assurance that: a) the audit firm and its personnel comply

¹²³ <http://servicios.infoleg.gob.ar/infolegInternet/anexos/260000-264999/261177/norma.htm>

¹²⁴ <http://news.ips.com.ar/files/rcnv76218.html>

with professional standards and applicable legal and regulatory requirements; and b) the reports issued by the external auditors are adequate according to the circumstances.

As a novelty, article 27 of Section VI of Chapter III of Title II of the CNV STANDARDS (TO 2013 according to model RG 762/18) establishes that the external auditor will submit an additional report to the Audit Committee of the audited entity, within the framework of the provisions of the International Auditing Standards adopted by the Argentine Federation of Professional Councils of Economic Sciences including, among other issues, a declaration of independence, a description of the methodology used, the scope and schedule of the audit and, where appropriate, significant deficiencies noted with respect to the internal control system (for more information see Annex 60).

In the financial and banking sector, controlled by the BCRA, all institutions are required to submit annual financial statements with external audit reports, and quarterly financial statements with a limited review report, prepared by an external auditor registered with the Register of Auditors of the BCRA, whose signature must be certified by the Professional Council of his jurisdiction.

Given that since 1 January 2018 all quarterly and annual financial statements of financial institutions must be prepared in accordance with the International Financial Reporting Standards (IFRS), external auditors of financial institutions must carry out their activities in compliance with the International Standards on Auditing (ISA).

The BCRA has set an Information Regime titled "Financial Statements for Quarterly/Annual Publication," which provides for general rules of procedure regarding the submission of financial statements. Communication A-6324 (Annex 61) of 20 September 2017 is the last one included in the Information Regime. It provides that all financial institutions of the country must submit annual and quarterly financial statements with external audit reports. These reports must be issued in accordance with the BCRA's provisions set forth in the Minimum Standards for External Audits on Financial Institutions, currently contained in Communication A-6555 (Annex 62) of 29 August 2018.

In the Annex IV of the minimum regulations on external audits for financial institutions, the characteristics that the external audits reports must meet, are established.¹²⁵

As regards quality control of external audits, the BCRA issued Communication A-6552 of 25 August 2018 modifying minimum standards for internal control of financial institutions, which recommends that all directors or equivalent authorities from Auditing Committees of financial institutions should have experience in basic financial and accounting practices and that one of them should be an accounting and/or finance expert, which implies having knowledge of generally accepted accounting principles, BCRA rules, risks and controls, financial statements' preparation process and duties of the Auditing Committee, as well as having experience in the preparation or auditing of financial statements, the application of generally accepted accounting principles and BCRA rules. The Auditing Committee must also consider the implementation of training programmes to provide their directors with an appropriate knowledge base to allow them to carry out their work.

Communication A-6555 (Annex I, Paragraph 11) of the BCRA sets forth that:

"Public accountants' associations or firms (either unipersonal or as groups of professionals) that provide external auditing services to financial institutions must set and implement a specific quality control system based on the complexity of their structure, to determine whether their members and staff comply with professional, legal and regulatory provisions governing the activity, which include BCRA rules, and whether reports issued regarding their services are in line with the aim of the task entrusted

¹²⁵ <https://www.bcra.gob.ar/Pdfs/Textord/t-RI2-AE.pdf>

to them. Each association or firm must set and implement effective action controls, designed to reach a reasonable certainty that the policies and procedures related to the quality control system are relevant, adequate, operate efficiently and are complied with in practice. These policies and procedures must include continuous consideration and assessment of the quality control system, its degree of compliance and the manner to correct non-compliance with internal quality control rules.

The policies and procedures mentioned and any stricter requirements and measures adopted by each association or firm, with their updates, must be documented and sufficient notice of them must be given to the relevant staff. The documents mentioned in the preceding paragraphs must be available to the Superintendency for Financial and Exchange Entities."

It is expressly stated that, since June 1997, the Auditor's Control Office of the Superintendency for Financial and Exchange Entities of the BCRA has carried out a quality control over the work of financial institutions' external auditors, based on an internal administrative procedure, with the aim of requesting work documents and external audit reports (on special and financial statements) in order to assess the following aspects:

- Work team
- Degree of independence
- Work methodology
- Compliance with BCRA minimum standards
- Systems audit
- Degree of oversight
- Problems detected by the external auditor and formal aspects of its reports

The process ends with an externalized rating of the external auditor on a scale of 1 to 5, 1 being the best mark, and with the possibility of objecting to any external audit special report. An objection means that the minimum level of work required for the issuance of the special report was not reached.

The activity carried out by the Auditor's Control Office is specified in Communication A-6555, Annex I - General Provisions on external audits, which includes Controls undertaken by the Superintendency for Financial and Exchange Entities (paragraph 8) and the Regime applicable to the comprehensive assessment of the work (paragraph 9), which are the basis of the abovementioned internal process

The other companies are governed by IGJ resolution 4/2018, which provides that the use of international standards for financial statements is optional (except for the specified cases in which it is mandatory). Thus, all companies can use ISA in their audit procedures if they use IFRS.

But even companies under the simplified regime, which have not chosen to apply IFRS or which do not establish auditing or supervisory bodies, all those that pay income tax must audit their financial statements.

In fact, AFIP has issued specific regulations which require corporations and companies included in section 49 of the Income Tax Law (if their accounting system enables them to prepare balance sheets) to submit their annual reports, financial statements and auditor's reports by means of a special programme set up for such purpose.

Such information will be subject to an audit, within control plans and programmes carried out by AFIP in compliance with its specific functions (Annex 5 - AFIP General Resolution No. 3077 in force, as amended, where the formal obligations required are indicated).

Taxpayers that shall submit their balance sheets:

The taxpayers mentioned in General Resolution 3077 (and its amendments), according to the Income Tax Law, are those mentioned in the third category income – income of companies and partnerships defined below:

- Capital companies (corporations; limited liability companies; limited partnership; civil and mutual entities, cooperative businesses and foundations; mixed economy companies; mutual investment funds and permanent establishments registered in the country).
- Other companies registered in the country.
- Trusts created in the country.
- Sole proprietorships registered in the country.
- The activities of a commission agent, auctioning agent, consignee and other trade assistants.
- The professional activities that take place with a commercial use (clinics, etc)

It should be mentioned that the law and the regulations establish specific implementation conditions taking into account the type of entity.

In addition, in the case of natural persons, the regulations apply after combining them with those mentioned in the fourth category of the Income Tax Law that are applicable to the incomes from personal work.

Regarding the mutuals and credit and services cooperative sector, the Argentine Federation of Professional Councils in Economic Sciences has issued and implemented Technical Resolution 24 (T.R. 24) - Cooperatives- and Technical Resolution 25 (T.R. 25) for -nonprofit entities, including Mutuals-

Both resolutions have been recognized by INAES. In the case of the T.R. 24 through Resolution 247/09 INAES and Resolution 1151/02 and 1781/02 for Mutuals. Cooperatives governed by Law 20,337 and Mutuals governed by Law 20,321 have the legal obligation to perform external audits within the scope of INAES.

Quarterly Reports Models have been prepared as from the participation in the Liaison Table with FACPCE, which are under discussion for approval by the board of directors as an oversight body. It should be noted that financial aid services, loan processing and cooperative credit have resolutions required in service performance as well as specific annexes with all the required items for such reports, without prejudice to the audit rules of the profession in general.

Regulated Cooperatives and Mutuals

Cooperatives:

In operation: 25.751;

Suspended: 7.069;

With Withdrawal of the authorization to operate and under liquidation proceedings: 5.816;

TOTAL: 38.636

Mutuals:

In operation: 4.699;

Suspended: 597;

With Withdrawal of the authorization to operate and under liquidation proceedings: 4.093;

TOTAL: 9.389

The next National Data Update should significantly reduce the total of regulated entities.

INAES also controls Auditors' suitability only regarding their obligation to be registered with the External Auditors Registry established for such purpose and validly registered in the jurisdiction of the entity they are advising, pursuant to Resolution 1418/03 (as consolidated by 2316/15) Section 17 (c) and Resolution 7207/12 Section 19 (c) for mutuals and cooperatives, respectively.

The total of entities, includes 927 Credit Cooperatives and 949 Mutuals in operation (entities that carry out lending activities through the Mutual Financial Aid) whose external auditors must be registered with the registry established for such purpose.

The plan of action duly informed by INAES includes two stages on this matter:

1st Stage: definition of the scope of work (May – June 2019)

2nd Stage: evaluation of the inclusion of registration requirements in the Registry (July – August 2019)

Resolution No. 1418/03 (as consolidated by 2316/15)

Section 17 (c): provide external audit services by a duly registered Argentine public accountant, who must be registered with the registry of mutuals' external auditors who provide mutual financial aid services, established by the NATIONAL INSTITUTE FOR COOPERATIVISM AND SOCIAL ECONOMY. This service may be provided by superior entities or by a member of the supervisory board with the required professional qualities. For registration with the registry, professionals in economic sciences must submit a written request with their name and surname, registration number under the register of professionals, Taxpayer Identification Number (CUIT), address, phone number and e-mail address. The professional's signature shall be certified by the relevant professional council. In the case of superior mutuals, the request must include the list of the entity's professionals that will perform the audit, in addition to the information specified above and the certification of every signature by the professional council of the jurisdiction. In the case of accounting firms, the certified signature of the partners authorized by the company to act as external auditors is required. The company must be registered independently of its partners.

Resolution No. 72074/12

Section 19 (c): provide external audit services by a duly registered Argentine Public Accountant, who must be registered with the registry of cooperatives' external auditors established by the NATIONAL INSTITUTE FOR COOPERATIVISM AND SOCIAL ECONOMY. This service may be provided by superior entities or by the Permanent Supervisor with the required professional qualities. For registration with the registry, professionals in economic sciences must submit a written request with their name and surname, registration number under the register of professionals, Taxpayer Identification Number (CUIT) and address. The professional's signature shall be certified by the relevant professional council. In the case of superior cooperatives, the request must include the list of the entity's professionals that will perform the audit, in addition to the information specified above.

If no action has been taken to implement this recommendation, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 9(e):

9. With regards to **accounting and auditing, corporate compliance, internal control and ethics**, the Working Group recommends that Argentina:

(e) ensure that external auditors and audit firms take greater account of the risks of foreign bribery in the companies that they audit (Convention Article 8; 2009 Recommendation III.i);

Action taken since the date of the follow-up report to implement this recommendation:

The Law on criminal liability of legal persons brought about dissemination activities aimed at the design and implementation of compliance offices in companies. Measures have been taken to guarantee the preparation and development of awareness-raising courses and programmes that highlight the importance of the assessment of the risk of bribery in audits. Thus, agents that play key roles in supervision and control will have comprehensive knowledge of compliance objectives and risks of foreign bribery in the companies they audit.

Through Administrative Decision No. 85/2018¹²⁶, the Office of the Chief of Cabinet of Ministers set forth the Good Governance Guidelines for Argentine Companies in which the State has a Majority Stake (Annex 63). Being aware of the differences in the level of professionalism and administrative standards of Companies in which the State has a Majority Stake, and with the aim of improving their performance, the Government laid down this set of best governance and management practices.

As regards Audit and Control, guideline No. 7 stresses the importance of the professionalization of audits, with the aim of having companies verify compliance with applicable rules and legislation and for them to have a control structure aimed at identifying and assessing critical risks and the impact of corporate policies.

As regards the relevance of risk-based and business-oriented auditing, the Good Governance Guidelines establish the following:

"We advise that companies carry out an annual process of risk identification, which should be frequently monitored. This process includes the establishment of goals to be pursued (such as strategic, operational or governance goals), the identification of events which may (positively or negatively) affect goal achievement, risk assessment (probability and impact measurement) and responses aimed at avoiding, mitigating, distributing or accepting risks.

A "Risk Map" would be desirable for companies to identify and assess financial and non-financial risks. The "Risk Map" should be approved by the Board of Directors so as to be aware of the set of risks which

¹²⁶ <http://servicios.infoleg.gob.ar/infolegInternet/anexos/305000-309999/306769/norma.htm>

may affect the company, allowing it to supervise the implementation of concrete actions for risk management.

Without prejudice to risks inherent in the activities of the company, we suggest that corruption risks and inefficient use of resources are included."

For Banks and financial institutions, Communication A-6555¹²⁷ (section 2.4) of the BCRA, in terms of fraud risk assessment (including transnational bribery), establishes that external auditors of financial institutions shall consider the following:

"As part of the risk assessment process and activities carried out in order to acquire a better understanding of the entity and its control environment, the external auditor shall complete procedures aimed at identifying risks of material misstatement due to fraud, including transnational fraud risk.

For such purpose, the external auditor shall make enquiries to management which cover the following subjects:

- *Assessment by the management of risks of material misstatement in financial statements due to fraud.*
- *Procedure developed by the entity for the identification and response to fraud risks.*
- *Procedures that ensure the dissemination of ethics and behaviour rules among the entity's staff.*
- *Procedures implemented by the entity which are aimed at preventing and identifying fraud.*
- *Identification and follow-up of fraud signs, including activities conducted by internal auditors.*
- *Such inquiries shall be properly supported and recorded.*

While performing the different audit procedures, the external auditor shall specially check that operations recorded in income statement accounts or balance sheet headings correspond with the activities of the financial entity, regarding client profiles, nature of operations and geographical area of its scope of work."

As regards mutuals and cooperatives, Resolution No. 3073/2018 of the Board of Directors of the INAES set forth as its first task the assessment of its comprised and controlled scope of work and the establishment of its various powers, specially based on the risk entailed by the activities of each entity as regards the possibilities of transnational bribery. The second task would consist in the issuance of an administrative decision.

On the other hand, the Minimum Standards for External Audits on Financial Institutions provides that, as part of the risk assessment process and activities carried out in order to acquire a better understanding of the entity and its control environment, the external auditor shall complete audit procedures aimed at identifying risks of material misstatement due to fraud, including foreign bribery within the notion of fraud.

National Congress of Control Bodies of Legal Entities and Public Registries

As part of the awareness-raising efforts, on November 15 and 16, 2018, it was held in the City of Mar del Plata, the Third National Congress of Control Entities of Legal Entities and Public Registries.

The main aim of this yearly celebrated meeting of the higher Officials of all the control bodies of Legal Entities and Public Registries of the Country, academic specialists and professionals who are devoted to

¹²⁷ <http://www.bcra.gob.ar/Pdfs/comytexord/A6555.pdf>

the matter on a daily, in order to generate a space that allows the exchange of ideas, cooperation, research and the harmonization of local criteria and regulations.

The Anti-Corruption Office was part of the panel "Regulatory coherence and simplification of the registers of legal persons" and presented, among other issues, the importance of assessing bribery risks in audits under the new Law of Criminal Liability of Legal persons and the OECD Convention on Bribery¹²⁸.

If no action has been taken to implement this recommendation, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 9(f):

9. With regards to **accounting and auditing, corporate compliance, internal control and ethics**, the Working Group recommends that Argentina:

(f) continue its efforts to ensure that auditors and *síndicos* that are not in SOEs promptly report suspicions of foreign bribery by employees or agents of the company to the competent authorities, notably in the face of inaction after appropriate disclosure within the company (2009 Recommendations X.B.iii and v);

Action taken since the date of the follow-up report to implement this recommendation:

In Phase 3 and Phase 3bis reports, the WGB stated that, with the exception of statutory auditors and public sector or SOE's auditors, there is no obligation for accountants and auditors from privately held business organizations to report crimes detected during their professional practice to authorities, and recalled that examiners had already been informed of their lack of legal obligation to testify about those crimes or irregularities, protected by Professional Secrecy.

We consider this to be inaccurate and the result of an extensive interpretation of the scope of secrecy beyond law provisions.

Section 237 of the Argentine Code of Criminal Procedure (text by Decree 118/2019) (Annex 14) sets forth the obligation of reporting:

"The following shall have the obligation to report offences actionable by the State:
a) (...) c) civil-law notaries public and accountants in cases of fraud, tax evasion, money laundering, human trafficking and exploitation of individuals,
(...) In all these cases, there is no obligation to report ...when becoming aware of facts by reason of professional secrecy

In turn, the Criminal Code has two relevant sections as well:
The punishment for those who do not comply with their obligation to report (section 277, paragraph 1, subparagraph C) and privately prosecuted offences, for the breach of secrecy (section 156).

Section 156. - Any person who, as a result of their status, occupation, position, or trade, becomes aware

¹²⁸ <https://drive.google.com/file/d/1T0KPVFPMpcJaBHkrWgzifrHONdGImvhg/view>

of a secret the disclosure of which may cause harm and discloses it without good cause shall be punishable by a fine of one thousand, five hundred pesos to ninety thousand pesos, and a special prohibition from holding public office for six months to three years.

As regards the Codes of Professional Ethics of accountants and auditors, we took two into consideration: the Code approved by the Federation of Professional Councils and the Code of the Council of the City of Buenos Aires, which govern this matter in a similar way.

The Unified Code approved by the Federation states the following:

First part:

Section 5- Confidentiality. The clients of professionals in economic sciences shall have the certainty that the rendering of services is made within a framework of privacy or secrecy. Confidentiality exists to the extent that professional secrecy is observed.

Second part:

Section 7- Professionals shall not advise or intervene when their professional practice enables, protects or facilitates wrongful acts, confuses or surprises bona fide third parties, acts contrary to the public interest, professional interests or breaks the law. The use of professional techniques to distort or conceal the reality aggravates the ethical offence. Section 8

Professional Secrecy:

Section 28: The relationship between professionals and clients shall be conducted with the utmost confidentiality, respecting the confidentiality of information about the affairs of clients or employers which was obtained during the rendering of professional services.

Section 29: Professionals shall maintain confidentiality even after the end of the relationship between them and the client or employer.

Section 30: Professionals have the duty to demand the utmost discretion and observance of professional secrecy from collaborators under their supervision and individuals providing advice or assistance. They shall also be informed of their obligation to comply with professional secrecy.

Section 31: Professional secrecy requires that the information obtained as a consequence of professional practice is not used for their own benefit or the benefit of third parties.

Section 32: Any professional may disclose confidential information, only to those who require it and to a reasonable and limited extent, in the following cases: a) When the professional is authorized by the client or employer, provided that the interests of all parties, including third parties, are considered. b) When a legal imperative exists. c) When the professional is aggrieved due to maintaining professional secrecy with a client or employer and they voluntarily inflicted the damage. Professionals may adequately defend themselves, with the utmost discretion and to a reasonable and limited extent. They shall not disclose defamatory information of their client or employer to third parties in order to injure their reputation. Their defence must be in line with their deontological self-respect and respect for clients or employers. d) When professional secrecy contributes to the commission of a crime which would otherwise be prevented. e) When professional secrecy may lead to sentencing an innocent. f) When the professional must respond to a requirement or investigation of the Disciplinary Tribunal. In this case, they cannot justify themselves

using professional secrecy in order to hide vital information for solving the case.

On the other hand, the Code of Ethics governing the Council of the City of Buenos Aires establishes the following:

Section 8- Professionals shall not advise or intervene when their professional practice enables, protects or facilitates wrongful acts, confuses or surprises bona fide third parties, acts contrary to the public interest, professional interests or breaks the law. The use of professional techniques to distort or conceal the reality aggravates the ethical offence.

Section 19- The relationship between professionals and clients shall be conducted with the utmost confidentiality. Professionals shall not disclose any information acquired as a result of their professional practice without express authorization of the client.

Section 20- Professionals are discharged from their professional secrecy obligation when forced to disclose information for their own defence, to the extent that the provision of such information is irreplaceable.

Therefore, the Criminal Code only covers professional secrecy when the disclosure of supposedly protected information may be detrimental, imposing the obligation of reporting in all remaining cases.

Ethical rules firstly set forth that the professional practice of accounting and audit professionals is prohibited from enabling, protecting or facilitating wrongful acts; confusing or surprising bona fide third parties; acting contrary to the public interest, the interest of accounting and auditing or to break the law." Secondly, ethical rules set forth that client confidentiality must exist in order to prevent "information obtained as a consequence professional practice from being used for their own benefit or the benefit of third parties," but information shall be disclosed if "... There is a legal imperative. (...) Professional secrecy contributes to the commission of a crime which would otherwise be prevented."

The professional relationship shall not conceal the commission of a crime, since the concealment of a crime is not within the competence of professionals and, thus, is not covered by legal provisions.

Unlike other professionals (such as defense attorneys), there are no circumstances of general interest to maintain the confidentiality, as regards rules of public order or interest which promote the fight against corruption and complex economic crimes.

Therefore, we consider that the obligation set forth in section 237 of the Argentine Code of Criminal Procedure covers auditors and accountants who become aware of the commission of a crime during their professional practice.

This is evidenced by Law No. 25246 on Money Laundering which expressly provides that accounting professionals have the obligation to report suspicious operations, which present client documents at the request of FIU, without compromising professional secrecy and that the fulfilment of this obligation to disclose does not give rise to civil, commercial, labour, criminal or administrative liability or any other type of liability.

Duty to disclose. Obligors

Section 20. — In accordance with section 21 of this Law, the following shall have the obligation to inform the Financial Information Unit (FIU):

(...)

15. Agencies of the Argentine Government and decentralized entities and/or self-governed entities which exercise regulatory, oversight, supervision and/or superintendence duties on economic and/or legal activities and/or on persons holding individual or collective rights: the Argentine Central Bank, Federal Administration of Public Revenue, Argentine Superintendency of Insurance, the Argentine Securities and Exchange Commission, the Corporate Records Office of the City of Buenos Aires, the National Institute for Cooperativism and Social Economy and the National Tribunal for Competition Defence.

17. Licensed professionals whose activities are governed by professional councils in economic sciences;

(...)

Even though no cases were settled by Argentine courts up to now since there was no obligation to report for those who were not considered public officials, we can state that Argentine courts have had the chance to decide on similar cases, such as in medical professional secrecy which deals with crimes within the context of the doctor-patient relationship.

In the case known as "Insaurralde" of the Supreme Court of the Province of Santa Fe, (Supreme Court of the Province of Santa Fe, "Insaurralde", 12 August 1998) (L.L. 1998-F-547), the Court ruled that, in connection with the possible commission of the crime of breach of secrecy by a doctor of a public hospital who had reported a crime known during medical attention to a patient, "... a damage may only occur when there is an unfair damage to legally protected goods and that, if there is no unfairness, there is no damage and, therefore, no criminalized activity; in this case, the beginning of court proceedings and the possible punishment, even though they are not pleasant to the defendant, are just the result of acts which—at least prima facie—contradict our legal system and cannot be used to justify court proceedings against the complainant—thus—nor the termination of the proceedings.

The banking sector, the BCRA has established through Communication A-6555 (Annex I, section 5) that external audits must complete a report called "Note on Immediate Communication Issues", which provides the following:

"A note shall be sent with all issues that, due to their significance, the auditor considers to be important for the entity and the Argentine Central Bank to immediately be informed. The auditor shall:

Immediately and sufficiently inform the entity of all issues that may affect it due to their importance.

Send a copy of such note to the Auditor's Control Office of the Superintendency for Financial and Exchange Entities.

This changes the Minimum Standards for External Audits on Financial Institutions, suggesting the submission of a special report from the external audit on immediate communication issues. The external auditor, when facing issues that may affect the financial entity due to their importance, shall immediately inform the BCRA of them, with copy to the financial entity of such report. Immediate communication issues include fraud situations, as well as foreign bribery cases.

If no action has been taken to implement this recommendation, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 9(g):

9. With regards to **accounting and auditing, corporate compliance, internal control and ethics**, the Working Group recommends that Argentina:

(g) continue to promote corporate compliance, internal controls and ethics programmes to prevent and detect foreign bribery, including for SMEs that are internationally active (2009 Recommendation X.C).

Action taken since the date of the follow-up report to implement this recommendation:

The new Corporate Liability Law N°27.401 (CLL) promotes the implementation of integrity or compliance programmes, establishing them as a mandatory condition to become a State contractor, as well as receiving an attenuated penalty or exemption from it in case of being convicted of a crime of corruption.

This legislation converges in the implementation, as a central part of the determination of the responsibility of the legal entity, of adequate internal procedures to prevent, detect and, where appropriate, report and cooperate in the investigation of corrupt behavior.

***Art. 22°.- Integrity Programme.** The legal persons included in the present regime may implement integrity programmes, consisting of a set of internal actions, mechanisms and procedures for the promotion of integrity, supervision and control, aimed at preventing, detecting and correcting irregularities and unlawful acts included in this law.*

An integrity programme should be consistent with the risks inherent in the activities carried out by the legal person, as well as its size and economic capacity, in accordance with the relevant regulations.

***Art. 23°.- Content of the Integrity Programme.** The Integrity Programme shall contain, in accordance with the guidelines established in the second paragraph of the preceding article, at least the following:*

- a) A code of ethics or conduct, or integrity policies and procedures that apply to all directors, managers and employees, irrespective of their position or functions, for the purpose of guiding the planning and fulfilment of their tasks or duties in such a way as to prevent the commission of the offenses described in this Law;*
- b) Specific rules and procedures to prevent unlawful acts in bidding processes, during the implementation of administrative contracts, or in any other interaction with the public sector;*
- c) The conduct of regular training sessions on the integrity programme for directors, managers, and employees.*

Integrity Programmes may also contained the following:

- I. A periodic analysis of risk and the subsequent adaptation of the integrity programme;*
- II. Visible and unequivocal support for the integrity programme by top managers and directors;*
- III. Internal channels to report irregularities, open to third parties and appropriately disclosed;*
- IV. A policy for the protection of whistleblowers against retaliation;*

- V. *An internal investigation system that respects the rights of the persons under investigation and imposes effective sanctions for violations against the code of conduct;*
- VI. *Procedures to verify the integrity and track record of third parties or business partners, including suppliers, distributors, service providers, agents and intermediaries, at the time of engaging their services during the business relationship;*
- VII. *Due diligence during company transformation processes and acquisitions, in order to monitor irregularities, unlawful acts or the existence of vulnerabilities in the legal entities involved;*
- VIII. *Continuous monitoring and assessment of the effectiveness of the integrity programme;*
- IX. *An internal officer responsible for the development, coordination and monitoring of the integrity programme;*
- X. *The fulfilment of the regulatory requirements imposed on these programmes by the relevant authorities holding federal, provincial, municipal or local police power over the activities carried out by the legal person.*

Through the implementation of these programmes, legal entities can detect internal breaches and reflect a culture of integrity and prevention of crimes against corruption.

The Law provides strong incentives for companies to develop ethical compliance and collaborate with prosecuting authorities. Articles 8 (graduation of sentence), 9 (exemption from punishment), 18 (content of the Agreement), 22 (Integrity Programme), 23 (Content of the Integrity Programme) and 24 (Contracting with the National State) of the Law are in line with the aforementioned recommendation.

The Compliance Programme mitigates the penalty and can exempt the legal person from it. Accreditation of an integrity programme adopted prior to criminal events can significantly reduce the economic sanctions applied by judges (Article 8):

Art. 8°. - Graduation of the penalty. In order to calibrate the sanctions provided in article 7° of this law, the Court will take into account the failure to comply with internal rules and procedures; the number and hierarchy of officials, employees and collaborators involved in the offense; the omission of vigilance over the activity of the authors and participants; the extent of the damage caused, the amount of money involved in the commission of the offense, the size, nature and economic capacity of the legal person; the self-reporting to the authorities by the legal person as a result of an internal detection or investigation activity; its subsequent behaviour; the disposition to mitigate or repair the damage, and recidivism.

It will be understood that there is recidivism when the legal person is sanctioned for an offense committed within three (3) years following the date of the final judgment of a previous conviction.

In the cases in which it is essential to maintain the operational continuity of the entity, or of a work, or of a particular service, the sanctions provided in articles 7 (2) and (4), hereof shall not apply.

The Judge may order the payment of the fine in a fractioned form for a period of up to five (5) years when its amount and single-payment compliance jeopardize the survival of the legal person or the maintenance of jobs.

The provisions of article 64 of the Penal Code shall not apply to legal persons.

The criteria for applying a sanction and the concrete determination of the value of the fine, shape the necessary incentives to promote, within the legal entities, an organizational culture, policies and

procedures aimed at the prevention of crime.

Combined with a spontaneous self-reporting mechanism return of the benefit obtained, it can even exclude its application (Article 9):

Art. 9° - Exemption from sanctions. The legal person will be exempt from punishment and administrative responsibility when the following circumstances concur simultaneously:

- a) Spontaneously has reported an offense provided for in this law as a result of an internal detection and investigation activity;*
- b) Would have implemented an adequate control and supervision system under the terms of articles 22 and 23 of this law, prior to the fact of the process, the violation of which would have required an effort from the parties involved in the commission of the offense; and*
- c) Would have returned the undue benefit obtained.*

In significant contracts with the Federal State, in addition, the prior accreditation of an integrity programme is a necessary condition to submit bids (Article 24):

Art. 24°.- Contracting with the National State. The existence of an adequate integrity programme in accordance with articles 22 and 23 will be a requirement to contract with the National State, within the framework of the contracts that:

- a) According to the regulations in force, because of their amount, must be approved by a competent authority with a rank not inferior to Minister; and*
- b) Are included in article 4 of Delegated Decree No. 1023/01 and/or governed by laws 13.064, 17.520, 27.328 and public service concession or license contracts.*

To guide the behavior of the private sector and grant predictability to the legal regime, it is defined in Article 18 that the collaboration agreement will have, as part of its content, the implementation of an integrity programme, which must be provided by the legal entity to the Public Prosecutor's Office under the terms of articles 22 and 23 of this law or make improvements or modifications in a pre-existing programme:

Art. 18°.- Content of the agreement. The agreement shall identify the type of information, data or evidence to be provided by the legal person to the PUBLIC PROSECUTOR'S OFFICE, under the following conditions:

- a) Payment of a fine equivalent to half of the minimum established in article 7 (1) of this law;*
- b) Restitution of the things or profits that are the product or the benefit of the crime; and*
- c) Surrender in favour of the State the property that would presumably be confiscated in the event of a conviction;*

The following conditions may also apply, without prejudice to others which may be agreed upon according to the circumstances of the case:

- d) Performing the necessary actions to repair the damage caused;*
- e) Rendering a specific service to the community;*
- f) Applying disciplinary measures against those who have participated in the crime;*
- g) Implementing an integrity programme in the terms of articles 22 and 23 of this law or make*

improvements or modifications to a pre-existing programme.

In this way, the aim is to encourage legal persons, through the implementation of internal policies and procedures, to align their social, commercial and/or economic objectives with a culture of integrity and prevention of crimes against the public administration.

The Anti-Corruption Office (AO), for its part, is carrying out a set of actions aimed at raising awareness and promoting the implementation of the regulation by the obligated parties, as well as encouraging interaction between this body and the members of the Judiciary to share the challenges of its enforcement.

Below are the main actions that have been and are being implemented for this purpose:

- **Integrity guidelines for legal persons**

Decree No. 277/2018¹²⁹, published in the Official Gazette of the Argentine Republic on April 6, 2018, approved the regulatory standards for the proper implementation of the provisions of articles 22, 23 and 24 of the aforementioned Law No. 27.401. In this regard, among other aspects, it is established that the Anti-Corruption Office will define the guidelines and principles that are necessary for the best compliance with the provisions of articles 22 and 23, regarding the implementation of integrity programmes in companies and their content.

In accordance with the provisions of Decree 277/2018 in its article 1, the Anti-Corruption Office has prepared the "Integrity Guidelines for Legal Entities" (Annex 64). The main objective is to provide companies, civil society organizations, justice system operators and the expert professional community with clear and useful information about the purpose of the Law, its contents and the associated anti-corruption regulatory framework in such way that each of these actors has sufficient tools to interpret and comply with the law, adjust the structure and processes of the respective organizations to prevent, detect and remedy acts of corruption, implement appropriate integrity programmes, evaluate them according to Objective technical guidelines and apply the consequences of the law with technical rigor and in a sense consistent with its criminal policy purpose.

The process of preparing the document was open and participatory¹³⁰. On June 5, 2018, the AO organized a working group with federal prosecutors to discuss the interpretation and implementation challenges of Law 27.401 and the possible content of the integrity guidelines. Once the first version was prepared, the AO made available to compliance experts, interested parties and the general public the draft of the Guidelines for the realization of observations and contributions in the framework of the consultation published on the website. Likewise, the public consultation involved a face-to-face meeting that took place on September 4 at Government House, in which associations, non-governmental organizations, specialists, officials, and other actors from the private sector and civil society participated.

For the elaboration of the document, guides prepared by specialized agencies of the public sector in other countries were taken into account, such as those of the United States, Great Britain and Brazil, among others.

In the same line, the Action Plan 2018-2023 of the Anti-Corruption Office approved by Resolution No. 186/2018¹³¹ of the Ministry of Justice and Human Rights of the Nation establishes among its objectives "to foster collaboration between the private sector and the sector public in the prevention and investigation of corruption", and among the actions necessary to achieve it are the "development of guidelines and

¹²⁹ <http://servicios.infoleg.gob.ar/infolegInternet/anexos/305000-309999/308488/norma.htm>

¹³⁰ <https://www.argentina.gob.ar/lineamientos-para-la-implementacion-de-programas-de-integridad>

¹³¹ <http://servicios.infoleg.gob.ar/infolegInternet/anexos/305000-309999/307630/norma.htm>

guidelines for better compliance with the Law of Criminal Liability of Legal Persons" and the "articulation of actions with key actors of the business sector to promote integrity programmes".

The presentation of the Integrity Guidelines for Legal Entities was held on May 2, 2019 at Government House (Annex 65).

- **Integrity Network for State Owned Enterprises**

The Argentine government administers 41 companies, with very variable levels of professionalism and administrative standards. To help them generate value, a set of initiatives is being implemented to improve the performance of state capital companies, both in the quality of the service and in the effectiveness and transparency with which they operate. In addition, the current Administration is implementing the best existing practices in OECD countries with regard to good governance and management of public companies.

In 2016, the Office promoted the creation of an Integrity Network for State-Owned Enterprises (SOEs). The following can be found within the objectives of the Network:

- (i) Raise awareness among the representatives of the SOEs in matters of Integrity and Transparency Programmes
- (ii) Promote the development and implementation of Integrity Programmes in the SOEs, in order to contribute to their management, being one of the priority initiatives of the national government.
- (iii) Create a working group that meets periodically to share and exchange knowledge, experiences, practices and recommendations. The insights exchange, and debate are promoted in terms of good corporate governance, transparency practices and anti-corruption measures, both nationally and internationally.
- (iv) Provide training to the representatives of the group, with the methodology "train the trainers", and / or detect training needs in specific companies, on specific topics.

The number of companies participating in the Network is increasing.

During the year 2017 a total of four meetings were held. The first of them, held on May 2, was attended by 22 people who shared experiences on transparency indicators, reporting lines and general budgets of integrity programmes.

The second meeting, attended by 59 people, was held on June 21 and focused on the provisions of Decree No. 202/17 on measures to prevent conflicts of interest in hiring, and also on possible controls on the integrity of suppliers.

Thirdly, on September 5, a new meeting was held with 44 participants and in which representatives of the OECD presented on good practices in EPEs; In addition, the integrity programme of the Argentine Air Navigation Company (EANA) and the transparency portal of the Argentine Satellite Solutions Company (ARSAT) were presented.

On December 7, the last meeting of 2017 took place, attended by a total of 80 people. There, good practices in EPEs were presented by representatives of the Public Company System of Chile, Alliance for Integrity and Transparency International. Likewise, within the framework of the enactment of Law No. 27.401, a brief review of its provisions was made.

In 2018, three meetings of the Network were held. The first meeting, held on May 15, involved the participation of 97 people and addressed the Good Governance Guidelines for Companies of State

Participation in the Majority of Argentina (approved by Administrative Decision No. 85/2018 - see annex).

During the meeting, the Report was also presented with the main findings of the Integrity Survey on State Participation Enterprises (carried out in November and December of 2017 - see annex), the Bank's Integrity Programme and the methodology for the integrity risk mapping of the Railway Infrastructure Administrator (ADIF).

Then, on June 29, 35 people attended the second meeting of the year, in which a representative of ELECTROBRAS made a presentation on the corruption risk assessment of suppliers in Brazil.

Finally, on December 5, the third meeting of 2018 was held¹³². With the presence of more than 40 participants, work was made on the role of compliance audit and its articulation with the Integrity Programmes. To this end, presentations were given by the Argentine Association of Ethics and Compliance and also by the Ethics and Transparency Unit of the National Roads Direction.

- **Guidelines on the Good Governance for Companies of State-Owned Enterprises**

On February 9, 2018, by Administrative Decision n° 85/2018¹³³ -of the Cabinet Office of Ministers-, the "Guidelines on the Good Governance for Companies of State-Owned Enterprises" were approved (Annex 63).

It was established that these guidelines are mandatory for companies and societies included in article 8, subsection b) of the Law on Financial Administration and Control Systems of the National Public Sector No. 24.156¹³⁴, and for all Decentralized Entities whose essential objective is the production of goods or services.

In line with the objectives of the Integrity Network for EPEs, during the month of June 2018, the Anti-Corruption Office (AO), together with the Chief of the Cabinet of Ministers of the Nation (JGM) and the National General Syndicate (SIGEN), sent the companies that make up the EPE Integrity Network a questionnaire to measure the degree of implementation of the Integrity axis of the Good Governance Guidelines for Companies of the State Majority of Argentina (Administrative Decision 85/2018).

Subsequently, through Resolution 1/2018¹³⁵ of the Secretariat of Public Policy Coordination of the JGM, the Committee of Good Governance of State-Owned Enterprises was created, whose objective is the promotion of good corporate governance practices and the adoption by the companies of the aforementioned Good Governance Guidelines. This Committee prepared a new questionnaire that aims to measure the degree of implementation of all the axes of the Guidelines.

- **Training on corporate criminal liability for corruption and integrity programmes**

The Anti-Corruption Office, within the framework of the enactment of Law 27.401 and several consultations received, designed trainings to sensitize public sector entities. The courses seek for employees and officials of the National Administration to acquire familiarity with the recently sanctioned law, the preventive function of the integrity programmes and the implementation of integrity and public

¹³² <https://www.argentina.gob.ar/noticias/se-realizo-una-nueva-reunion-de-la-red-de-integridad-de-empresas-de-propiedad-estatal>

¹³³ <http://servicios.infoleg.gob.ar/infolegInternet/anexos/305000-309999/306769/norma.htm>

¹³⁴ Societies and State Companies that include State Enterprises, State Companies, Public Limited Companies with Majority State Participation, Mixed Economy Companies and all those other business organizations where the national State has a majority stake in the capital or in the formulation of corporate decisions

¹³⁵ http://servicios.infoleg.gob.ar/infolegInternet/anexos/310000-314999/313721/norma.htm?utm_source=newsletter-semanal&utm_medium=email&utm_term=semanal&utm_campaign=resolucion-nacional

ethics policies for the fight against corruption in Argentina and compared systems . The expected effects of the training are:

- (i) On people: that the participants know the main aspects of the Argentine legal framework regarding corporate responsibility for corruption.
- (ii) On the organization: that the jurisdictions and entities of the National Executive Branch with responsibilities associated with the establishment of regulatory standards for business activity have trained professionals to provide basic level internal advice on the new legal framework.

To this end, several courses on the subject were held:

- Postgraduate seminar "Corporate Responsibility for Corruption and Integrity Programmes" that was held between May and June 2018 at the School of the State Bar Association (ECAE) and attended by 50 public officials.
- "Synergy between Integrity, Ethics and Internal Control" course, dictated by the AO in conjunction with the Internal Auditing Body (SIGEN), which had a specific module on criminal liability of legal persons and which involved the participation of 85 public officials.

Additionally, the Anti-corruption Office dictates specific courses at the request of different organizations. Among them, the trainings that are detailed below were carried out:

(i) Integrity training for SMEs: held on November 24, 2017 in the Secretariat of Entrepreneurs and SMEs (SEPYME), of which 25 representatives of SMEs participated through a webinar.

(ii) Training in Integrity guidelines for the private sector: two meetings were held at the National Securities and Exchange Commission (SEC). The first was held in April 2018 and 21 public officials of the same agency attended. The second meeting was held in November and 100 representatives from the private sector participated.

(iii) Training in integrity programmes and policies: it was held on May 29, 2018 in the company Energía Argentina SA (ENARSA) and 47 public officials attended.

(iv) Training on integrity programmes: it was developed on June 19, 2018 in the Argentine Business Council for Sustainable Development (CEADS) and had 18 participants.

(v) Training on criminal law and corruption for the Public Prosecutor's Office: it was carried out between October 17 and 19, 2018 in the Public Prosecutor's Office of the province of Mendoza and 76 officials participated.

During the year 2019 the training activities will be deepened. In the framework of the UNDP Project ARG/16/019 "Cooperation for the implementation of policies of transparency and control of corruption applied jointly in provincial governments", one of the planned activities consists in the realization of trainings on the normative of criminal responsibility of legal persons in different provinces of Argentina. Also, in the first semester of 2019 the Office will participate in training on Law 27.401 for federal and provincial prosecutors. In the first case, it will be held personally in the cities of San Salvador de Jujuy, Salta and Orán and, in the second case, the face-to-face modality will be combined with a virtual modality.

Continuing with the work that Argentina is doing in relation to corporate compliance, the SSN decided to promulgate a resolution of Corporate Governance (Resolution 1119/18) (Annex 66), which will receive the basic principles of insurance (ICPs for its acronym in English) of the Association International Insurance Supervisors and the Organization for Economic Cooperation and Development (OECD), which contains aspects related to corporate compliance, internal controls, organization of the administrative

bodies and obligation of the regulated entities to have an Independent Director.

The objectives that drove the issuance of this norm were, among others, to tend to a more efficient administration and a better use of resources, which leads to greater transparency, competitiveness and financial performance, necessary to favor long-term investments, generating greater confidence in the market, since the insured choose to contract with companies that demonstrate solidity in matters of Corporate Governance.

In this framework, and for the development of the same, the local definitions in the matter were taken into account, taken from the guidelines issued by the National Securities and Exchange Commission (CNV) and the Central Bank of the Argentine Republic as well as the study of international legislation of countries such as Chile, Peru, Colombia and Spain, adapted to the needs of the local market and the control processes by this Organization.

Likewise, by way of consultation and in order to continue generating synergy among the key market players, the project of the standard was communicated to the local industry, since it is vital for the fulfillment of the objectives of this management to exchange ideas and active participation Regulator - Industry.

Among the Principles and Recommendations of Corporate Governance, the figure of Independent Director stands out, regulating the need to have qualified members that help to prevent possible conflicts of interest or the adoption of contrary decisions in the best interest of the entities. In this order, it was established as faculty of this Organism to sanction, in the terms of the law of control of entities, individually and personally to each one of the members of the Administrative Body.

For its part, INAES has established corporate compliance, internal controls and ethics programmes as one of its main objectives in the National Anticorruption Plan.

The work plan is outlined in the Resolution, priority axis was established in the compliance of the insurance and reinsurance entities with the obligations they are responsible for, that is, the presentation of the sworn statements of qualifications and background of each of the members of the administrative body together with the appointment of independent director and the submission of information on the conformation of the administrative bodies, which must be completed by March 31 of the current date.

In terms of control of the obligations required of regulated entities, this body is working on improving the internal procedures of the areas and processes that interrelate each of the internal instances, this implies improvement of software developments, updating and design of work procedures.

In terms of training on the new work and control scheme, the Agency will work so that the agents that exercise key roles in supervision and control have comprehensive knowledge about the control objectives to be met by the areas and that is expected from the role of the Agency in terms of compliance.

- **National Anticorruption Plan**

On April 11, 2019, the Executive Power approved through Decree 258 / 2019¹³⁶, the National Anticorruption Plan 2019-2023¹³⁷. The regulations establish policies of transparency and accountability and will be mandatory for the entire National Public Administration.

The National Anticorruption Plan (PNA) (Annex 67) aims to establish the priorities of the National Executive Branch in integrity and the fight against corruption, for the next five years. It allows to plan, coordinated and strategically, the initiatives in matters of integrity and fight against corruption of the

¹³⁶ <http://servicios.infoleg.gob.ar/infolegInternet/anexos/320000-324999/322013/norma.htm>

¹³⁷ <https://www.boletinoficial.gob.ar/detalleAviso/primera/205233/20190411>

National Public Administration (APN), centralized and decentralized.

For the preparation of this National Anticorruption Strategy and Plan, the evaluations and recommendations that each monitoring mechanism has made for Argentina have been taken into account, especially those that have emerged in the framework of the Working Group on Bribery (WGB) of the OECD, the Follow-up Mechanism of the CICC (oaS) and the Review Group for the Implementation of the United Nations Convention (UNCAC).

It is made up of more than 250 proposed initiatives that will be implemented between 2019-2023 in accordance with the priority objectives and strategic guidelines established in the Anticorruption Strategy¹³⁸. Each one of them contemplates a term of execution as well as the identification of the responsible body in each case, thus allowing the monitoring of progress and compliance periodically.

The Strategy will be monitored from the creation of an Advisory Council and as a fundamental activity of the Fourth National Open Government Plan. Likewise, it is expected that other powers of the National State, provinces and municipalities develop their own anti-corruption plans inspired by the one proposed here.

It was prepared and coordinated by the SECRETARIAT FOR INSTITUTIONAL STRENGTHENING of the CABINET OF MINISTERS and the ANTI-CORRUPTION OFFICE of the MINISTRY OF JUSTICE AND HUMAN RIGHTS, in which all the Ministries and a large number of Decentralized Agencies participated. Each area consulted carried out an internal planning process, committing to implement the initiatives published here.

Jointly, an open public consultation was carried out and promoted by the Anti-Corruption Office, through the portal "Public Consultation" of the SECRETARIAT OF GOVERNMENT OF MODERNIZATION of the OFFICE OF CABINET OF MINISTERS. As a result of this process, various proposals were received related to institutional strengthening, citizen participation, integrity in the private sector, ethics education at the school level, among others.

Some of the aspects contemplated in these International Conventions stand out and define:

- policies and practices for the prevention of corruption;
- the organs for the prevention of corruption;
- transparency in the financing of candidacies for elected public positions and financing of political parties;
- codes of conduct for public officials;
- transparency in public procurement and management of public finances;
- access to public information;
- Measures related to the Judiciary and the Public Prosecutor's Office related to the integrity of

¹³⁸ The National Anticorruption Strategy was designed with the following Vision: Argentina leads the fight against corruption at the regional and international levels, with an open and transparent State, which generates trust opportunities for development and investments. This vision is based on the fulfillment of THREE (3) priority objectives (Institutional Strengthening, Modernization of the State and Intelligent Insertion to the World), which in turn are related to the following strategic guidelines: Transparency and Open Government, Integrity and Prevention, and Investigation and punishment of corruption. Within the framework of these guidelines, and based on various specific themes selected, the initiatives that make up the NAP were selected and defined and will be implemented during the 2019-2023 period.

its members;

- systems for the declaration of income, assets and liabilities by public officials;
- the mechanisms for the participation of civil society;
- the promotion of accounting and auditing standards in the private sector;
- the prevention of money laundering;
- mechanisms for the protection of witnesses and whistleblowers;
- asset recovery, and
- international cooperation among the States Parties, among others.

If no action has been taken to implement this recommendation, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 10(a):

10. With regard to **tax-related measures**, the Working Group recommends that Argentina:

(a) continue to train its officials at AFIP on detecting foreign bribery and remind them of their obligations to report suspected crime (2009 Recommendation III.i and VIII.i; 2009 Tax Recommendation II);

Action taken since the date of the follow-up report to implement this recommendation:

The Federal Administration of Public Revenue continues with the training of officials through a course called “Bribery of Foreign Public Officials” that deals with the bribery and the operational actions taken by the officials during their control tasks.

Resolution 119/2018¹³⁹ (AFIP) establishes the creation of a “Programme on Ethics and Integrity of Public Officials” that is mandatory for all the officials of the Federal Administration of Public Revenue, from the time they start working in the organization until they retire. The programme has different subjects; one of them is the course to detect Bribery of Foreign Public Officials (Annex 68).

During 2018, five thousand six hundred and forty five (5.645) officials were registered, and four thousand two hundred and eighty five (4.285) officials passed the course:

GENERAL DIRECTORATE	Officials that passed
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¹³⁹ <http://servicios.infoleg.gov.ar/infolegInternet/anexos/310000-314999/310070/norma.htm>

Central areas	503
Social Security Resources General Directorate	303
Customs General Directorate	865
Tax General Directorate	2614
Total	4285

This course will continue during 2019.

This course is periodically reviewed to include updates and maintain current and complete contents. Since its beginning, the course has been updated 5 times, along with the update of: the number of signatory countries of the Convention; current internal regulations related to the income tax; tax procedures; criminal liability of legal persons; internal organizational structure and OECD recommendations.

The OECD, taking into account the recommendations of the Task Force on Tax Crimes and Other Crimes (TFTC), proposed the Federal Administration of Public Revenue located in Argentina as host facility of the OECD Latin America Academy for Tax and Financial Crime Investigation (see recommendation 5.g).

The 2019 programme started with a module on Asset Recovery on 18-27 February, 2019 (8 days) and two other programmes (Foundation Programme and Specialty Programme) for 30-35 participants, guided by experts, prosecutors and judges specialized in taxes and national and international tax and financial crimes.

The basic module (Foundation Programme) is based on practical aspects of the investigations related to financial and tax crimes. It is a two-week programme that includes a specific module on Bribery of Foreign Public Officials. This module is intended for public officials and includes information on evidence principles, information sources, types of evidence, investigation techniques, and seizure of assets, among others.

There was a positive impact on the commencement of the Latin American Academy, as indicated in the OECD publications:

<http://www.oecd.org/tax/crime/oecd-and-argentina-continue-the-fight-to-tackle-tax-crime.htm>

and

<http://www.oecd.org/tax/crime/latin-america-academy-for-tax-and-financial-crime-investigation.htm>

If no action has been taken to implement this recommendation, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 10(b):

10. With regard to **tax-related measures**, the Working Group recommends that Argentina:

(b) promptly take steps to ensure that tax information can be provided to foreign authorities for use in foreign bribery investigations (Convention Article 9(1); 2009 Recommendation XIII.iv; 2009 Tax Recommendation I.iii).

Action taken since the date of the follow-up report to implement this recommendation:

Argentina amended its legislation to facilitate the exchange of tax information with foreign authorities and to use the information on investigations of bribery of foreign public officials in international commercial transactions.

Therefore, Law 27.467, published in the Official Gazette on December 4, 2018, in Chapter XI — “Tax Policy and Administration”, amended Article 101 of Law 11.683 (consolidated text in 1998 and its amendments). Said Article restricted the use of the information internationally exchanged for tax purposes (collection of taxes, submission of statements).

Specifically, Article 73 of Law 27.467 revoked point 3, section d), paragraph six, Article 101 of Law 1.683 (consolidated text in 1998) and its amendments, thus eliminating the legal restriction limiting the use of the information internationally exchanged for tax purposes only.

Therefore, after the amendment, the Federal Administration of Public Revenue, according to the current international exchange agreements, authorized the foreign tax administrations (requesting parties) to use, according to their national legislation, the information to investigate bribery of foreign public officials.

The amendment that establishes that the exchanged information could be used for other purposes applies to different international information exchange agreements, as long as they have a provision indicating that. The different international information exchange agreements could be: 1) OECD Multilateral Convention on Mutual Administrative Assistance on Tax Matters; 2) specific bilateral agreements on exchange of information or 3) bilateral agreements on double taxation that include information exchange provisions.

If no action has been taken to implement this recommendation, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 11:

11. With regard to **awareness-raising**, the Working Group recommends that Argentina continue its efforts to proactively raise awareness of foreign bribery within the private sector, with particular emphasis on SMEs that are at risk of committing foreign bribery (2009 Recommendation III.i).

Action taken since the date of the follow-up report to implement this recommendation:

With the objective of institutionalizing the Preventive System of public ethics and practices of integrity in the public function, the AO conducts training for officials and employees of the National Public Administration (centralized and decentralized), and state-owned companies. During 2018, a total of 42 face-to-face training activities and 4 virtual courses were conducted, in which a total of 4,464 public officials were trained.

Throughout 2017, together with the Secretariat of Entrepreneurs and SMEs, a joint effort has been developed to raise awareness among SMEs about the importance of implementing a culture of integrity within their companies. As part of this articulation, on November 2017 an initial presentation entitled “Strengthening integrity in SMEs” was made. The purpose of this was to raise awareness among SMEs as agents of change in the fight against corruption, given their growing participation in the socio-productive sector of our country. The purpose of the Anti-Corruption Office is for SMEs to learn about regulations related to public ethics and the actions carried out by this Office and other public bodies in their fight against corruption. The topics of the training were:

- (i) management for the prevention of conflicts of interest between the public and private sectors and, in particular, in contracting with the National State (Decree 202/17);
- (ii) the guidelines proposed by the Draft Bill on Criminal Liability of Legal Entities and;
- (iii) complaint channels.

Within the framework of the aforementioned awareness-raising work, the National Securities and Exchange Commission (CNV) and the Anti-Corruption Office carried out two meetings addressed to internal officials of the Agency. They were carried out on April 24 and 26, 2018, assisting approximately 40 people.

Likewise, similar meetings were planned for members of the private sector that are under the regulation orbit of the CNV - including listed SMEs - always with the objective of raising awareness about foreign bribery and the precepts established in Law No. 27.401.

In line with the foregoing, on December 2018, the Anti-Corruption Office and the National Securities and Exchange Commission (CNV) carried out training in public integrity and compliance. Among the contents, the Law of Criminal Liability of Legal Entities (Law 27.401), the Convention against Transnational Bribery of the OECD and the Guidelines for the implementation of Integrity Programmes were highlighted (Resolution AO No. 27/2018). Likewise, the main elements of the reform of the Corporate Governance Code and its connection with the principles of ethics, integrity and compliance in the Capital Market area were shared. The auditorium had a great call - more than 100 people - and was integrated by the leaders and managers of the large Argentine companies (attached programme and list of attendees).

On the other hand, the CNV is in the final stage of reforming the Corporate Governance Code that must be presented by those companies that are authorized to make a public offer of their negotiable securities, having made the Public Consultation Process through the General Resolution No. 778/2018, as established by Decree No. 1172/2003 on the Participatory Elaboration of Standards. In said reform project a special Chapter of "Ethics, Integrity and Compliance" is established in which the following principles are contemplated:

I. The Board of Directors must design and establish appropriate structures and practices to promote a culture of ethics, integrity and compliance with standards that prevent, detect and address serious corporate

or personal faults.

II. The Board of Directors will ensure the establishment of formal mechanisms to prevent and, failing that, deal with conflicts of interest that may arise in the administration and direction of the company. It must have formal procedures that seek to ensure that transactions between related parties are made in the best interest of the company and all its shareholders.

In this line, specific practices and guidelines for compliance with the provisions of the Code are established, corresponding to indicate the following:

“The Board of Directors approves a Code of Ethics and Conduct that reflects the values and ethical principles and integrity, as well as the company’s culture. The Code of Ethics and Conduct is communicated and applicable to all directors, managers and employees of the company.”

“The Board of Directors establishes and periodically reviews, based on the risks, an Ethics and Integrity programme. The plan is visibly and unequivocally supported by management who appoints an internal manager to develop, coordinate, supervise and periodically evaluate the programme regarding its effectiveness.

The programme provides:

A. periodic training for directors, administrators and employees on issues of ethics, integrity and compliance;

B. internal channels for reporting irregularities, open to third parties and properly disseminated;

C. a whistleblower protection policy against reprisals; and an internal investigation system that respects the rights of those under investigation and imposes effective sanctions on violations of the Code of Ethics and Conduct;

D. procedures that verify the integrity and trajectory of third parties or business partners (including due diligence for the verification of irregularities, of illegal acts or of the existence of vulnerabilities during the processes of corporate transformation and acquisitions), including suppliers, distributors, service providers, agents and intermediaries.”

That these principles and practices were developed and inspired by the culture of ethics and integrity, in the understanding that they have a positive impact on the objective of strengthening the regulation by this CNV in the subject under study in this report, also taking into account consideration of the contents established by the Law on Criminal Liability of Legal Persons No. 27.401, as well as the studies and documents prepared by the Anti-Corruption Office - in particular the “Integrity Guidelines for better compliance with the provisions of articles 22 and 23 of Law No. 27.401”, recently approved through Resolution No. 27/2018.

- **Enforcement activities of the Law**

The Anti-Corruption Office has also organized and participated in different meetings with different audiences to deepen the debate about the scope of the Bill and the norm that was finally sanctioned, and to disseminate the contents of the Integrity Guidelines.

Some of the meetings are:

(i) August 23, Workshop on the Law on Corporate Criminal Liability in cases of corruption at the University of Saint Andrews;

(ii) September 14, first meeting of the new Commission on Anticorruption of the Professional Council of

Economic Sciences of the Autonomous City of Buenos Aires;

(iii) October 5, 65th Convention organized by the Argentine Chamber of Construction;

(iv) October 25, 2nd International Compliance Congress in the Buenos Aires Stock Exchange;

After the enactment of Law 27.401 in November 2017, the Anti-Corruption Office participated in the following meetings:

(v) November 22, Corporate Compliance Officer Forum 2017 Conference

(vi) August 14, 2018, Seminar of the International Insurance Law Association on regulatory entities against the Law on Corporate Criminal Liability at the Faculty of Law of the University of Buenos Aires;

(vii) August 16, 2018, Conference on Compliance and the Law on Corporate Criminal Liability, organized by the Universidad Torcuato Di Tella;

(viii) October 31, 2018, National and International Congress on Compliance and Anti-corruption, organized by the World Compliance Association and the Austral University;

(ix) November 14, 2018, Conference on Corporate Liability at the San Isidro Public Bar Association;

(x) November 26, 2018, presentation of the Integrity Guidelines within the framework of Justice 2020, organized by the Ministry of Justice and Human Rights of the Nation.

(xi) April 12, 2019, inaugural conference in the framework of the presentation of the Bachelor's degree course on Compliance, Corporate Ethics and Direction of Integrity Processes, University of Mendoza

(xii) April 12, 2019, dissertation about the integrity in the Business Council of Mendoza (members of business chambers, professional councils, businessmen, lawyers).

(xiii) April, 15, 2019, dissertation at the cycle calls "Ciclos de Coyuntura 2019" in the Córdoba Stock Exchange (200 entrepreneurs and business executives).

- **Reform of the Public Ethics Law**

The Anti-Corruption Office, in its capacity as the Enforcement Authority of Law No. 25,188 on Ethics in the Exercise of Public Function, and in view of the need to address pending issues and strengthen the national system of public ethics, prepared a document with the objective of achieving a consensual, representative, and effective project of integral reform of the Law of Ethics that adapts the dispositions of the norm to the new necessities, current tools and technologies. To this end, the discussion of the draft was enabled by offering public consultation channels through the Justice 2020 Institutional Axis, aimed at the debate of the main thematic axes of the document, in order to to elaborate jointly with the citizens a bill that promotes ethics and integrity in the public function. In addition, during the month of February 2018, a Working Group met with the presence of specialists in the field, legislators, representatives of civil society, the Judiciary and the Public Ministry, Council of the Magistracy, among others, representatives of the AO and the Secretariat of Institutional Strengthening. Currently the project is within the scope of the Legal and Technical Secretariat of the Presidency of the Nation for consideration and subsequent referral to the National Congress (Annex 69).

- **Presentation of the Integrity programme of the National Universities**

The AO participated in the presentation of the Programme to Strengthen Management and Institutional Transparency in National Universities, currently carried out by the Secretary of University Policies of the

Ministry of Education of the Nation¹⁴⁰. Within the framework of the presentation, the Office held a workshop that dealt with issues related to the management and prevention of conflicts of interest and the regime for the presentation of Property Affidavits. Finally, the mechanisms provided by the regulations to improve control and penalties for non-compliance in the presentation were reviewed.

Among other issues, the need to provide training in integrity and public ethics to employees and officials of public universities, to improve the criteria to form the basis of subjects required to submit a sworn statement, and to advance in the generation of protocols and good practices to improve management administration in universities were highlighted. The meeting brought together more than 50 representatives of public universities from all over the country.

- **Public integrity liaisons**

During the year 2017, the AO promoted the creation of a network of public integrity liaisons in the National Public Administration, requesting the designation of a contact within their organizations to act as a "Public Integrity Link", in order to promote international standards, exchange good practices and facilitate communication, in national and international level, on the advances and challenges of Argentina.

In response to this request, the designations were received by the Ministries of National Public Administration and by various decentralized agencies, and on March 20, 2018, the first meeting with the designated liaisons was organized in order to strengthen the Integrity Links network and to promote the discussion about the role and scope of assigned functions and tasks. During the meeting, which brought together more than 60 representatives from different agencies, a training workshop was held to share issues related to the applicable regulations on public ethics.

It should be noted that this initiative has been included in the Chief of Cabinet's Letter on Integrity, Transparency and the Fight against Corruption dated April 18, 2018, as part of the strategy to promote a public integrity system.

The Ministry of Foreign Affairs and Worship updated on 2018 the information about the OECD Convention and related instruments, as well as, the Argentine domestic legislation, published on the official website of Argentina Trade Net and on the official website of the Argentine Investment and International Trade Agency (former Fundación Exportar) www.inversionycomercio.org.ar.

This information aims to publicize the efforts that are being made at the international and local levels to fight against corruption, both in the promotion of preventive measures and in the establishment and application of punitive measures, highlighting the responsibility and the tools with which public officials, businessmen and citizens in general, count to help to eradicate this phenomenon. The above websites are useful tools for diplomats, consular and trade officials abroad, as well as, for Argentine companies that take part in trade missions and other promotional activities coordinated and organized by the Argentine Investment and International Trade Agency with Argentine foreign Representations.

If no action has been taken to implement this recommendation, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

¹⁴⁰ <https://www.argentina.gob.ar/noticias/la-oficina-anticorrupcion-presento-el-programa-de-integridad-de-las-universidades-junto-la>

Text of recommendation 12(a):

12. With regards to **reporting and whistleblower protection**, the Working Group recommends that Argentina:

(a) (i) ensure the consistency of the reporting thresholds and channels in administrative instruments, the Reporting Decree and the CPC; (ii) ensure that sanctions for non-reporting of alleged foreign bribery are appropriate and effective; and (iii) further remind all public officials, and not only those in MFA and AFIP, of their obligations under the CPC and Reporting Decree to report alleged offences of foreign bribery directly to Argentine law enforcement (2009 Recommendations IX.i and ii);

Action taken since the date of the follow-up report to implement this recommendation:**1. Reporting obligations and channels**

The legal basis of the obligation to report acts of corruption that include transnational bribery was already relieved by evaluators, so it is reproduced as a briefly introduction:

The duty of public officials to report the possible commission of the offense established in the OECD Convention to Combat the Bribery of Foreign Public Officials in International Commercial Transactions, and in Article 258 bis of the National Criminal Code, arises from the obligation that Argentine criminal law imposes on any public servant and state employee who becomes aware of the commission of a criminal act to proceed with their complaint before the competent authorities.

On one hand, at the federal level the obligation arises from the Criminal Procedural Code (law 23.984 and its reforms):

Article 177 of the National Criminal Procedural Code:

"The following will have an obligation to report crimes that can be prosecuted ex officio:

1) Officials or public employees who become aware of a crime in the exercise of their functions (...)"

The new Federal Criminal Procedural Code (CPC 2019) that was partially implemented contains a similar outlook:

Article 237 - Obligation of reporting. "The following shall have the obligation to report offences actionable by the State:

a) The judges and other public officials who take notice of the fact in the exercise of their functions;

(...)

c) public notaries and accountants in cases of fraud, tax evasion, money laundering, human trafficking and exploitation of individuals,

d) Persons who, by virtue of law, authority, or legal act, are in charge of the management, administration, care or control of assets or interests of an institution, entity or person, regarding the crimes committed to

the detriment of the latter, or of the estate or patrimony placed under their charge or control, provided that they take notice of the fact by the exercise of their functions.

In all these cases, the person has no obligation to report if it could reasonably bring about their own criminal prosecution, that of the spouse, partner or relative within the fourth degree of consanguinity or second of affinity, or when becoming aware of facts under professional secrecy”

In the case of public employees who may not be considered in the category of public official, the Public Employment Law rules.

Law 25.164 - NATIONAL PUBLIC EMPLOYMENT REGULATORY LAW

"Article 23: Agents have the following duties, without prejudice to those that, depending on the particularities of the activity performed, are established in the collective bargaining agreements.

(...) h) Bring to the attention of superiors any act, omission or procedure that causes or could cause damage to the State, constitute a crime, or result in an inefficient application of public resources. When the act, omission or procedure involves its immediate superiors, it may be made known directly to the Internal Auditing Body (SIGEN), the National Office for Administrative Investigations and/or the Auditor General's Office”.

Finally, in order to regulate the procedure within the National State, decree 1162/00 was issued.

Regulatory Decree 1162/00:

“Article 1 - Public officials and employees who are obliged to report in accordance with art. 177(1) CPC, shall carry out their legal duty by notifying the Anti-Corruption Office of the Ministry of Justice and Human Rights about the acts and/or evidences which may lead to the presumption that a crime subject to ex officio prosecution has been committed within the National Public Administration, whether centralized or decentralized, enterprises or companies and any other public or private entity in which the State participates or in which the State constitutes the main source of resources.

The obligation described in the precedent paragraph shall be exempted from compliance in red handed crimes and in circumstances where the immediate report before the pertinent authority may result in the disappearance or loss of evidence. In such case, the official must file a complaint and a copy of it with the Anti-Corruption Office within twenty four (24) hours, so that it performs its pertinent functions.

Article 2 - The alleged crimes which are not subject to investigation by the Anti-Corruption Office of the Ministry of Justice and Human Rights shall be reported to the Judge, Prosecutor or to the Police authority by the public officials and employees of art. 1 of this decree pursuant to art. 177(1) CPC.

Article 3 - Public officials and employees mentioned in art. 1 of this decree who are aware of the existence of procedures or organisation schemes which may encourage the commission of corrupt acts within the sphere of the National Public Administration, centralized or decentralized, enterprises and companies and any other public or private entity in which the State participates or in which the State constitutes the main source of resources, shall inform of such situation to the Transparency Policy-Planning Division of the Anti-Corruption Office of the Ministry of Justice and Human Rights”.

The WGB noted in the Phase 3bis evaluation:

“...Argentine public officials were subject to rules with inconsistent thresholds for reporting. Article 177(1) CPC required officials to report “crimes” that they notice in the course of their duties. Executive Decree 1162/2000 (Reporting Decree) imposed a lower threshold by requiring the reporting of “allegations” of foreign bribery and all other crimes. (An even lower threshold applies to domestic corruption by requiring the reporting of “presumptions” of this crime to the AO within 24 hours.) An MFA circular asked embassy officials to report the “possible commission” of foreign bribery. Tax officials in AFIP were subject to a higher threshold, as they were required to report when he/she can “conclude the effective commission” of an offence. (para 203)”

“No changes have been made to the inconsistent reporting channels that were noted in the Phase 3 Report (paras. 219-220). The Reporting Decree requires public officials to report alleged criminal offences directly to law enforcement authorities. However, Article 23(h) of the Public Service Law 25 164 requires an official to report to a superior. AFIP Resolution 1001/2016 states that a tax official “should directly submit the complaint” to the prosecutors’ office...” (para 205)

It is true that several laws and decrees that have been quoted maintain the words and phrases that have generated doubts and questioning by the group.

However, Argentina understands that the rules of interpretation and hierarchies of norms allow an orderly intelligence of the system. In this sense, the Procedural Code (both versions-Law 23.984 and accusatory-) regulate the issue between the modes of initiation of a formal criminal process, so the reporting channel included in the same laws is the police, security forces or prosecutor's office.

And although in this case the law speaks about "suspicion" not to demand the finished knowledge of the crime, we understand that in the light of the convention and its related instruments, it is a matter of suspicion of good faith and reasonable basis.

Meanwhile, the other federal law, which regulates public employment, provides that state employees have as a first option the report within the organization to which they belong. However, by virtue of the same rules, the superior who receives the report has the same reporting obligation. If you are among the subjects of law 26,194, you can report to your superior. But if not, it is obliged to make the denunciation become constituted at the beginning of a criminal process (Article 177).

The regulatory decree intends to order the exercise of that obligation but can not limit its scope, so any interpretation must be extensive.

In short, it allows officials and employees to report the facts that they know directly to the AO (Article 1), without prejudice to making the power of formal complaint in some cases.

In all cases and as will be shown below (see recommendation 12.b), the general complaint channels (with identity, reserved identity or anonymous) are open for cases in which the reporter considers that his superior may not take action.

Likewise, the Argentine State renewed the web access of complaints, which guides all complainants in the process ¹⁴¹. In addition to allowing a faster and more transparent process of the complaints received, the system allows for anonymous and reserved identity complaints.

¹⁴¹ <http://denuncias.anticorruccion.gob.ar/>

The data of the complainant who has requested a reservation of identity will be kept secret and may not be disclosed except at the request of a Judge, in which case they will be sent to the requesting court in a sealed envelope.

The AO works to strengthen ethics and integrity in the national public administration, through preventing and investigating corruption. The report of irregularities allows us to have a quick and effective reaction and transparent management.

If the complaint is about the Judicial Branch Legislative Branch, Provinces or Municipalities, it is sent to the control body with competence to carry out the investigation in that area.

2. Awareness of the duty to report

In order to remind all public officials of their obligation to report, under the CPC and the Decree on the obligation to report any alleged bribery offense, during 2018 training courses (classroom setting and virtual) were organized regarding the existing reporting channels and the main actions of the Anti-Corruption Office (AO) on its reception and internal treatment.

in the trainings, attendees are informed on the duty to report by public officials and the treatment given to each complaint by the Anti-Corruption Office. During 2018 there were a total of 15 activities on this matter (Annex 70), with a total of 560 public officials trained. Among the trainings, it is worth highlighting the one carried out with “integrity liaisons” in March 2018, in which the work with the national administration agencies was strengthened. In particular, in the referral of complaints to the integrity areas or Internal Auditing Units.

Continuing with the efforts to raise awareness of all Argentine public officials, during 2018, the process of printing and publishing the Whistleblower's Guide¹⁴² was completed, which has been prepared by the Anti-Corruption Office to be made available to all sectors of society. The purpose of this publication is to educate and raise awareness about corruption crimes, their different forms of commission and the applicable procedures for reporting them. The document is available in a printed version of 74 pages and in digital format. Likewise, 748 copies of the Whistleblower's Guide were delivered to different areas of the public administration.

On the other hand, between July 30 and August 3, 2018, a message linked to reporting channels in the oa, entitled “Help us prevent and detect corruption by reporting at the Anti-Corruption Office” with the following legend, was disseminated through the GDE Platform. The GDE system works within the scope of the national administration, calculated in more than 250 thousand active users.

“If you know any official, employee or contractor that has committed an administrative irregularity or act of corruption, report it anonymously or with a reserved identity to the Anti-Corruption Office through this web form.”

The complaint must deal with corruption offenses within the scope of the centralized and decentralized National Public Administration, companies, societies and any other public or private entity with State participation or whose main source of resources is through state contribution. The more information you can attach to your complaint, the better it will be for the AO to provide an expeditious and effective procedure.”

¹⁴² https://back.argentina.gob.ar/sites/default/files/guia_del_denunciante_2018.pdf

The message was exposed by an inevitable pop-up sign, in the opening of the registration and records management system, mandatory for the entire public administration.

On behalf of the MFA, and as it has been done since Phase 3, all of its officials have been reminded of their reporting obligations.

The MFA sends two circulars twice a year to all Argentine Representations in the world and internal offices of the MFA. One of the circulars is about the obligation to report and the steps to follow in the case of becoming aware of the possible commission of an act of bribery.

Indeed, according to the circular, in the event that any official of a Representation becomes aware in the development of their activities of the possible configuration of the offense established in the OECD Convention, and in Article 258 bis of the Criminal Code of the Nation, must immediately inform the Head of Mission. In that case, the Representation must immediately inform the General Directorate of Legal Affairs, by virtue of its specific competences, so that Directorate may, if it is appropriate, file a complaint before the General Procurator's Office.

Additionally, in the circular the following norms are mentioned: Article 258 bis of the Criminal Code of the Nation, Article 177 of the Criminal Procedure Code of the Nation, Article 2 of the Decree 1162/00 and Article 23 of Law N° 25.164.

Likewise, in the circular, it is stated that the Legal Advisory Office of the MFA will appreciate the sending of any information or news from a local press medium involving an Argentine company or businessman in the alleged commission of a transnational bribery crime, with the aforementioned characteristics, in favor of an official who exercises a public function or holds a legislative, administrative or judicial position, including for a public company, or an agent of an international public organization.

The other circular, is about information regarding the obligation to provide advice, assistance and information on the fight against bribery of foreign officials to Argentine companies interested in conducting business abroad. In this circular, the article 1 of the Convention, the definition provided by the Convention of foreign public official and Article 258 bis of the Criminal Code of the Nation, are mentioned.

Moreover, it is stated that Embassies, Consulates and Commercial Offices abroad have an important role to play in disseminating the Convention among Argentine companies that consider investing or exporting to other countries. At the same time, these Representations can provide advice and support to Argentine companies that face requests for payment of bribes to obtain international contracts on the consequences derived from the commission of the crime of transnational bribery.

Finally, and in order to comply with the recommendation of the WGB (para. 208), the training plan currently applied by the Federal Administration of Public Revenue includes a specific chapter referred to the use of Instruction 1001/2016 (Annex 68).

Said chapter specifically refers to the duty to report the bribery; therefore, the following are part of it:

Chapter 4.8 - Guidelines to detect the bribery of foreign public officials

- It includes guidelines to detect indicators of possible bribery and corruption and detect the bribery during an exhaustive audit.
- It mentions the actions applied to deceive, mislead and conceal situations that permitted the bribery and corruption.

- It informs about the importance of detecting these illegal acts and preventing the tax advantages achieved through those acts.
- It establishes the way in which the elements leading to suspect possible bribery or corruption discovered during the audits should be notified to the competent legal authority.

Chapter - 4.9 Operational procedure of the investigation and fiscalization areas. Obligation to report

- This chapter defines the legal obligation to report certain acts in Argentina.
- It establishes the scope of Section 177, Subsection 1 of the Criminal Code of Procedures, through which the public servants and officers must report any illegal act that they discover during the performance of their duties. If they do not comply with that obligation, they will be subject to the punishments mentioned in Chapter IV, Title XI of the Criminal Code.

3. Penalties for non-compliance with the duty to report

Regarding the sanctions for the breach of the duty to report and how the evaluators were informed on the opportunities of phase 3 and phase 3 bis, the most important is that it arises from the Penal Code, for which it constitutes a crime.

Article 277.

1. Prison from six months to three years shall be imposed on any person who, after the execution of a crime perpetrated by another, in which he had no participation:

(...).

d) Fails to denounce the execution of a crime or to individualize the perpetrator or accomplice of a known crime, whenever he is compelled to promote the criminal prosecution of a crime of such nature;

(...).

3.- The maximum and minimum terms of the punishment shall be doubled when:

- a) The preceding act is an especially serious crime. Any act which minimum term of punishment exceeds three years prison shall be deemed as a serious crime.*
- b) The perpetrator acted with a profitable purpose.*
- c) The perpetrator habitually harbours criminals.*
- d) The perpetrator is a public official (text incorporated, Law 25.815).*

In turn, the punishment of the offense derived from the obligation to report may, in addition to the prison sentence, include a sentence of disqualification under Article 20 bis PC and a fine if committed for profit (Article 22 bis PC).

ARTICLE 20 bis.- The sanction of special prohibition to exercise public office from six months to ten years can be imposed to a person, even when said sanction was not explicitly contemplated, when the crime they committed involved:

1°. Incompetence or abuse in the exercise of a public employment or office;

(...)

3°. *Incompetence or abuse in the performance of a profession or activity whose exercise relied upon an authorization, license or permit of the public power.*

ARTICLE 22 bis.

If an act was committed with the intention of profiting from it, a fine can be added to the sanction of imprisonment, even when said sanction was not explicitly contemplated or was only contemplated as an alternative sanction. In the event that it was not explicitly contemplated, the fine cannot exceed from ninety thousand pesos.

In relation to sanctions, the WGB pointed out that:

“...The Public Service Law provides for sanctions for breach of the reporting obligations under that Law and not the CPC or the Reporting Decree. As in previous evaluations, Argentina states that non-reporting could be sanctioned by 1-6 years’ imprisonment as an aggravated offence of concealment (Article 277 PC). As the Working Group noted, these relatively draconian sanctions are likely to be applied only to cases of active concealment and not failure to report a crime. ... (Para 207)”

However, the sanction in question that arises from the Criminal Code - and corresponds to the deliberate omission of reporting and criminal prosecution - is not the only one provided for the breach of the obligation to report.

Just as the public employment law regulates the obligation for all state employees, it also sets the administrative sanction for the case of non-compliance, graded according to the seriousness of the omission, which allows the issue to be dealt with by disciplinary means and includes omissions by simple negligence or ignorance of the agent.

- *LAW REGULATORY FRAMEWORK FOR PUBLIC EMPLOYMENT (Law 25.164)*

Article 30. — The personnel can be subject to the following disciplinary sanctions:

- a) Warning.*
- b) Suspension for up to thirty (30) days in a year, counted since the first suspension.*
- c) Severance.*
- d) Exoneration*

The suspension will be made effective without provision of services or payment of wages, within the standards and terms that were to be established, notwithstanding the penal and civil responsibilities that the current laws establish.

Article 31. — The following are causes to impose a warning or suspension up to 30 days:

(...)

- c) Violating the duties determined in article 23 of this law, unless the severity and magnitude of the facts justified the application of a severance.*

Article 32. — The following are causes to impose a severance:

(...)

e) Violating the duties determined in articles 23 and 24 when it were appropriate due to the magnitude and severity of the violation.

(...).”

Therefore, the obligation to report is sustained by a penalty as a criminal offense and an administrative sanction.

If no action has been taken to implement this recommendation, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 12(b):

12. With regards to **reporting and whistleblower protection**, the Working Group recommends that Argentina:

(b) ensure as a matter of priority that appropriate measures are in place to protect from discriminatory or disciplinary action public and private sector employees who report in good faith and on reasonable grounds to the competent authorities suspected acts of bribery of foreign public officials in international business transactions. (2009 Recommendation IX.iii).

Action taken since the date of the follow-up report to implement this recommendation:

In the Phase 3 bis report (paragraphs 210-211) the WGB pointed out the lack of implementation by the Argentine state of adequate measures to protect whistleblowers in both the public and private sectors, as well as the absence of a law specific on whistleblower protection.

In response to both recommendations, the National Executive Branch has adopted different initiatives for the public and private sectors, with the main objective of strengthening the report mechanisms and comprehensive protection of those who denounce acts of corruption in good faith.

1. Public officials and citizens

The central authority in the reception and processing of complaints and reports is the Anti-Corruption Office, as decree 1162/00¹⁴³ intends to order all reports through this agency.

It establishes rules and procedures for the public sector and, by law 24.701 and decree 277/2018¹⁴⁴, for private sector corporations.

However, there are other channels in specific agencies of the Central Administration, decentralized agencies and companies own by the State / or with State participation.

¹⁴³ <http://servicios.infoleg.gob.ar/infolegInternet/anexos/65000-69999/65333/norma.htm>

¹⁴⁴ <http://servicios.infoleg.gob.ar/infolegInternet/anexos/305000-309999/308488/norma.htm>

1.1 Rights and obligations of the whistleblower (Undersecretariat of Anti-corruption Investigation regulation) and the Whistleblower's Guide

For those public officials who are aware of the commission of an act of corruption by virtue of their specific activity, there is an obligation to make the corresponding complaint to the Anti-Corruption Office (Art. 177, inc 1 CPPN; art. 23 Ley 25164, Art. 1 Dt. N 1162/00, Art 31 Dt. N 41/99). On the other hand, for the citizenship in general there is no normative imposition to report. Nonetheless, the moral obligation subsists by virtue of being members of society, and even damaged (directly or indirectly) of the spurious conduct.

The Anti-corruption Office (AO) has developed what is known as the Whistleblower's Guide. It is a publication directed to officials and citizens that explains in a simple and attractive way what a complaint is and how it is managed internally. It also explains what acts can be reported in the AO and what are the appropriate ways to that effect. In this way, whistleblowers can know where, how and when to report; and that their identity as a whistleblower will be kept confidential.

In the whistleblower's guide, according to the Internal Regulations of the Undersecretariat of Anti-Corruption Investigations of the Anti-Corruption Office, it is specified how such Undersecretariat receives and treats the reports or news about a corruption event.

The AO also aims to promote of complaint and channels for reporting through its website (<http://denuncias.anticorruptcion.gob.ar>). The website contains information about the offences that any person can report at the the Anti-Corruption Office and the forms required to submit a claim.

INTERNAL REGULATIONS OF THE UNDERSECRETARIAT OF ANTI-CORRUPTION INVESTIGATIONS OF THE ANTI-CORRUPTION OFFICE

Chapter I: Reception and treatment of complaints or news.

ARTICLE 1.- All the procedures of the Undersecretary of Anti-corruption Investigation (formerly Investigation Directorate) of the Anti-corruption Office will start:

a) Through the report of an individual, legal person, public official of the centralized or decentralized National Public Administration, company, society, or any other public or private entity with State participation or whose main source of resources is State contribution, whether it is received at the Anti-Corruption Office directly or another branch of the National Public Administration. The complainant will be informed of the possibility of preserving his or her identity, and if that is his or her wish, the complaint will be received stating that circumstance, and the identity of the person will be reflected in a note that will be reserved at the Anti-Corruption Office, indicating the date it was received and the registration number.

In this regard, the Guide also specifies that those who file complaints have the right to:

- To preserve the anonymity or reserve their identity;
- To know the result of the investigation unless it has resulted in a criminal or administrative complaint, in which case they will only be accessible to the parties to the proceedings;
- The data of the person who has requested an identity reservation will be kept secret and may not be disclosed except in the case of a judicial request, in which case they will be sent to the requesting court in a sealed envelope.
- When the action that generates the complaint ends, both the envelope and their personal data, and those contributions that the complainant has made and that could reveal their identity (which

will then be separated from the folder), can not be consulted by anyone, except judicial requirement. The complainant will be informed about these conditions.

- Proceedings may only be initiated upon an anonymous report when it is reasonably circumstanced and credible, there is seriousness in the reported act and reasonableness in the intention of the complainant to preserve anonymity.

For cases of administrative complaints, the complainant may request both the reservation of his/her identity and make the complaint anonymously. In the same way, they have the right to know the result of the investigation unless it ends in a criminal complaint, in which case it will only be accessible to the parties to the proceedings.

As mentioned in recommendation 5.a, the Anti-Corruption Office received in 2017, the total number of 846 complaints, of which 381 were made anonymously. In 2018, 731 complaints were filed, of which 369 were anonymous. During the first quarter of 2019, 310 complaints were submitted of which 153 were anonymous

1.2 Coordination system for reporting channels by the body and general of the National Public Administration.

Within the framework of the National Anticorruption Plan (NAP) (see recommendation 9.g), and in the absence of a specific law that unifies the protection system, the Executive Branch has programmed to establish a Coordination system for reporting channels by the body and general of the National Public Administration.

The objective is to standardize procedures, action protocols and general guidelines regarding the processing of reports, collect statistical data, strengthen the dissemination of existing channels and collaboration between the areas.

This is part of the NAP, whose execution period is 2019-2020 and falls under the responsibility of the Anti-Corruption Office.

In addition, a preliminary research of reporting and protection of whistleblower reporting systems in other central, decentralized and SOE's agencies is added:

1.3 Preliminary research of reporting and protection of whistleblower: Central and decentralized agencies

A. Federal Administration of Public Revenue

The Federal Administration of Public Revenues (AFIP) is the agency responsible for the execution of the tax, customs and collection policy of the Nation's social security resources. It was created in 1997 and is composed of the General Directorate of Customs (DGA), the General Tax Directorate (DGI) and the General Directorate of Social Security Resources (DGRSS).

By means of provision N° 200 - of July 27, 2017 - the Institutional Integrity Department was created in order to assist the Federal Administrator in the prevention and investigation of those conducts that are contrary to the duties and guidelines of applicable ethical behavior to Agency agents.

As a result of this, the Code of Ethics¹⁴⁵ was created by means of provision n ° 86 - of March 22, 2018 and the Ethical Channel, which is the means of communication placed at the service of the citizens and the agency's agents in order to ensure compliance with the Code of Ethics.

This code is applicable to all persons who work in the AFIP, at all levels and hierarchies and under any contractual, temporary or permanent, remunerated or honorary link.

Within the framework of actions to strengthen institutional integrity, the organization's basic premise is to discourage eventual acts of reprisals against persons who denounce improper acts or intervene in an investigative process.

The regulation has two basic pillars: the policy of no reprisals and the confidentiality of information.

The code also provides that the agents of the AFIP can not act by satisfying undue demands or pressures, internal or external, whatever their origin. Any situation, in which an attempt of bribery or undue pressure can be configured in exchange for favors or special treatment, must be reported immediately to its headquarters and/or to the Institutional Integrity Directorate through the Ethical Channel.

Officials who exercise a leadership position at any of their levels within the Institution shall, among other things, inform their collaborators about their rights, obligations and contents of the Code. In turn, they have the obligation to report improper behavior to the Institutional Integrity Department.

The agents of the AFIP are obliged to denounce in good faith any non-observance of the values and guidelines established in this Code of Ethics. For this, it has an Ethical Channel.

This is the means of communication of allegedly improper conduct, put at the service of the citizens and the agents of the Agency in order to guarantee the observance of the Code.

The complainant may choose to identify himself or not. In any case, the AFIP guarantees the reserved treatment of the information received and fair treatment from the intervening personnel. The agents who receive and investigate the complaints must guarantee the confidentiality of the identity of the complainant, the confidentiality of the information and the impartiality in their treatment. The dissemination of information in treatment is strictly limited to officials whose intervention is necessary to resolve the problem.

All complaints are received and analyzed in a confidential way by the Institutional Integrity Directorate, treating them in accordance with protocols established for processing and response.

Article 13 expressly clarifies that any act of reprisal against any person who has filed a complaint or presumed to have done so is strictly prohibited, so if the complainant considers that he or she is receiving reprisals as a result of that condition, whatever the nature may be. of them, you can inform the Institutional Integrity Directorate, which must address the situation with due urgency.

The policy of non-reprisal is applicable to the personnel who work in the agency, at all levels and hierarchies and whatever the type of employment or contractual relationship: temporary or permanent, remunerated or honorary, as well as citizens, suppliers, contractors, contractors, etcetera.

It is also specified that the headquarters that presume that an act of misconduct has been committed or that they receive a report regarding the possible configuration of such situation must communicate it to the

¹⁴⁵ <http://biblioteca.afip.gob.ar/pdf/codEtica.pdf>

Institutional Integrity Department within a period not exceeding THREE (3) business days, computed from the moment they became aware of the aforementioned circumstances.

Within the Code, article 1, section f), some useful definitions are explained that allow a better understanding of its scope, such as:

- Undue conduct: non-observance of the values and guidelines that guide the conduct of the agents established in this Code.
- Whistleblower: who denounces in good faith misconduct through the channels established in this Code and the current regulations, which may be an Agency agent or a third party.
- Reprisal against a complainant: act or threat against a person who has reported wrongdoing.

Furthermore, in article 2, sanctions are established, stating that the non-observance of the principles contained in the Code will be evaluated in accordance with the norms and guidelines contemplated in the disciplinary regime as reprehensible. This without prejudice to the continuation of other actions that may correspond.

The Annex¹⁴⁶ called "Policy of non-reprisals and confidentiality of information within the scope of the AFIP", which is part of the Code, establishes the procedure for reporting acts of reprisal:

1. When a person considers that he is being targeted to acts of reprisal for having reported improper acts, they may submit a complaint to the Directorate of Institutional Integrity through the Ethical Channel by sending an email to integridad@afip.gob.ar, personally assisting to the aforementioned address in the headquarters building located in Hipólito Irigoyen 370 (CABA) or to any dependency of the Agency, or by telephone by contacting the Agency's Attention Center for Complaints.
2. When the Headquarters presume that an act of reprisal has been committed or if they are aware of the possible configuration of this situation in the area in which they work, they must inform the Institutional Integrity Directorate within a period no longer than three (3) days computed from the awareness of such circumstances.
3. The Institutional Integrity Department shall adopt the measures that, within the scope of its competences, are appropriate. For this purpose, a preliminary report shall be drawn up to determine whether the complainant carried out an activity supervised by the present and whether this activity may be linked to the act denounced as reprisal.
4. The preliminary report indicated in point 3 will lead, where appropriate, to the initiation of proceedings for the application of preventive and/or disciplinary measures that may correspond, in accordance with current regulations.

B. GENERAL DIRECTORATE OF MILITARY MANUFACTURING

The General Directorate of Military Manufacturing (DGFM), which is an autarkic entity created by Law N° 12.709, has a Code of Ethics. This Code is a guide to ethical and responsible behavior that establishes the basic principles and general guidelines that should govern personal and labor conduct.

¹⁴⁶ <http://servicios.infoleg.gob.ar/infolegInternet/anexos/315000-319999/316023/norma.htm>

In accordance with its scope of application, it covers all personnel of the General Directorate of Military Manufacturing, whatever its hierarchy; function and modality of contracting; work in a remunerated or honorary manner, extending to all those who act in the name and/or representation of the DGFM.

Point 8 of the Code obliges all the agents to inform to the Transparency Unit the infractions or violations to the provisions of the Code.

To this end, the DGFM has a Protocol for Receiving Complaints, and a Transparency Line and other safe contact channels to make the corresponding report.

The complaint can be made:

- Anonymously.
- With reserved identity.
- With manifest identity, accrediting this with a copy of a national identity document.

The DGFM must ensure the confidentiality of the information received and the identity of the informant. The code expressly states that, in no case, the report of infractions can mean the application of reprisal to the reporter, nor the arbitrary modification of the conditions of their work.

The same code provides that when the complaint involves the highest authorities of the DGFM (controller or sub-controller) or the person in charge of the Transparency Unit, it can be channeled directly to the Anti-Corruption Office at 0800-444-4462 or through the web form available at <https://www.argentina.gob.ar/denuncia-un-hecho-decorrupcion>; before the General Directorate of Integrity, Transparency and Institutional Strengthening of the Ministry of Defense transparencia@mindef.gov.ar or before the Office of the Attorney General for Administrative Investigations at the telephone number 011-4959-5916 / fia@mfp.gov.ar.

In turn, there is a Protocol for Receiving Complaints whose rules are applicable to all personnel working in the Agency, without distinction of hierarchy. It specifies that any person who interacts with the General Directorate, whether it is dependent on it or a third party, will be able to report any circumstance contrary to the principles indicated in the code before the Transparency Unit, without prejudice to the remaining obligations that the legal provisions establish for public officials.

Section 2 details the communication channels for the filing of complaints, which are indicated below:

- a) By phone at 011-4779-3452
- b) By email: transparencia@fm.gob.ar
- c) Personally or by mail to: Av. Cabildo 65, 4th floor (C1426AAA), Transparency Unit.
- d) By note or internal report of the DGFM.
- e) By Table of Tickets and Departures of the DGFM. In this case, the receiving sector will refer the file directly to the Transparency Unit.
- f) Online complaints system that is currently disabled.

In this sense, it may be done in anonymous, nominative or nominative with reserved identity request. The Protocol also provides for the possibility for the Transparency Unit to make complaints ex officio.

C. ARGENTINE TRAINS OPERATIONS

Argentine Trains Operations (legally Operadora Ferroviaria S.E.) is a company of the Argentine Republic, created in 2008, responsible for the provision of rail transport services.

This company has a Code of Ethics and Conduct¹⁴⁷, which is mandatory for all people working in and for Argentine Trains Operations, either temporarily or permanently, paid or honorary, whatever their rank and hierarchy and the modality of its contractual link with this, as well as, all those who act on behalf, representation and / or service of Argentine Trains Operations.

Also, and taking into consideration that the employees of the Railway Human Resources Administrator S.A.C.P.E.M, provide service for Argentine Trains Operations, they are also covered by the regulations. On the other hand, the code states the promotion of its adhesion among the providers that provide service to the organization.

Chapter 5 establishes the operation of the code and the obligation of employees of Argentine Trains to report to the Deputy Manager of Ethics and Corporate Transparency the infractions or violations of the provisions of the Code. To do so, it allows you to make the report anonymously, request the reserved or confidential treatment of the complaint, the protection of your identity, or the use of a fancy name in order to guarantee the confidentiality of your identity.

The order, expressly states in that chapter that the report of infractions will never import the application of reprisal to the complainant.

The Code provides for the following communication channels:

- By mail: Toatransparente@bdolineaetica.com (from your own mailbox or created for that purpose)
- By telephone: 0800 345 5366 (Transparency line)
- Personally or by sending a messenger: 1) Av. Dr. José María Ramos Mejía N ° 1358, 5th floor, C.A.B.A. (The Office of the Deputy Manager of Ethics and Corporate Transparency) or 2) Maipú 942, 2nd Floor, Autonomous City of Buenos Aires (An independent consultant with experience in the handling of complaints)
- On the Web: loading the report at www.bdolineaetica.com/toatransparente on the "Charge complaint" tab

REGULATORY BODIES

D. NATIONAL SECURITIES AND EXCHANGE COMMISSION (CNV)

The National Securities and Exchange Commission (CNV) is the national body in charge of the promotion, supervision and control of the Capital Market. It is an autarkic entity under the orbit of the Ministry of Finance of the Argentine Republic, created in 1968 from Law N° 17.811, Public Offer Law.

Article 1 of Title XIII (Procedure of Investigations) of the "Rules of the Securities Commission", which contemplate the regulation of Law No. 26,831 and its Regulatory Decree No. 1,023 / 13¹⁴⁸, stipulates that the Commission will receive the complaints that are presented, in relation to the actions of natural and

¹⁴⁷ https://www.argentina.gob.ar/sites/default/files/codigo_de_etica_y_conducta_trenes_argentinos_operaciones_0.pdf

¹⁴⁸ <https://www.cnv.gov.ar/descargas/MarcoRegulatorio/blob/499EC64A-E522-49D2-8F49-D9624B6DC49B>

legal persons that perform in the field of the capital market, in the scope of its competences attributed by the applicable laws according to the type of activity in question.

In Article 2, a complaint is defined as the presentation made before the Committee or referred to it, in which the commission or existence of an administrative irregularity in the area of the agency's competence is sustained. It is accepted that it is anonymous (Article 3) that will be attended and processed, provided it is reasonably circumstanced and the elements recorded allow presuming the plausibility of the facts presented.

In the chapter of the general rules applicable to the procedures, it is specified that if during the procedure the existence of unlawful acts is presumed, the origin of the criminal complaint must be evaluated, according to the internal procedures that are applicable.

The commission must act *ex officio* when in the performance of its functions it warned of the existence of alleged administrative irregularities; or they are likely to be based on journalistic information arising from printed communications or any other means of dissemination.

In the articles that are under the title of "Investigations" it is determined that the investigations made by the Commission will have the purpose of gathering information about the existence of the irregularities that gave rise to the action, whether it was formed by a complaint or *ex officio*, and if possible, to the identification of the alleged responsible, with sufficient determination that allows the promotion of administrative proceedings, the formulation of a criminal complaint, or the suspicious operation report to the Financial Information Unit, in accordance with the provisions of Law No. 25,246 and its amendments; or in your case, the dismissal or the file.

It is added that the investigations have the character of reserved and in their process will govern the principles of speed, economy, simplicity and efficiency.

E. CENTRAL BANK OF THE ARGENTINE REPUBLIC

The Central Bank of the Argentine Republic, as an autarkic entity of the National State and in its capacity as the governing entity of the Financial System, in accordance with the provisions of both the Ethics Law and the Code of Ethics of the Public Service, has assumed the commitment to draft a Code of Ethics¹⁴⁹ that reflects the Institution's commitment to efficient, loyal and transparent work.

The persons who work in the Central Bank of the Argentine Republic, at all levels and hierarchies and under any form of contractual, temporary or permanent bond, have the obligation to report non-compliance with the provisions of the Code of Ethics when they become aware of it with motive of on the occasion of the exercise of their functions.

As the enforcement authority of the aforementioned code, a Compliance Committee is established, which will be integrated by the general manager, the legal deputy general manager, the auditor general and the deputy general manager of central administration and services.

The functions of the Compliance Committee are, among others:

1. Disseminate the guidelines of the Code, promoting a culture of internal compliance controls.
2. Develop a program of awareness in the matter that includes the training of the recipients and the elaboration of didactic material.

¹⁴⁹ http://www.bcra.gov.ar/Institucional/Codigo_de_Etica.asp

3. Intervene in the complaints of the addressees linked to the breach of the provisions of the Code. In those cases in which members of the Board of Directors, Syndics or Cabinet staff are involved, without further processing, they will submit the report received to the Secretary of the Board of Directors for their treatment by that Body.

4. To inform the General Audit Office of those behaviors that could be considered the object of an administrative investigation, under the terms established in the Statute for the Personnel of the Central Bank of the Argentine Republic.

5. Act as liaison with the Anti-Corruption Office.

SECURITY FORCES AND POLICE

F. SECURITY MINISTRY

(Resolution 561 - E / 2016¹⁵⁰ dated October 14, 2016, modified by Resolution No. 59/2019 of the Ministry of Security B.O. of January 29, 2019)

On January 29, 2019, through the resolution n ° 59/2019 of the Ministry of Security, resolution 561-E / 2016 -of October 14, 2016, was modified, through which the Administrative Protection System of the Staff of the Federal Police and Security Forces (SPAPFS) was created in order to promote the reporting, investigation and punishment of illegal and irregular acts by members of the Police and Security Forces.

According to the second article, the members of the Federal Police and Security Forces who are under the Ministry of Security and who suffer some reprisal or the well-founded fear of suffering it, could require to be incorporated into this System, as long as, they were included in any of the following situations:

- a. Be witnesses or complainants of acts of corruption, complicity with drug trafficking or other forms of organized crime, crimes related to such acts or have expressly refused to participate in those events.
- b. Be witnesses or whistleblowers of acts of institutional violence or have expressly refused to participate in such acts.
- c. Be witnesses or complainants of acts of gender violence or discriminatory practices in matters of gender, religion, ethnicity, race, sexual orientation, disability or any other discriminatory act that threatens the integrity of persons or has expressly refused to participate in such acts.

The Application Authority of the System of Administrative Protection of the Personnel of the Federal Police and Security Forces (SPAPFS) will be, according to the matter denounced: the Directorate of Internal Investigations; the Directorate of Institutional Violence; or the Coordination of Gender Policies and Non-Discrimination.

Furthermore, it indicates that it is a requirement for its incorporation into the System, that the complaint is not made under the figure of anonymity. In this line, the System provides for the service of professionals who guarantee psychological containment to the complainant.

On the other hand, the law considers in its fourth article the following acts as reprisals:

- a) Physical or verbal violence;

¹⁵⁰ <http://servicios.infoleg.gob.ar/infolegInternet/anexos/265000-269999/268028/texact.htm>
3+6

- b) Missions ordered with unnecessary risk or without the precautions or without the practice equipment to preserve the life or physical integrity of those who carry them out, according to the situation of the Force and the circumstances of the case;
- c) Deliberately creating a bad work climate, through behaviors such as repeated hostility in the treatment, permanent criticism of the same person or the spread of insulting rumors that have sufficient authority to justify an exceptional measure
- d) Assignment of tasks or activities that correspond to levels of lower hierarchy in the hierarchy;
- e) Refusal to assign tasks or unjustified overload of tasks in a context that warns that it is a measure designed to specifically harass the complainant;
- f) Sexual or labor harassment, without prejudice to the protection measures adopted by the specific areas when those conducts do not constitute a reprisal in the terms of this resolution;
- g) Unjustified postponement in a promotion or unfounded, unjustified, repeated or disproportionate sanctions;
- h) Untimely or arbitrary transfers;
- i) Unfounded call to controls, evaluations or medical meetings;
- j) Any other conduct that, in the opinion of the Enforcement Authority, derives or could reasonably derive from the circumstances described.

The Application Authority will personally receive those who wish to enter the system and, if the complaint has not been made previously, will proceed to take a declaration to the presenter, who must sign it in that act. The complainant may send it by email to the institutional box of the Enforcement Authority that has jurisdiction to investigate the case. The Enforcement Authority may adopt precautions to prove the identity of the complainant; or they can do it through the receipt line "134" of the Ministry.

The sixth article authorizes the Enforcement Authority to carry out inquiries in order to evaluate the verisimilitude of the complaint and have written entry into the System.

The notification of the protection to the superiority will imply, by itself, without the need for an express declaration, the immediate suspension of any measure that is about to be adopted with respect to the complainant, as well as, the cessation of any type of acts or omissions of the gender of those that fall under article 4 of this one.

No further disciplinary action may be taken against the complainant without the consent of the Ministry of Security. The violation of this rule will be considered a serious fault.

In accordance with what is established in article 6 bis, the Application Authority may:

- a) Promote, supervise and control the application of disciplinary systems that it considers appropriate to permanently cease acts or omissions to the protection regime.
- b) Require the change of destination of the reporting or denounced personnel.

When any of the acts of reprisal occurred prior to the complaint, but due to the circumstances of the case appear related to the refusal of the complainant to participate or consent to any of the acts of corruption, the Enforcement Authority may review the situation of the presenter.

The seventh article expressly prohibits, on the one hand, that the complainants are obliged to follow the hierarchical way or inform any office to access the System or to make complaints or provide testimony before the Ministry of Security and, on the other hand, to any authority of a force interrogating a whistleblower or witness about what they stated before the Ministry of Security.

1.4 Future actions regarding whistleblower protection and reporting channels:

Within the framework of the same NAP, other agencies have committed to establishing adequate reporting and protection standards:

- Creation of fraud complaints area at the NATIONAL DISABILITY AGENCY

Based on irregularities detected on the granting of pensions for disabilities, and on complaints made by citizens, an area of fraud complaints will be created. Its main purpose will be to receive information about active pensions that fail to comply with any of the basic requirements to receive the benefit. The complainants will not need to have legal sponsorship, and will have the necessary protection and guarantees from the agency.

Period of execution: 2019

- Reporting system of possible acts of corruption in the MINISTRY OF DEFENCE

The MINISTRY OF DEFENCE, through the General Directorate of Integrity, Transparency and Institutional Strengthening, receives complaints for the possible commission of acts of corruption within the jurisdiction. With the aim of deepening and strengthening this line of work, a Protocol for the Reception and Processing of Complaints will be prepared, in order to regulate the process of reception, admission, investigation and follow-up of complaints, and coordinate the issuing processes and investigation of complaints between the different organisms within the Jurisdiction. The monitoring and systematization of the reports reported will allow identifying irregularities or normative gaps that will feed the risk map of the jurisdiction and the preparation of preventive measures based on the investigated cases.

Period of execution: 2019

- Corruption reporting channel in the SECRETARIAT OF GOVERNMENT OF CULTURE.

The creation of a specialized technical area in the reception, investigation and follow-up of all types of complaints for potential acts of corruption will proceed.

Term of execution: 2020 - 2023.

- Reporting Channel of the SOCIAL ECONOMY SECRETARIAT of the MINISTRY OF HEALTH AND SOCIAL DEVELOPMENT

It is a System of Queries, Claims and Complaints that provides the possibility of confidentially and securely recording all reports and queries related to the beneficiaries of direct transfer programs, in order to provide the area with tools to adopt actions or disciplinary measures taking into consideration the nature of the events reported.

Period of execution: 2019 - 2023.

- Reporting channel of the MINISTRY OF TRANSPORTATION.

Enable complaints channels for all members of the MINISTRY OF TRANSPORTATION, offerors, suppliers, and any other party related to the agency and the citizenry and establish protocols for the processing of complaints.

Period of execution: 2019 - 2023.

- Complaints channel in the AGENCY OF ADMINISTRATION OF GOODS OF THE STATE (AABE).

It is foreseen the opening of an internal agile complaints channel, which will be attended by the Agency's official investigator. Every THREE (3) semesters a review of the adopted system will be carried out in order to make a balance of its implementation and incorporate the improvements considered necessary.

Period of execution: 2019.

2. Sector privado y EPEs

2.1 Guidelines for the implementation of Integrity Programmes - Law 27.401

The Corporate Liability Law, promoted by the National Executive Branch, regulates the implementation of integrity programmes designed according to the risks and dimension of each company.

Through Decree 277/2018, the Anti-Corruption Office is instructed to establish the guidelines for better compliance with the implementation of the Integrity Programs.

Article 22 states that legal entities covered by this law may implement integrity programmes consisting of all actions, mechanisms and internal procedures to promote integrity, supervision and control, aimed at preventing, detecting and correcting irregularities and illicit acts included in the CLL.

Art. 22°.- Integrity Programme. The legal persons included in the present regime may implement integrity programmes, consisting of a set of internal actions, mechanisms and procedures for the promotion of integrity, supervision and control, aimed at preventing, detecting and correcting irregularities and unlawful acts included in this law.

An integrity programme should be consistent with the risks inherent in the activities carried out by the legal person, as well as its size and economic capacity, in accordance with the relevant regulations.

For its part, article 23 establishes that the integrity programme must contain: a) A code of ethics or conduct, or the existence of integrity policies and procedures applicable to all directors, administrators and employees, regardless of the position or function exercised, to guide the planning and execution of their tasks or tasks in order to prevent the commission of the crimes contemplated in this law; b) Specific rules and procedures to prevent unlawful acts in the context of tenders and bidding processes, in the execution of administrative contracts or in any other interaction with the public sector; and, c) Performing periodic training on the Integrity Programme for directors, administrators and employees.

Art. 23°.- Content of the Integrity Programme. The Integrity Programme shall contain, in accordance with the guidelines established in the second paragraph of the preceding article, at least the following:

- a) *A code of ethics or conduct, or integrity policies and procedures that apply to all directors, managers and employees, irrespective of their position or functions, for the purpose of guiding the planning and*

fulfilment of their tasks or duties in such a way as to prevent the commission of the offenses described in this Law;

b) Specific rules and procedures to prevent unlawful acts in bidding processes, during the implementation of administrative contracts, or in any other interaction with the public sector;

c) The conduct of regular training sessions on the integrity programme for directors, managers, and employees.

Integrity Programmes may also contained the following:

- I. A periodic analysis of risk and the subsequent adaptation of the integrity programme;*
- II. Visible and unequivocal support for the integrity programme by top managers and directors;*
- III. Internal channels to report irregularities, open to third parties and appropriately disclosed;*
- IV. A policy for the protection of whistleblowers against retaliation;*
- V. An internal investigation system that respects the rights of the persons under investigation and imposes effective sanctions for violations*

Finally, through article 24, it is established that the existence of an adequate Integrity Programme according to articles 22 and 23, will be a necessary condition to be able to contract with the national State, within the framework of the contracts that: a) According to the regulations in force, for its amount, it must be approved by the competent authority with a rank not less than Minister; and b) Are included in article 4 of delegated decree No. 1023/01¹⁵¹ and / or governed by laws 13.064¹⁵², 17.520¹⁵³, 27.328¹⁵⁴ and contracts for the concession or license of public services.

In this regard, the Anti-Corruption Office published the guidelines for the implementation of the mentioned integrity programmes¹⁵⁵.

In particular, regarding the internal reporting channels, it is indicated that, in order for the integrity programme to be effective and have credibility, it is essential that the behaviors that are contrary to the company's ethical rules are detected and it must be perceived that they are addressed in a firm and fair manner, as well as it is important to establish an internal channel of complaints so that employees and third parties can report violations of the Code of Ethics or illegal acts in a confidential manner and without fear of reprisals. The report should not be limited to information about proven infractions, but should be extended to any allegation in good faith of possible improper acts, so that the information is useful for preventive purposes.

It is emphasized that a good complaints system is inextricably linked to the correct functioning of other elements of the Programme, especially that:

- The obligation to report internally the illegal or improper acts is foreseen in the Code of Ethics or in another internal standard, correctly and clearly established and communicated to all employees and third parties. If there is an ethical channel, it must be mandatory to use that channel.

¹⁵¹ <http://servicios.infoleg.gob.ar/infolegInternet/anexos/65000-69999/68396/texact.htm>

¹⁵² <http://servicios.infoleg.gob.ar/infolegInternet/anexos/35000-39999/38542/texact.htm>

¹⁵³ <http://servicios.infoleg.gob.ar/infolegInternet/anexos/15000-19999/16942/norma.htm>

¹⁵⁴ <http://servicios.infoleg.gob.ar/infolegInternet/anexos/265000-269999/268322/texact.htm>

¹⁵⁵ https://www.argentina.gob.ar/sites/default/files/lineamientos_para_la_implementacion.pdf

- Sufficient protection of the employee who reports misconduct is ensured by ensuring that there are no reprisals or repercussions with respect to issues raised or information provided in good faith.
- There are procedures that establish in advance the correct treatment of the reports and the internal investigation of those that suppose serious alarms about the existence of a serious violation of the Code of Ethics.

In addition, it is stated that the channels must be safe. On the one hand, they must guarantee to the complainants that the information will be kept in strict confidentiality and will only be used for a serious and professional analysis or investigation. On the other, although it is desirable that the company allows the reports to be made in an open manner, the channels must admit both the anonymous report and the possibility of opting for the reservation of identity. The existence of such options must be communicated clearly to all possible recipients of the channel. In the case of the reservation, it must be clarified under what conditions it will cede or in what cases the company will not be able to maintain it (insurance will not be possible to maintain it before the request of judicial authorities).

The channels can be internal or have an outsourced management. One or the other option brings different benefits. The greater the dimension of the organization and the greater the reporting activity, the greater professionalization and independence demands will be associated with channel management and, therefore, the greater tendency to resort to a first level external solution (or the internalization of higher associated costs). In any case, in a large company (or even a median with great risks, profuse reporting activity or considerable dispersion of workers) it seems desirable to establish channels that provide guarantee of independent attention 24 hours a day, 365 days a year with first level safeguards for the security of information and the protection of personal data.

The company, on the other hand, can have one or multiple independent simultaneous channels, such as a telephone channel, a web form, an app, an email, a post box, a face-to-face channel, etc. The plurality and variety of channels is desirable, especially in larger organizations.

In all cases the existing channels have to be properly communicated and accessible to all employees as well as to third parties and related parties. In addition, when employees make a report, whenever possible, the company must ensure that they can properly track their report and know the results of their treatment if they wish.

In another order, with regard to the protection of whistleblowers, it is stressed that it is essential to protect those who dare to denounce. It is an ethical duty to provide the highest level of protection to those who have been contractually obligated to report and use a certain internal channel.

Indeed, as stated above, the protection of the complainant can not be entirely separated from the design of the line of complaints or the structuring of internal investigation actions. It could be understood as a necessary budget for the correct functioning of those elements.

2.2 Guidelines of Good Governance of State-Owned Enterprises of Argentina

As indicated in recommendation 9g, in 2018, the Good Governance Guidelines became mandatory for societies and companies included in article 8, subsection b of the Law of Financial Administration and Control Systems of the National Public Sector N°24156, as well as for all Decentralized Bodies whose essential objective is the production of goods or services.

The second guideline approved in the administrative decision is the one of “Integrity”.

Within the framework of such guideline, it is recommended that state-owned companies implement an integrity programme that articulates the set of actions aimed at the promotion of integrity and supervision in order to prevent, identify and correct irregularities and unlawful acts.

In this line, the Law N°27.401 promoted by the National Executive Branch, in whose scope are expressly included companies with state participation, regulates the implementation of integrity programmes designed according to the risks and dimension of each company.

In this regard, it is suggested that the programme be approved by the Board of Directors and include components such as: identification of an internal manager, strategies for implementing policies (which can be crystallized in a code of ethics), prevention of conflicts of interest, procedures of transparent purchases, risk analysis, training, reporting channels and whistleblower protection systems, monitoring procedures and continuous evaluation of the programme.

The National Executive Branch, as a shareholder of the companies, recommends the creation of specific instances of compliance within the company. It is highly advisable to appoint an internal manager who has a hierarchical level equivalent to the manager or directive and who has training and background in the matter. In addition, the area in charge of the implementation and evaluation of the Integrity Programme must have sufficient budgetary resources and an adequate level of autonomy and independence with respect to management. It is also relevant that the internal manager is the repository of the confidence and support of the Board.

It is indicated, specifically that the reporting lines, particularly when they allow anonymous reporting, are the most reliable mechanisms to detect irregular behavior patterns as a first step for their determination and subsequent remediation. It is recommended that companies have multiple independent and effective channels (via web, email, telephone line) and that they are accessible to all employees, as well as to third parties and related parties. They must also provide that when the complaint is directed against the Directorate, the members of the Ethics Committee or some other high authority or internal integrity and control officer, this can be addressed and treated by an independent third party, such as the Anti-Corruption Office (oa). The AO has a Whistleblower Guide available on its institutional website (<https://www.argentina.gob.ar/anticorrupcion>) and receives complaints from citizens in person, by phone 0800-444-4462, or from of the web complaint form available at <http://denuncias.anticorrupcion.gob.ar/>.

Lastly, continuous coordination and the establishment of dialogue channels with state agencies specializing in transparency and integrity policies, such as the Anti-Corruption Office and the Access to Public Information Agency, as well as control bodies, are highly recommended. as the Comptroller General of the Nation (SIGEN).

2.3 Consolidation of the Good Government Initiative in State Owned Enterprises

As part of the aforementioned, the Advisory Committee on Good Governance of State-Owned Enterprises of the Cabinet Office of Ministers has committed, through the National Anticorruption Plan, to the implementation and monitoring by the Companies of the Good Governance Guidelines for State Owned Enterprises, according to the following schedule:

2019: 1) FIFTY PER CENT (50%) of companies adapting their bylaws to Guidelines; 2) increase of TWENTY PER CENT (20%) of companies with third party reporting lines; 3) 3 audits of performance and integrity by the OFFICE OF THE COMPTROLLER GENERAL OF THE NATION (SIGEN).

2020: 1) ONE HUNDRED PERCENT (100%) of companies with statutes adapted to Good Governance Guidelines; 2) ONE HUNDRED PERCENT (100%) of companies with third-party reporting lines 3) TEN (10) performance and integrity audits by the SIGEN 4) evaluation of the impact of the guidelines on corporate governance practices of the company

2021: 1) FIFTEEN (15) performance and integrity audits by the SIGEN 2) update the Guidelines according to the 2020 evaluation; 3) update of integrity strategy in companies by the Good Government Committee.

2.4 Preliminary research of reporting and protection of whistleblower: SOEs

A. Yacimientos Petrolíferos Fiscales S.A.

Yacimientos Petrolíferos Fiscales S.A. (YPF SA) is an Argentine energy company dedicated to the exploration, exploitation, distillation, distribution and production of electric power, gas, oil and hydrocarbon derivatives and sale of fuels, lubricants, fertilizers, plastics and other products related to the industry. The company has a mixed corporate composition, in which the Argentine State owns 51% of the shares and the remaining 49% is listed on the Buenos Aires and New York Stock Exchange. In addition, it is the most valuable company in the Argentine Republic¹⁵⁶.

YPF has a Code of Ethics and Conduct¹⁵⁷, which is of mandatory application, regardless of its geographical location, with respect to the Directors and employees of YPF, as well as the contractors, sub-contractors, suppliers and business partners who carry out business with YPF.

In accordance with the provisions of point 5 of this Code, under the title "Ethics Committee and Ethics Line", the company has an "ethical line" that allows reporting, among other issues, situations and/or behaviors that may constitute a real or potential violation of the Code of Ethics and is committed to ensure that no type of reprisal is applied in their relationship and labor and/or contractual development against those who use this Line in good faith.

The "Ethics Line" is under the supervision of the YPF Ethics Committee. Among the facts for which a report is requested, are to be included: any situation that may have an effect on the supervision of financial information or other significant events reported to the National Securities and Exchange Commission (CNV) and the markets and complaints related to the operation of the systems of internal, administrative - accounting and auditing of YPF.

In another order, in relation to measures against bribery and corruption -point 6.2.11-, the subjects reached will not be able to make or offer, directly or indirectly, any payment in cash, in kind or any other benefit, to any person at the service of any entity, public or private, political party or candidate for public office, with the intention of obtaining or maintaining, illegally, business or other advantages.

Moreover, the subjects reached will not make or offer, directly or indirectly, any payment in cash, in kind or any other benefit, to any person, with the intention that the latter abuse their influence, real or apparent, to obtain from any entity, public or private, any business or other advantage; nor when it is known that all or part of the money or the species will be offered or delivered, directly or indirectly, to any entity, public or private, political party or candidate for public office; nor should payments of facilitation or expediting

¹⁵⁶ <https://www.ambito.com/ranking-las-empresas-mas-valiosas-la-argentina-n4019657>

¹⁵⁷ <https://www.ypf.com/inversoresaccionistas/GobiernoCorporativo/Documents/YPF-Codigo-de-Etica-y-Conducta-agosto-2017.pdf>

of procedures be made to any judicial body, public administration or official body in which YPF is involved for the benefit or in the interest of YPF.

YPF Energía Eléctrica S.A.

The Ethics Line is applicable to all companies of the YPF Group. For example, it has been established that YPF Energía Eléctrica S.A.¹⁵⁸, together with the application of this line, must adopt the necessary measures in order to maintain the anonymity and the confidentiality in relation to the complaints that are made.

Specifically, it was established as complaint channels:

- By Phone: 0800-444-7722
- By Email: lineaeticaypf@ar.pwc.com
- From the Website: www.lineaeticaypf.com (User: YPF - Password: 1922YPFArgentina)

This page redirects the user to the site <https://www.lineadedenuncias.com.ar/> whose purpose is the creation of an alternative channel for reporting possible irregularities, acts of corruption and unethical or illegal behaviors that violate the Code of Conduct or Ethics of the Organization or other regulations and applicable laws. These could be irregularities in legal, accounting, auditing and internal control matters.

The site clarifies that reporting using this site does not exempt or disclaim liability related to complaints before the courts.

In addition, it is established that whistleblowers can make complaints through this Website by authenticating themselves through a generic username and password provided by the Organization. Once authenticated, the Whistleblowers will have access to a form to make the report of the complaint. The complaints can be anonymous and will be treated with confidentiality by a team of independent professionals.

Once the loading of the complaint has finished, the system requires the creation of a personal password and a complaint code will be provided. By means of this code, additional denunciations may be made in the future.

Visitors to this site may exercise rights of access, rectification or deletion of the personal data provided by them, in accordance with the provisions of current local legislation.

B. Aerolíneas Argentinas S.A.

Aerolíneas Argentinas¹⁵⁹, is the airline of the Argentine Republic. It was created as a state company, by decree N° 26.099.

On May 9, 2018, through its Board of Directors, the Integrity Programme was approved, which aims to develop and implement effective mechanisms that allow the company to achieve the highest standards in

¹⁵⁸ https://www.ypluz.com/Content/pdf/YPF_codigo_de_etica_EE.pdf

¹⁵⁹ Includes companies: Austral Líneas Aéreas; Cargo Airlines; Aerohandling; Jet Paq; To opt; and, Arbus Line.

ethics, integrity and legality. This Programme is made up of the Code of Ethics¹⁶⁰, the Code of Ethics for Suppliers¹⁶¹ and the Ethics Line.

The Airlines Group makes this Ethical Line available to anyone who suspects or detects a situation contrary to the Code of Ethics. It is a confidential channel, managed by an independent third party, available 24 hours a day, 365 days a year through the following contact channels:

- www.resguarda.com/grupoaerolineas
- Argentina: 0800-999-4636 / 0800-122-7374
- Other countries: consult available lines in www.resguarda.com/grupoaerolineas
- lineaetica.grupoar@resguarda.com

Chapter 5 of the Code of Ethics provides that the Internal Audit Department is the only one authorized and has the obligation to investigate all potential acts contrary to the Code of Ethics. To do this, you can freely and without restrictions access all records and facilities of the Company, examine and/or copy all or part of the contents of the files, computers, desks, cupboards, etc., in accordance with the legislation applicable in each country. The complainant should not attempt to personally conduct investigations or interviews related to reported situations. The Company will take measures to ensure the confidentiality of the information received and to protect all those who report in good faith. In this context, the Company encourages reporting about any attempt to restrict the right to report or expose a conduct contrary to the code in order to take immediate action against those who carry out such actions.

Additionally, in chapter 6, titled "Ethical Guidelines", fraud is defined, and, acts of corruption when an Employee of the Company and/or a third party representing it (such as legal advisors, consultants, suppliers, managers), agents, etc.) promises, offers, delivers, requests and / or receives - directly or indirectly - any valuable asset in exchange for influencing a negotiation or decision, obtaining favorable treatment or an inappropriate advantage, or the realization or omission of any act by a public official and / or any private person or entity. Any irregularity that is detected or suspected in this context must be reported immediately, even in case of doubt about the veracity of the facts.

C. Nucleoeléctrica Argentina S.A.

Nucleoeléctrica Argentina S.A. (NASA) is a generator of electric power, operator of the Argentine nuclear power plants and in charge of the management of the country's nuclear projects.

The share capital of the company is distributed as follows: Ministry of Finance: 79%; National Commission of Atomic Energy: 20% and Binational Energy Enterprises: 1% (all of them of a state nature).

NASA has a Code of Conduct¹⁶², approved by the Board of Directors, which establishes the basic ethical principles and guidelines that constitute a guide for decision making and to establish relationships with hierarchical superiors, dependents, peers, suppliers, contractors and any other third with which to interact on the occasion of the performance of the functions or on behalf of Nucleoeléctrica Argentina SA

¹⁶⁰ <https://www.aerolineas.com.ar/OfficeFile/E-commerce/CodigoEticaGrupoAR.pdf>

¹⁶¹ <https://www.aerolineas.com.ar/OfficeFile/Ecommerce/C%C3%B3digo%C3%89ticaProveedoresGrupoaerol%C3%ADneas.pdf>

¹⁶² <http://transparenciaactiva.na-sa.com.ar/codigo-de-conducta?cat=31&catn=Normativa>

The Code is mandatory for all personnel of Nucleoeléctrica Argentina SA, regardless of their rank and hierarchy, suppliers, contractors and any human or legal person with whom they interact on the occasion of the performance their duties and/or on behalf of Nucleoeléctrica Argentina SA

The same principles apply to all those who participate in the processes of selection or present offers at Nucleoeléctrica Argentina S.A., whether suppliers, consultants, consultants, associations, contractors or subcontractors (related third parties) or eventual hired personnel.

Specifically, point 8.14 of the Code details the 'Anti Bribery and Corruption Measures', and in relation to this, it is required to report any breach and/or any situation that could present a corruption risk and/or bribery and /or anything that may cause a breach of the applicable regulations.

An Integrity Committee has been created, consisting of the chairman of the Board of Directors and a director, the Internal Audit manager, the Legal and Corporate Affairs manager, the general manager, two managers appointed by the Board of Directors of the Company, and the responsible for Ethics and Transparency of Nucleoeléctrica Argentina SA, which among other obligations, must intervene in the treatment of complaints, breaches, disputes, conflicts and failures related to the Code and make recommendations. (See point 10).

This Integrity Committee is responsible for reviewing and acting on all reports of alleged violation of the Code. In the case of an anonymous report, the enabled reporting channels allow information to be collected without requesting personal identification. Nucleoeléctrica Argentina S.A. respects the privacy of all people and treats reports in a confidential way, according to the need to conduct a thorough investigation.

Within the framework of the title 'Report of Noncompliance', which is under point 13, it is established that all members of the company have the obligation and responsibility to report facts, situations and / or suspected breaches, regardless of the charge that they occupy.

In the same point it is specified to whom the complaints can be made: Direct Chief; manager of the direct boss; Legal and Corporate Affairs Management; Human Resources Management; and responsible for Ethics and Transparency.

The "Transparent Line", as defined in point 15, is an open, accessible and transparent communication channel implemented to guarantee mechanisms that avoid any sanction against collaborators who contact in good faith, in order to report possible breaches of the code.

In any case, reporting in good faith a breach may mean the application of reprisals for those who report, or the arbitrary modification of their working conditions. Any person who is determined to have taken reprisals against another for presenting a report in good faith will be subject to sanctions, which may include up to severance or exoneration. It can be reported anonymously. No measures will be taken to discover the identity of the person who made it. Anonymous reports, whenever they are credible, are analyzed and seriously evaluated and investigated.

The Integrity Committee must implement training plans on ethical culture for collaborators and related third parties. Promote training and education in ethics, transparency and integrity through the Responsible for Ethics and Transparency.

The complaint channels are the following:

- By phone, leaving a message. 0800-345-6272 (NASA)
- Through a form through the website. www.bdolineaetica.com/canaldereportesnasa (from this site you can upload the data of the complaint, do it anonymously if you wish, and see the status of it. The site

allows to you to upload attachments and request, if it is possible, to provide an email in order to maintain a communication channel with the complainant).

- By email to canaldereportesnasa@bdolineaetica.com or traditional mail to Rondeau 2664 PB (C1262ABH), Buenos Aires, Argentina. Ref: NASA Ethics Line.

- Personally or through a third party in the Office of the Responsible for Ethics and Transparency in Nucleoeléctrica Argentina S.A.

If no action has been taken to implement this recommendation, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 13:

13. With regards to **export credits**, the Working Group recommends that Argentina adhere to the 2006 Recommendation on Bribery and Officially Supported Export Credits if and when it resumes the provision of officially supported export credits (2009 Recommendation XII.i).

Action taken since the date of the follow-up report to implement this recommendation:

The Argentine Republic presented its adherence to the 2006 Recommendation on Bribery and Officially Supported Export Credits (2009 Recommendation XII.i) (Annex 71 and 72) on 1 March of 2019.

In the time of presenting the argentine adherence and being aware that in the next months a new Recommendation on Bribery and Officially Supported Export Credits could have been adopted, by the Note N° 111/19 of the Argentine Embassy in France, the following information was requested to the General Secretariat of the OECD regarding the possible changes to the 2006 Recommendation: “Of particular interest would be to know if this Recommendation would be amended or replaced by a new one. Furthermore, this Representation would be grateful to receive information on which Recommendation on Bribery and Officially Supported Export Credits the Argentine Republic should comply with - the one of the year 2006 or the one that may be adopted – regarding the Phase 3-bis of the written follow –up Report (June 2019) in the framework of the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions”.

In response to that letter, the Secretary General of the OECD, by letter AG/2019.170.pb, dated 29 April 2019, informed that: “... in March 2019, the OECD Council adopted a revised Recommendation on Bribery and Officially Supported Export Credits [[OECD/LEGAL/0047](#)], which was developed on the Working Party on Export Credits and Credit Guarantees (ECG) and which replaces the 2006 Recommendation; as a result, the 2006 Recommendation is no longer in force. While it is for the WGB to review Argentina’s implementation of recommendation 14 of the Phase 3 report, adhering to the 2019 Recommendation could strongly illustrate Argentina’s commitment to do its utmost to implement the WGB’s recommendation”. (Annex 73).

Finally, on 14th May 2019, the Argentine Republic presents its adherence to the Recommendation of the Council on Bribery and Officially Supported Export Credits (2019). (Annex 74 and 75).

This way, the Argentine Republic fully addressed this Recommendation.

If no action has been taken to implement this recommendation, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

3. Issues for Follow-up by the Working Group

Text of issue for follow-up 14(a):

14. The Working Group will follow up the issues below as case law and practice develop:

(a) Whether Article 258bis PC covers cases where a bribe is paid in order that an official acts outside his/her authorised competence (Convention Article 1 and Commentary 19);

With regard to the issue identified above, describe any new case law, legislative, administrative, doctrinal or other relevant developments since the adoption of the report. Please provide relevant statistics as appropriate:

There has been no case law where Article 258bis PC was interpreted in this way so as to allow for a new evaluation of the issue raised by the Working Group.

If no action has been taken to implement this issue, please specify in the space below the measures you intend to take to comply with the issue and the timing of such measures or the reasons why no action will be taken:

Text of issue for follow-up 14(b):

14. The Working Group will follow up the issues below as case law and practice develop:

(b) Whether the solicitation or “illicit demand” of an undue payment or other advantage by a foreign public official can exclude the liability of the active briber (Convention Article 1; 2009 Recommendation Annex I.A);

With regard to the issue identified above, describe any new case law, legislative, administrative, doctrinal or other relevant developments since the adoption of the report. Please provide relevant statistics as appropriate:

While we maintain that solicitation is not, and has never been, a valid defence against the crime of active foreign bribery, the text proposed by the Argentine Penal Code Reform Commission for its general update has included modifications to the way bribery is regulated so as to expressly include cases in which public officials solicit a bribe as one of the many forms of bribery. Thus, when the proposed text comes into

effect, any debate regarding whether solicitation by a foreign public official can exclude the liability of the active briber will be rendered moot.

“ARTICLE 256.- A prison term from FOUR (4) to TWELVE (12) years, as well as a permanent special prohibition to exercise public office, will be imposed to:

1°) The public officer who, personally or through a different person, directly or indirectly, required, accepted or received, for themselves or for a third party, money, things, goods or any sort of asset or object susceptible of pecuniary value or other benefits such as gifts, favors, promises or advantages, in exchange for doing, delaying or not doing something related to their duties.

2°) The person who directly or indirectly, gave, offered or granted, money, things, goods or any sort of asset or object susceptible of pecuniary value or other benefits such as gifts, favors, promises or advantages, to a public official, whether it be due to their own initiative or due to solicitation by the public official, in exchange for that person to do, delay or not do something related to their duties.”

If no action has been taken to implement this issue, please specify in the space below the measures you intend to take to comply with the issue and the timing of such measures or the reasons why no action will be taken:

Text of issue for follow-up 14(c):

14. The Working Group will follow up the issues below as case law and practice develop:

(c) Application of territorial jurisdiction in foreign bribery cases (Convention Article 4(1));

With regard to the issue identified above, describe any new case law, legislative, administrative, doctrinal or other relevant developments since the adoption of the report. Please provide relevant statistics as appropriate:

Pursuant to the commentaries made on the Phase 3bis Report of March 2017, the Working Group decided to follow-up on the issue of territorial jurisdiction over natural persons in cases of foreign bribery due to questions being raised on jurisprudence over whether Argentina had an effective basis for establishing territorial jurisdiction in foreign bribery cases occurring mainly abroad.

In order to establish a clear-cut solution to any interpretative issues regarding whether Argentina has territorial jurisdiction over natural persons in cases of foreign bribery, Law N° 27.401 introduced modifications to Article 1 of the PC which, consequently, now establishes:

ARTICLE 1

This Code shall apply to:

1.- Offences committed or whose consequences take place in the territory of the ARGENTINE REPUBLIC, or in places under its jurisdiction;

2.- *Offences committed abroad by representatives or employees of Argentine authorities in the exercise of their duties.*

3.- *The offence provided in ARTICLE 258 bis that is committed abroad by Argentine citizens or legal entities with domicile in the ARGENTINE REPUBLIC, whether they be the address established in their Articles of Incorporation or those of their establishments or branches in the Argentine territory.”*

This way, Argentina has clear provisions stipulating its territorial jurisdiction over any case of foreign bribery involving any Argentine citizen.

If no action has been taken to implement this issue, please specify in the space below the measures you intend to take to comply with the issue and the timing of such measures or the reasons why no action will be taken:

Text of issue for follow-up 14(d):

14. The Working Group will follow up the issues below as case law and practice develop:

(d) Sanctions imposed for foreign bribery in practice, including whether sentences imposed comply with Commentary 7 of the Convention (Convention Article 3);

With regard to the issue identified above, describe any new case law, legislative, administrative, doctrinal or other relevant developments since the adoption of the report. Please provide relevant statistics as appropriate:

Argentine law considers that the Offence of Bribery of Foreign Public Officials is an offence “irrespective of the value of the advantage, its results, perceptions of local custom, the tolerance of such payments by local authorities, or the alleged necessity of the payment...” (Commentaries 1997, n° 7), and as such, is in full alignment with the provisions contained in Commentary 7.

While Argentina had previously indicated that the prevalence of bribery in a foreign jurisdiction and the tolerance of such payments by the foreign authorities could operate as mitigating factors when it comes to defining the severity of the penalties imposed, these can never justify the bribery and, therefore, the offence will always result in a sanction.

To date, there are no foreign bribery sentences that allow for a new evaluation of the issue raised by the Working Group.

If no action has been taken to implement this issue, please specify in the space below the measures you intend to take to comply with the issue and the timing of such measures or the reasons why no action will be taken:

Text of issue for follow-up 14(e):

14. The Working Group will follow up the issues below as case law and practice develop:

(e) Confiscation of indirect proceeds of foreign bribery, and confiscation against a legal person of the proceeds of offences committed by a *de facto* manager (Convention Article 3);

With regard to the issue identified above, describe any new case law, legislative, administrative, doctrinal or other relevant developments since the adoption of the report. Please provide relevant statistics as appropriate:

With regards to indirect proceeds, pursuant to section 23, profits obtained or arising from direct proceeds of crime can be included under this concept.

With regards the confiscation of the proceeds of offences committed by a *de facto* manager against a legal person, an in-depth explanation on how the possibility of applying sanctions to legal persons was modified since the last evaluation.

As it stands, paragraph 1 of article 23 of the APC provides that where a guilty sentence is given, such sentence shall order the confiscation of the things that have served to commit the crime and the things or profits that are the product or the benefit said crime.

In order to prevent other parties from benefiting from the commission of a crime, paragraph 3 of article 23 of the APC also allows for the confiscation of the product or benefit of the crime, against principals or legal persons, when: i) the author or the participants of a crime had acted as somebody else's agent, or as an organ, member or manager of a legal person, and ii) the product or profit of the crime had benefited the principal or the legal person. These provisions are applicable to any punishable offense, whether they be contained on the APC or on special laws and, therefore, applied to the offence of foreign bribery. This way, paragraph 3 of article 23 of the APC establishes cases in which the sanction of confiscation is applied as a reflection of a main sanction that was imposed against the person who was found guilty of committing said crime.

While it is clear that this provision fully encompasses the possibility of confiscation of the proceeds of bribery for most cases in which individuals committed crimes to benefit legal persons, on the Phase 2 Report, the Working Group expressed its concern regarding the possibility of confiscating the proceeds of bribery crimes in the event that the crime had been carried out by *de facto* managers, stating that "*The art. 23 (3) approach could fail to take account of companies that benefit from bribery through actions by de facto managers...*" (Phase 2 para. 226). This concern was restated in the Phase 3 Report - "*Confiscation can be imposed against legal persons that benefited from an offence (...) Whether this covers bribery committed by de facto managers in practice is unclear.*" (Phase 3 para. 60)- as well as in the Phase 3 bis Report.

While we restate that the provisions of article 23 APC (3) can be used to impose the confiscation of the product or profit of crimes committed by *de facto* managers against legal persons, the debate around this issue is now non-existent for bribery crimes due to the coming into force of Law No. 27.401.

In this sense, given that legal persons can now be subject to criminal liability, sanctions can be directly imposed to them instead of having to rely on the provisions of article 23 (3) APC. What is more, section 10 of the Law expressly stipulates that "*Confiscation-related regulations under the Criminal Code shall*

be applied to every case set forth under this law.”. Therefore, cases where legal persons are benefited by the actions of de facto managers now allow for confiscation as a direct sanction directly applied to the legal person, provided they are found guilty within the liability regime established on Law No. 27.401.

Lastly, we must mention that the National Registry of Seized and Confiscated Property during Criminal Proceedings of the Ministry of Justice and Human Rights has implemented an open data policy; therefore, the information is available at:

<https://www.datos.gob.ar/dataset/justicia-bienes-secuestrados-decomisados-durante-proceso-penal>”

Dates of uploads to the portal differ from dates of official letters, since the data is uploaded to the system on the date official letters are received:

1) Case no. 12441/2008, entitled “L.J.F. S/ ENRIQUECIMIENTO ILICITO Y OTROS” [L.J.F. ON UNJUST ENRICHMENT, et. al.], uploaded on July 11, 2016;

The Federal Court on Criminal and Correctional Matters no. 3, Clerk’s Office no. 6, case no. 12441/2008, informed that the attachment of the property and money of J.F.L. up to reaching the amount of ARS TWO HUNDRED MILLION (ARS 200.000.000) has been ordered;

2) Case no. 3017/2013, entitled “B.L. Y OTROS S/ ENCUBRIMIENTO Y OTROS” [B.L. et al. ON COVER UP et. al.], uploaded on 05 October 2017; 30 October 2017 and 13 August 2018; through official letter dated September 29, 2017, the Federal Court in Criminal and Correctional Matters no. 7, Clerk’s Office 13, case no. 3017/2013, informed that on April 18, 2016 ordered the seizure of TWO (2) airplanes and on July 17, 2017 the airplanes were given to the Ministry of Security and the Civil Aviation Investigation Board, as judicial receivers. Through official letter dated August 6, 2018, the Oral Federal Criminal Court no. 4, in same case, informed that it has ordered the public auction of such property. In addition, in the same case, through official letter dated October 6, 2017, the Court informed that 144 motor vehicles were seized and given to the National Highway Department, as judicial receiver;

3) Case no. 5048/2016, entitled “GRUPO A. Y OTROS S/ ABUSO DE AUTORIDAD Y VIOLACIÓN A LOS DEBERES DE FUNCIONARIO PÚBLICOS Y OTROS”, [GRUPO A et. al. on abuse of authority and violation of duties of a public officer et. al.] uploaded on 04 December 2017.

Through Official Letter dated November 27, 2017, the Federal Court no. 10 in Criminal and Correctional Matters, Clerk's Office 19, case no. 5048/2016, informed that on said date it has ordered the property of CEF, LAB, JMDV, JFL, CSK and NP be included to the attachment levied on December 27, 2016, for an amount of ARGENTINE PESOS TEN THOUSAND MILLION (ARS 10,000,000,000); and for an amount of ARGENTINE PESOS TWO THOUSAND FIVE HUNDRED MILLION (ARS 2,500,000,000), the property of ROD, MC, HRJG, JCV, RGP and JRS.

If no action has been taken to implement this issue, please specify in the space below the measures you intend to take to comply with the issue and the timing of such measures or the reasons why no action will be taken:

Text of issue for follow-up 14(f):

14. The Working Group will follow up the issues below as case law and practice develop:

(f) Whether law enforcement authorities routinely and systematically assess credible foreign bribery allegations that are reported in the media on a timely basis (Convention Article 5 and Commentary 27; 2009 Recommendation Annex I.D);

With regard to the issue identified above, describe any new case law, legislative, administrative, doctrinal or other relevant developments since the adoption of the report. Please provide relevant statistics as appropriate:

As it has been previously stated in the response to recommendation 5(b), law enforcement authorities in Argentina have started to routinely engage in the practice of checking and reviewing news outlets of all kinds in search for foreign bribery allegations with the intent of investigating them.

In this sense, the PROCELAC has taken proactive steps in accessing credible foreign bribery allegations through the implementation of an on-line search and case detection system that reviews both local and foreign media to guarantee the maximization of the case detection capabilities of the organism. This proactive approach of accessing information supplied by news media outlets has been successful as out of the 12 ongoing foreign bribery cases in Argentine courts, 2 of them have been detected in such a fashion: one of them involved the payment of bribes by an Argentine company in El Salvador to obtain contracts to manage the collection system in public transportation, detected in 2017; and another one on the possible payment of bribes by a consortium of Argentine and Peruvian companies to public officials in Peru for the construction and exploitation of an airport, detected in 2018.

On its own right, the Undersecretariat of Investigations of the Anti-Corruption Office conducts a daily revision of the physical versions of national newspapers, as well as an on-line review of international ones. In order to assure that no relevant news will be missed, the organism has set up alerts for sites such as the DOJ web page; the FCPA Blog; the Washington Post; Folha De Soa Paulo; the Security & Exchange Commission website; etc. This periodic check up on relevant news sites has proven successful in identifying relevant information and has resulted in 11 ongoing investigations on domestic corruption offences.

If no action has been taken to implement this issue, please specify in the space below the measures you intend to take to comply with the issue and the timing of such measures or the reasons why no action will be taken:

Text of issue for follow-up 14(g):

14. The Working Group will follow up the issues below as case law and practice develop:

(g) Application of the money laundering offence in Argentina, including: (i) whether the offence covers the laundering of a bribe and the laundering of indirect proceeds of crime, (ii) whether foreign bribery is

always a predicate offence to money laundering, without regard to the place where the bribery occurred, and (iii) enforcement of the money laundering offence in practice (Convention Article 7);

With regard to the issue identified above, describe any new case law, legislative, administrative, doctrinal or other relevant developments since the adoption of the report. Please provide relevant statistics as appropriate:

(i) whether the offence covers the laundering of a bribe and the laundering of indirect proceeds of crime;

.

The laundering of both the direct and indirect proceeds of bribery, whether local or international, constitutes the offence of money laundering per article 303 of the Argentine Penal Code. In this sense, the aforementioned article states that “*Article 303. 1) A prison term of three (3) to ten (10) years and a fine equal to two (2) to ten (10) times the amount of the relevant transaction will be imposed on any persons who transform, transfer, manage, sell, tax, conceal or in any other way circulate goods originating from criminal offences...*”. The phrase “goods originating from criminal offences intentionally does not discriminate on whether the goods have to be a direct proceed of the crime so as to cover all proceeds, direct or indirect.

FIU and AO acted as co-plaintiffs in a trial where A. B., and his accomplices were convicted for the crime of bribery and failure to comply with the duties of public official when a printing company—a company with capacity to print paper money—was purchased (Case No. 1302/2012 Federal Oral Court No. 1).

As a result of this Court decision, the case of money laundering is currently under investigation and the FIU is also acting as co-plaintiff.

The FIU is also acting as co-plaintiff in other cases in which the predicate offenses involved are crimes against the public administration (in total the FIU has acted as co-plaintiff in 51 cases involving fraud against the public administration, bribery, handouts and businesses incompatible with the exercise of the public function).

As a judicial precedent, this agency intervened in Case “Carbón blanco” (FRE No. 2021/2014), where the perpetrators of the crime of laundering of the indirect proceeds of the predicate offense were convicted (points VI and VII of the final verdict).

In Case No. 32.191 /13 Federal Oral Court of Tucumán, the FIU filed an appeal against the conviction, with the aim of obtaining the forfeiture of not only the direct proceeds of crime but also the indirect proceeds. This judicial procedure is still in process.

(ii) whether foreign bribery is always a predicate offence to money laundering, regardless of the place where the bribery occurred; and

Article 303 of the Criminal Code sets forth that any criminal offense that produces illicit profits may be a predicate offense to the crime of money laundering, without establishing restrictions. The offence of bribery and foreign bribery is currently contemplated and criminalized in Title XI (“crimes against public administration”) of the Argentine Penal Code and, therefore, can constitute the predicate offence to the crime of money laundering.

Article 303, paragraph 5, of the Criminal Code sets forth that the provisions regarding the criminalization of the crime of money laundering will be applicable even when the predicate offense has been committed beyond the spatial jurisdiction of this Code, under the condition that the predicate offense was also considered a crime in the place where it was committed. Consequently, foreign bribery will always

constitute a predicate offense to money laundering given that: i) if the bribing of the foreign officer took place in Argentina, the bribe is expressly contemplated as a crime by Argentine criminal law; ii) if the bribing took place outside of Argentina, the provisions of the APC will be fully applicable as long as the law of the place where the bribe was given also considered the bribe as a crime.

Additionally, to ensure Argentine jurisdiction over foreign bribery cases that take place outside of the territory of this country, the recent enactment of Law 27401 incorporated subsection 3 to art 1 of the Criminal Code that extends the jurisdiction of the National State for cases where legal entities with domicile in the Argentine Republic and Argentine citizens committed the crime of foreign bribery.

(iii) enforcement of the money laundering offence in practice (Convention Article 7);

Although, from its role as co-plaintiff, it has obtained new money laundering sanctions, according to the following details:

1) JUDICIAL SENTENCE M.A.V.

TITLED: “M.A.V.AND OTHERS ON BREACH OF ART. 303”

NUMBER: FSM 024005417/2011

Brief overview of the investigation

Drug trafficking is the predicate offense. The introduction of currency proceeding from illicit activity by persons and members of their intimate circle convicted for drug trafficking was investigated.

Establishment

Federal Oral Court No. 2 of Cordoba

VERDICT DATED 10-23-2018:

3 MONEY LAUNDERING CONVICTIONS:

L. A. V.: six (6) years of imprisonment, fine for five million two hundred thousand Argentine pesos (ARS 5,200,000).

J. C. M.: five (5) years and six (6) months of imprisonment, fine of five million seven hundred thousand Argentine pesos (ARS 5,700,000).

G. A. A. B.: three (3) years and six (6) months of imprisonment, a three hundred thousand Argentine pesos (ARS 300,000) fine.

2) JUDICIAL SENTENCE – CASE: “CLAN A.”

On December 18, 2017, the FOC of the Province of Tucumán, rendered judgment in case No 32191 / 13, titled “R. E. A. and others on Illicit Association and Money Laundering”.

Thirteen of the sixteen accused were convicted for all the offenses for which they had been previously sanctioned, and 3 of them were acquitted due to the benefit of doubt. Eleven (11) persons were convicted for Illicit Association (Article 210 of the PC), nine (9) for the crime of Money Laundering (Article 303 of the PC), and two (2) by Art. 5 of the Law No 23737 in the narcotics trade modality.

Qualifications stated in the judgment are identical to those required by the plaintiffs, except for the aggravating circumstance set forth in section 2 “a” of art. 303 of the PC., that is, the commission of Money

Laundering crimes in a group of 3 or more persons, which had been requested in seven cases and was not applied by the Oral Federal Court.

As for the previous issues of Money Laundering, the FOC (Federal Oral Court) considered usury, extortion, economic and prostitution exploitation and drug trafficking among others. In this regard, tax evasion and fraud to the detriment of the San Martín Club that had been pointed out by the accusing parties together with the aforementioned crimes, were left aside.

In relation to the fines requested for the crime of Money Laundering, they were only applied in relation to the two main defendants who were the perpetrators of the crime, for twice the amount of the transaction. As to the rest of the accused of this crime (8), the FOC (Federal Oral Court) declared the fine unconstitutional pursuant to art. 303 of the PC, for having acted as participants.

The seizure of assets was required for an amount of ARS 4,000,000 to each of the defendants considered authors and, consequently, a fine of ARS 8,000,000 was ordered for each one of them. The total amount between the seizure of assets and fines was of ARS 4,000,000, and a restraint on general alienation of property upon all the accused for Money Laundering was ordered.

The seizure of all firearms was ordered, pursuant to what the accusing parties had requested.

The FOC dismissed the sanctions requested against the commercial firms used to carry out the laundering transactions, and it did not issue any decision referred to the various requests for expanding the investigation for Illicit Association, investigating frauds to the detriment of the San Martín Club, complicity of public officials and sending copies to the case AFA (Argentine Football Association).

3) CASE J.M.S.

TITLE: J.M.S. on Concealment (art.278 PCP. subsection 1 “a”)

NUMBER: (Court of Appeals in Criminal Economic Matters) CPE 911/2013/T01

Brief overview of the investigation

The predicate offense is drug trafficking. J. M. S. was condemned in a summary criminal trial for having used funds proceeding from illicit activity by third parties (narcotics trafficking), in order to modify the appearance of the illicit funds in relation to the transactions applied to the purchase of property in Fray Justo Santa María de Oro 2438 UF 19 and 20, identified as items 3530762 and 35300761 by the National Registry of Real Estate, the acquisition of foreign currency (American Dollars) in the Santander Río and Supervielle Banks, for the amounts of USD 3,300 and USD 7,300 respectively, the acquisition of motor vehicles registered under CZJ862 and RHN054, the administration of ARS 190,236.01 corresponding to the current account with the Patagonia Bank on behalf of Amarti SRL, and the deposit and withdrawal of ARS 37,000 corresponding to the Dollar Savings Account opened on his behalf with the Provincia de Buenos Aires Bank.

Establishment

ORAL COURT IN ECONOMIC MATTERS 2

DATE: 11 -28-2018:

ML CONVICTION:

J. M. S.: punishment: two (2) years imprisonment, fine of ARS six hundred eighty thousand (ARS 680,000).

4) CASE “S.J.V.M.”

TITLE: THE PROSECUTOR AGAINST S.J.V.M., AND OTHERS ON INQUIRY OF VIOLATION OF LAW 23737 AND ART. 303 of the PC (Argentine Penal Code)”

NUMBER: 11356/2013

Brief overview of the investigation

From at least 2011, a criminal organization that was devoted to the trafficking, transportation and trade of narcotics and to the laundering of the assets thus generated. In mid-2016 and, with the intervention of the FIU as a plaintiff throughout the process including the debate, the Oral Court of Mendoza convicted the defendants for the crimes described to the penalty of imprisonment between 15 and 6 years. Also, the seizure of all the referred goods and the delivery thereof to the Ministry of Security of the Province of Mendoza was ordered. The FIU promoted this destination given to the goods, requesting the delivery thereof to said Ministry pursuant to Art. 27 of Law No 25.246, as amended. Room IV of the CNCP will be published in November 2017.

Establishment Federal Oral Court 2 of the Province of Mendoza

SENTENCE: May 11, 2016

ML CONVICTIONS:

S.J.V.M.: FIFTEEN (15) YEARS OF IMPRISONMENT AND A PENALTY OF FINE OF FIVE (5) TIMES THE AMOUNT OF THE TRANSACTION (materially simultaneous)

P.M.V.M.: FIFTEEN (11) YEARS OF PRISON AND A PENALTY OF FINE OF THREE (3) TIMES THE AMOUNT OF THE TRANSACTION (materially simultaneous)

J.D.B.V.: NINE (9) YEARS OF PRISON AND A PENALTY OF FINE OF TWO (2) TIMES THE AMOUNT OF THE TRANSACTION (materially simultaneous)

S.N.V.M.: NINE (9) YEARS OF PRISON AND A PENALTY OF FINE OF TWO (2) TIMES THE AMOUNT OF THE TRANSACTION (materially simultaneous)

R.N.V.M.: NINE (9) YEARS OF PRISON AND A PENALTY OF FINE OF TWO (2) TIMES THE AMOUNT OF THE TRANSACTION (materially simultaneous)

N.C.G.G.: EIGHT (8) YEARS OF PRISON AND A PENALTY OF FINE OF TWO (3) TIMES THE AMOUNT OF THE TRANSACTION (materially simultaneous)

S.J.G.V.: SIX (6) YEARS OF PRISON AND A PENALTY OF FINE OF THREE (3) TIMES THE AMOUNT OF THE TRANSACTION (materially simultaneous)

5) CASE “CARBON BLANCO”

TITLED: “S., C.Y. and others on breach of art. 303, subsection 3 PC:

NUMBER: FRE No 2021/2014

Brief overview of the investigation

Drug trafficking is the predicate offense. The introduction of currency proceeding from illicit activity by persons and members of their intimate circle condemned for drug trafficking was investigated.

Establishment

FEDERAL ORAL COURT 2 of the Province of RESISTENCIA, CHACO

VERDICT DATED 03-08-2019:

ML JUDICIAL SENTENCES:

TO SENTENCE R.G.S., to the penalty of NINE (9) years of imprisonment as co-perpetrator, responsible for the laundering of illicit assets aggravated for its regularity and for having committed it in a group of 3 persons or more, pursuant to art. 303, subsection 1 and 2 paragraph “a” of the PC, a fine of FIVE (5) times the amount of the transaction, which shall be established in the respective interlocutory proceeding and must be effective within thirty (30) days of its signing; plus legal ancillaries and costs (arts. 45 and 304 of the Criminal Code); 530, 531, 533 and 535 of the National Code of Criminal Procedure (CPPFF).

TO SENTENCE S.S.V.P., to the penalty of SEVEN (7) years and SIX (6) months of imprisonment as co-perpetrator, responsible for the laundering of illicit assets aggravated for its regularity and for having committed it in a group of 3 persons or more, pursuant to art. 303, subsection 1 and 2 paragraph “a” of the PC, a fine of FIVE (5) times the amount of the transaction, which shall be established in the respective interlocutory proceeding and must be effective within thirty (30) days of its signing; plus court costs and legal expenses (arts. 45 and 304 of our Penal Code); 530, 531, 533 and 535 of our National Code of Criminal Procedures (CPPFF).

TO SENTENCE S.V.F., to the penalty of SEVEN (7) years of imprisonment as co-perpetrator, responsible for the laundering of illicit assets aggravated for having committed it regularly and it in a group of 3 persons or more, pursuant art. 303, subsections 1 y 2 paragraph “a” of the PC, a fine of FIVE (5) times the amount of the transaction, which shall be established in the respective interlocutory proceeding and must be effective within thirty (30) days of its signing; plus court costs and legal expenses (arts. 40, 41, 45 and 304 of our PC, arts. 530, 531, 533 and 535 of our National Code of Criminal Procedures (CPPFF).

Once the judgment has become final, THE SEIZURE of the movable and immovable property that were the object and / or the means of the commission of the crime of money laundering, which duly individualized shall be processed in the respective interlocutory proceedings, in order not to affect possible rights of third party purchasers in good faith, and shall be made available to the corresponding authorities (arts. 23 and 305 of our PC, 522 of our CPPFF, art. 27 subsection b, Law 25.246 and Law 26.683).

Once the judgment has become final, THE SEIZURE of currency (ARS or foreign) in cash and debit, and other elements that were object and / or means of the commission of the crime of money laundering , which are duly inventoried in page 25.163/25.164; 25.638/25.642; 25.643/25.645 26.158/26.159, file submission pages 30.623 / 30.628, pages 60/68 and view of file – interlocutory proceeding No 2021/2014/TO1/45- as well as any other property whose timely embargo was issued in this case, those that will be placed at the disposal of the corresponding authorities, in order to form their respective interlocutory proceedings (arts. 23 and 305, of our PC, art. 522 of our CPPFF, art. 27 subsection b, Law 25.246 and Law 26.683), except those who can definitely prove their ownership and are not subject to seizure will have their properties returned and / or restituted.

CANCELLATION of the legal status of the firms LUGIN SRL, Argentine Taxpayer No (CUIT) 30-70716901-6; SAINT MAXIME SA, CUIT 33-68176378-9; ABUELA CLEMENTINA SRL, CUIT 30-70865813-4; CASILUGI SRL, CUIT 33-70865810-9; CS ENTERTAINMENT SRL, CUIT 30-70952121-3; MANOS DIGITALES ANIMATIONS STUDIO SA, CUIT 30-70951614-7; FUERTEPLAN SA, CUIT 30-70495553-3; MILENIO BIENES RAÍCES SA, CUIT 30-70799507-2; LA PRÓSPERA SA, CUIT 30-71220679-5; LBC Service & Consulting SA, CUIT 30-71053148-6; Aristóbulo del Valle 2480 SA, CUIT 30-70889327-3; General Paunero 2256 SA, CUIT 30-71084917-6; Libres del Sud 2079 SA, CUIT 30-71071564-1; Fundación SALVATORE for the study and research of diseases, treatments and patient recovery, CUIT 30-71204662-3; Casilugi Corporation, Ruth Steimberg

LLC, and to ORDER the loss of all the Estate benefits they may have, and the Publishing of an extract of the conviction sentence at their expense, duly forming the respective interlocutory proceedings thereof (art. 304 subsections 4, 5 and 6 of our Penal Code, with the exception of the provisions of the last paragraph thereof).

6) CASE R.R.

In the case No 12000024/2012 titled “R.R. and others on Infringement of Art. 303 of our PC” (Case T.C. S.R.L.) which is being heard at the Federal Oral Court of Corrientes, a group of 3 persons or more that obtained illicit profits from the trafficking of marijuana locally and internationally was investigated, laundering those assets through a holiday resort, a high-end car dealership and a building materials facility. This Unit, in its role as plaintiff, managed to get a condemnatory sentence for aggravated money laundering against: R.E.R., condemned to the penalty of 13 years of imprisonment and a fine of 5 times the amount of the transaction; S.E.A. condemned to the penalty of 10 years of imprisonment and a fine of 3 times the amount of the transaction; G.R.S., condemned to the penalty of 10 years of imprisonment and a fine of 3 times the amount of the transaction; J.R.G., condemned to the penalty of 10 years of imprisonment and a fine of 3 times the amount of the transaction; R.G.R., condemned to the penalty of 8 years of imprisonment and a fine of 3 times the amount of the transaction; D.R.V., condemned to the penalty of 6 years of imprisonment and a fine of 3 times the amount of the transaction; M.Á.H., condemned to the penalty of 4 years and 6 months of imprisonment and a fine of 3 times the amount of the transaction.

So far, these are the highest convictions for the crime of money laundering in the Argentine jurisprudence.

In addition, the firms T.C. S.R.L., C.C.C. S.R.L. and E. S.R.L., were condemned in terms of art. 304 of our PC of the Nation, being it the first time in history that legal persons are sanctioned in terms of this article.

This is not yet a final judgement.

If no action has been taken to implement this issue, please specify in the space below the measures you intend to take to comply with the issue and the timing of such measures or the reasons why no action will be taken:

Text of issue for follow-up 14(h):

14. The Working Group will follow up the issues below as case law and practice develop:

(h) Whether Argentina can grant MLA requests submitted in the context of criminal and non-criminal proceedings within the scope of the Convention and brought by a Party against a legal person (Convention Article 9);

With regard to the issue identified above, describe any new case law, legislative, administrative, doctrinal or other relevant developments since the adoption of the report. Please provide relevant statistics as appropriate:

Within the framework of criminal proceedings, Argentina can respond to requests for mutual legal assistance against a legal person in the context of the Convention.

This possibility was permitted with the sanction of Law No. 27.401 of Criminal Liability of Legal Persons. With respect to non-criminal proceedings, no precedents are observed in which it has been applied.

In previous instances of evaluation, while assessing issues derived from dual criminality as a precondition for MLA, the Working Group stated that “*Since Argentina has not established criminal liability of legal persons for foreign bribery, incoming requests for coercive MLA in cases involving legal persons arguably would not meet the dual criminality requirement.*” (Phase 3 bis para. 181). In this time, we would like to re-state that even in the cases indicated by the Working Group, MLA would be granted given that Article 1 LICCM and the Convention require broad co-operation, furthermore, the dual criminality test in the LICCM focuses on the conduct underlying the request regardless of whether the person under investigation is a legal or natural person.

Having said that, with the coming into force of Law No. 27.401, legal persons can now be the subject of criminal liability in cases of foreign bribery and, therefore, the issues raised by the Working Group as it concerns MLA being brought against them have been addressed.

As regards non-criminal proceedings, we reiterate that co-operation in these cases is available under our regime of mutual legal assistance in civil matters, with the caveat that some criminal investigative measures (e.g. wiretapping and surreptitious surveillance) would not be available under the civil regime.

If no action has been taken to implement this issue, please specify in the space below the measures you intend to take to comply with the issue and the timing of such measures or the reasons why no action will be taken:

Text of issue for follow-up 14(i):

14. The Working Group will follow up the issues below as case law and practice develop:

(i) Whether Argentina executes MLA requests from foreign authorities without undue delay (Convention Article 9(1); 2009 Recommendation XIII.v);

With regard to the issue identified above, describe any new case law, legislative, administrative, doctrinal or other relevant developments since the adoption of the report. Please provide relevant statistics as appropriate:

Yes, Argentina complies with requests for mutual legal assistance received from foreign authorities without unjustified delay. To secure the execution of MLA in an effective, efficient, and expeditious way, legal officers of the Central Authority classify the incoming and outgoing MLA requests taking into account the urgency and the nature of measures of evidence requested. After that classification the experts analyze the documentation and proceeds to its completion. Whenever it is necessary, they contact personally to the requested/requesting authority for clarifications. The Central Authority uses electronic means to transmit requests for mutual legal assistance with certain countries, and in cases of urgency.

Furthermore, article 1 of Law No. 24.767 of International Cooperation in Criminal Matters set an obligation for the intervenient authorities to act with the utmost diligence in the delivery of requests for mutual legal assistance.

According to statistics provided by DAJIN, the internal procedure takes between 3-13 days.

After the conclusion of the internal procedures, the incoming MLA request is sent to the competent judicial authority or to the General Directorate for Regional and International Cooperation of the Public Prosecutor's Office.

Most of the MLA request regarding foreign bribery cases and related offences are outcoming. The most frequent MLA requests ask for general and specific information, especially financial and bank accounts information, copy of documents and judicial files, testimonial statements, and localization and identification of goods.

If no action has been taken to implement this issue, please specify in the space below the measures you intend to take to comply with the issue and the timing of such measures or the reasons why no action will be taken:

Text of issue for follow-up 14(j):

(j) Whether Article 5 factors influence extradition or MLA in Argentina (Convention Articles 5 and 9);

With regard to the issue identified above, describe any new case law, legislative, administrative, doctrinal or other relevant developments since the adoption of the report. Please provide relevant statistics as appropriate:

The factors of article 5 have no influence over extradition or mutual legal assistance in Argentina. Neither of the considerations enumerated in article 5 of the Convention are specifically considered as factors by which denying international mutual cooperation is permitted under the provisions of Law No. 24.767 of International Cooperation in Criminal Matters. Furthermore, article 1 of the aforementioned Law specifically establishes the obligation of giving the most broader international cooperation in order to avoid considerations such as the ones enumerated in article 5 of the Convention to influence in international judicial cooperation.

There was only one case of passive extradition in the frame of the Convention, with the Republic of Paraguay, that finalized with the grant of the extradition to that country.

If no action has been taken to implement this issue, please specify in the space below the measures you intend to take to comply with the issue and the timing of such measures or the reasons why no action will be taken:

Text of issue for follow-up 14(k):

14. The Working Group will follow up the issues below as case law and practice develop:

(k) Time needed to reach a final decision on extradition in corruption cases (Convention Article 10).

With regard to the issue identified above, describe any new case law, legislative, administrative, doctrinal or other relevant developments since the adoption of the report. Please provide relevant statistics as appropriate:

In accordance with the provisions of Law No. 24,767 of International Cooperation in Criminal Matters, once the intervening Court resolves the granting of the extradition, it will send the proceedings to the Ministry of Foreign Affairs and Worship, which will have ten working days to decide on the concession of extradition. Upon expiration of that period without an express decision having been adopted, it will be understood that the extradition has been granted.

Annex with period of time of extraditions in cases of corruption is attached.

If no action has been taken to implement this issue, please specify in the space below the measures you intend to take to comply with the issue and the timing of such measures or the reasons why no action will be taken:

Report on Foreign Bribery-Related Enforcement Actions

Please provide information on all on-going investigations and prosecutions of cases of bribery of foreign public officials by Argentinian nationals and companies, including those referred to in the Phase 3bis Report. The information, especially on on-going ones, should be anonymised and stripped of information that could jeopardise any investigations or prosecutions.

(a) Cases Referred to in the Phase 3 Report

Case #5 – *Inter-American Development Bank Debarment (Honduras)*

Status of investigation/prosecution

This case was never judicialized in Argentina. It has never been mentioned as a case of foreign bribery in the WGB matrix of cases. Argentina was unable to gather information from the company in order to start an investigation. As it was mentioned in Phase 3 bis report (para. 17) IDB denied a request by MFA for more information. On this basis Argentine authorities couldn't open any investigation.

Case #6 – Tax Collection (Guatemala) [Kolektor]**Status of investigation/prosecution**

Between 2012 and 2014, KT, an Argentine company headquartered in the Province of Cordoba, allegedly participated in negotiations with public officials from Guatemala in order to gain the adjudication of a public contract for the provision of services in that country. Those happenings were referenced in the report by Guatemala's Special Prosecution Office against Impunity (Fiscalía Especial contra la Impunidad) and the International Commission against Impunity (Comisión Internacional contra la Impunidad) also of Guatemala, in which the case against the former president of Guatemala was promoted. The contract was awarded to KT and then later reversed when Guatemala's President faced corruption allegations.

The Office for Economic Crimes and Money Laundering (PROCELAC) launched a preliminary investigation in November 2015 after learning of the matter through media reports. It then filed a complaint with the court which led to a formal investigation for money laundering and foreign bribery.

On March 18th 2019, after a formal investigation, the judge of the case indicated that no bidding process actually took place in Guatemala and that Guatemala explained that the hotel was paid so that its official could participate in an internship in Argentina, also that no cash flow was detected that would allow a payment of bribes to be presumed. Thus, it decided to close temporarily the investigation until new evidence appears, as it considered that the existing one is not sufficient to prosecute.

Case #7 – Oil Sector Construction (Brazil) [Techint]**Status of investigation/prosecution**

TC is Latin America's largest steelmaker, with headquarters in Milan, Italy and Buenos Aires, and subsidiaries in Brazil. Through its subsidiary in Brazil, called EC, TC would have participated in illegal negotiations with public officials, between 2009 and 2014, specifically with the atomic energy company EN. This was with the purpose of obtaining the adjudication, along with other companies, of the construction of a Nuclear Central in Angra dos Reis city in the State of Rio de Janeiro.

The formal claim was presented by PROCELAC after performing a preliminary investigation. The case is now in an investigation stage with ongoing evidentiary measures. MLA has been solicited to other countries such as Brazil and Uruguay. In October 2018, the company's headquarters were searched and a large quantity of material was seized, elements that are now being processed. In April of this year, e-mails were copied and selected in order to process relevant information.

PROCELAC is collaborating in this case.

Case #8 – Electricity Transmission (Brazil) [Transener]**Status of investigation/prosecution**

In the context of the operation named "Lava Jato", two Brazilian witnesses declared that, because of the sale of TS (an Argentine electricity transmission company, at the time subsidiary of the Brazilian PB) to

EI, they received bribes for USD 300,000 in 2006-2007 from two former Argentine government ministers. TS was in the process of being sold to an U.S. investment group but these two Argentine public officials had paid bribes to cancel the deal with the North American group and to sell it to an Argentine company. The Argentine firms eventually completed the purchase in 2007.

The case is in an investigation stage with ongoing evidentiary measures. Information was requested to the U.S.A. and Uruguay regarding companies related to the investigated facts. By the end of March of this year, Uruguay replied to the letters rogatory, and the U.S.A gave partial information. The latter's response to the remaining parts are still to be received. On the other hand, Switzerland gave information on bank accounts and entities, and new requests made in the framework of the investigation are still pending. Some advances were made with Brazil in an agreement to exchange important information for the investigation. PROCELAC's collaboration has not been requested in this case.

Case #9 – Mapping System (Panama) [Telespazio]

Status of investigation/prosecution

Argentine company TZ, subsidiary of a multinational company headquartered in Rome, Italy, apparently offered, or effectively gave, to high ranking public officials of the Panama Republic bribes to obtain a contract to supply, install and maintain a digital cartography system in that country, for an alleged value of €15.7 millions. The price was allegedly inflated and included a commission to a firm which ultimately benefited the then Panamanian President.

The formal claim was presented by PROCELAC after performing a preliminary investigation. The case is in an investigation stage with ongoing evidentiary measures. There were advancements on the gathering of information on the alleged facts and MLA requests were made. In December 2018, the investigation was delegated to the prosecutor. Simultaneously, on the same month, letters rogatory were sent to Italy, Brazil and to Panama and information was requested to Interpol and to different banking institutions.

PROCELAC collaborates in this case.

Federal Prosecutor also decided to request the collaboration of the Anti-Corruption Office.

Case #10 – Grain Export (Venezuela) [Bioart]

Status of investigation/prosecution

Argentine company BT, supposedly bribed a public official of Venezuela in order to obtain business in rice exports from Argentina towards Venezuela through supposed "overpricing".

The formal claim was presented by PROCELAC after performing a preliminary investigation. The case is in an investigation stage with ongoing evidentiary measures. Tax and bank secrecy of the company were lifted and information was requested. This case counted on by request of the prosecutor, the collaboration of the PROCELAC. This was specifically with the objective of analyzing product exportation prices of all companies and compare them with international price references. The requested report has been already submitted.

By the end of March of this year, new investigation tasks were ordered with the intervention of security forces to recover new elements.

Case #11 – Oil Refinery (Brazil) [Oil Combustibles]

Status of investigation/prosecution

According to media reports, Argentine company OB agreed to purchase an oil refinery and petrol stations in Argentina from PB, Brazil's state-owned oil company. OB allegedly secured the contract by making bribe payments that ultimately benefited members of a Brazilian political party in the ruling coalition and their political campaigns. The payments were allegedly channeled through a Uruguayan company to intermediaries who facilitated the transaction.

Argentine authorities began an investigation after a formal claim was presented by a member of Congress in May of 2013. The investigation is in the hands of a first instance judge, who has made several MLA requests to Brazil. Simultaneously, information was requested to the Argentine Financial Information Unit in March of this year.

PROCELAC's collaboration has not been requested in this case.

Case #12 – Agribusiness Firms (Venezuela)

Status of investigation/prosecution

Alleged irregularities related to the trust fund created by a cooperation convention between Argentina and Venezuela in Caracas are being investigated. Improper commissions would have been requested, through the company PM –entity registered in Panama- by Argentine public officials to local businessmen interested in participating in exports financed with the funds from the trust. The commissions had allegedly been channelled as bribes to unspecified foreign public officials.

Intervention was given to the Directorate of Judicial Assistance in Complex and Organized Crimes of the Supreme Court (Dirección de Asistencia Judicial en Delitos Complejos y Crimen Organizado de la CSJN - DAJUDECO). Information was obtained from different public organisms which is being processed and analyzed and MLA requests were sent to EEUU, Panama and Venezuela.

PROCELAC's collaboration has not been requested in this case.

Case #13 – Military Horses (Bolivia) [Interpampas]

Status of investigation/prosecution

The offering of bribes by the Argentine company IP to officials of the Bolivian Ministry of Defense are being investigated, in the negotiation of the export of horses from Argentina to Bolivia. The contract apparently stipulated a sale price of BOB 3.2 million (USD 460 000) but one letter from the military indicated that USD 15 million would be paid.

The formal claim was presented by PROCELAC after performing a preliminary investigation. The case is in an investigation stage with ongoing evidentiary measures. By the end of last year, information had been received from Bolivia through MLA, information which is now being analyzed and processed.

PROCELAC has begun collaborating recently in this case.

(b) Additional Cases in the Matrix as of March 2019

Electroingeniería//Ar.bol (Bolivia)

Status of investigation/prosecution

This case has not yet been judicialized. Argentina is trying to obtain information, for example through the use of informal cooperation channels, with the purpose of gathering more elements in order to identify a criminal hypothesis.

The informal cooperation request to Bolivia includes the case identified as “Isolux (Bolivia)”

Consortio Camisea (Peru)

Status of investigation/prosecution

This case has not yet been judicialized. Argentina is trying to obtain information, for example through the use of informal cooperation channels, with the purpose of gathering more elements in order to identify a criminal hypothesis.

Contreras Hermanos (Brazil)

Status of investigation/prosecution

It is being investigated whether the representatives of the Argentine construction company CH, through its subsidiary in Brazil, paid bribes to public officials of the Brazilian petroleum company PB, with the objective of being favored to obtain contracts in projects for the construction of gas pipelines.

In October 2018, MLA was solicited in the framework of an Agreement of Compromise of Speciality and Limitation of the Use of Evidence” (“Acuerdo de Compromiso de Especialidad y de Limitación del Uso de Prueba”), proposed by Brazil’s PPO. In the same month, the headquarters of the company in Argentina were searched and seized documentation which PROCELAC is analyzing and processing.

PROCELAC collaborates in this case.

Galileo Energy (Ecuador)

Status of investigation/prosecution

This case has not yet been judicialized. Argentina is trying to obtain information, for example through the use of informal cooperation channels, with the purpose of gathering more elements in order to identify a criminal hypothesis.

Isolux (Bolivia)

Status of investigation/prosecution

This case has not yet been judicialized. Argentina is trying to obtain information, for example through the use of informal cooperation channels, with the purpose of gathering more elements in order to identify a criminal hypothesis.

The informal cooperation request to Bolivia includes the case identified as “Electroingeniería//Ar.bol (Bolivia)”

Laboratorios Esme – Levy Case (Venezuela)

Status of investigation/prosecution

Irregularities in foreign trade operations between many Argentine companies and Venezuela are being investigated. These operations were in the framework of a Cooperation Convention between both countries that included fields such as medicine, telecommunications, foods, etc. The modus operandi is allegedly that the Venezuelan State paid overpricing to the Argentine companies and then these, through offshore companies, returned part of that money to Venezuelan public officials.

This case is in an investigation stage. Before August 2018, this was only considered a money laundering and smuggling case. It was only after that date that this was considered also a foreign bribery case, time when the prosecutor in charge solicited PROCELAC’s collaboration. PROCELAC is firstly assisting with the identification of offshore accounts. Moreover, the prosecution in charge ordered many measures to corroborate the commission of the crime.

In March 2019, the National Chamber of Appeals in Economic Crimes (Chamber B) decided that the information provided by one of the accused in the framework of the Fiscal Disclosure Law (Ley de Sinceramiento Fiscal – Ley de Blanqueo) can be used in a criminal investigation for being one of the established exceptions to tax secrecy.

Pampa Energía S.A. (Brazil)

Status of investigation/prosecution

This case is an ongoing case in Argentine courts, however the crime being investigated is not foreign bribery, but other federal crimes.

Tenaris (Brazil)**Status of investigation/prosecution**

Case - Pipelines (BRASIL) [Tenaris]:

The multinational company named TS, member of an economic group based in Milan, Italy, and dedicated to the provision of tubes and services related to the energy industry and certain industrial applications, would have participated, between 2009 and 2013, in possibly illegal negotiations with Brazilian public officials. This would have been done through CI, a company controlled by TS in that country, with the purpose of obtaining the adjudication of contracts with the State, related to the supply of tubes to the Brazilian company PS. This was of the supposed sum of BRL 5,000,000,000.

The formal claim was presented by PROCELAC after performing a preliminary investigation. The case is in an investigation stage, gathering evidence, and the investigation was delegated to the prosecutor. He ordered extensive investigative measures. In the framework of another process initiated by a MLA request from Italy, related to this investigation, the prosecutor in charge, to whom this process was also delegated, requested a search of their Buenos Aires city offices. Numerous documentation was seized that contributed extensive evidence to both cases. In April 2019, the prosecutor in charge made a new request to Brazil in the framework of the agreement between those countries' PPOs for the exchange of information.

PROCELAC's collaboration has not been requested in this case.

Unetel S.A. (El Salvador)**Status of investigation/prosecution**

The Argentine company UT (specialized in technological systems of collection/charging and production of technology for the location of vehicles) allegedly bribed officials from the company named SG, of El Salvador. SG had been chosen by El Salvador's Ministry of Transportation with the purpose of reforming the system of public transportation of the metropolitan area. The bribe was to guarantee privileged information before the bidding process began, in order to win the adjudication of the contract.

The formal claim was presented by PROCELAC after performing a preliminary investigation. Recently, the prosecutor closed the investigation stage and requested that the case be sent to the trial stage, turning this into the first case of foreign bribery in Argentina to be in this stage in the proceedings. Since April 24th of this year, the case has been with a Federal Oral Tribunal to intervene in the oral debate stage.

PROCELAC collaborates in this case

Case – Airport concession (Perú) [Corporación América]:**Status of investigation/prosecution**

It is being investigated the possible payment of bribes by KW to public officials of Peru in order to be the recipient of the concession of an international airport in Cusco, Peru.

The formal claim was presented by PROCELAC on December 11th 2018, after having detected the case autonomously and performing a preliminary investigation. The case is in the investigation stage. In

February, a meeting was held with the prosecutor who is investigating in Peru. In April of 2019 more investigative measures were ordered, among them, new requirements to Peru and information requests to Argentine companies.

PROCELAC's collaboration has not been requested in this case.