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United Nations Office on Drugs and Crime

Country Review Report of The State of Libya

Review by Mozambique and Namibia of the implementation by Libya of articles 15 – 42 of Chapter III. “Criminalization and law enforcement” and articles 44 – 50 of Chapter IV. “International cooperation” of the United Nations Convention against Corruption for the review cycle 2010 - 2015

I. Introduction

1. The Conference of the States Parties to the United Nations Convention against Corruption was established pursuant to article 63 of the Convention to, inter alia, promote and review the implementation of the Convention.
2. In accordance with article 63, paragraph 7, of the Convention, the Conference established at its third session, held in Doha from 9 to 13 November 2009, the Mechanism for the Review of Implementation of the Convention. The Mechanism was established also pursuant to article 4, paragraph 1, of the Convention, which states that States parties shall carry out their obligations under the Convention in a manner consistent with the principles of sovereign equality and territorial integrity of States and of non-intervention in the domestic affairs of other States.
3. The Review Mechanism is an intergovernmental process whose overall goal is to assist States parties in implementing the Convention.
4. The review process is based on the terms of reference of the Review Mechanism.

II. Process

5. The following review of the implementation by the State of Libya (Libya) of the Convention is based on the completed response to the comprehensive self-assessment checklist received from Libya, and any supplementary information provided in accordance with paragraph 27 of the terms of reference of the Review Mechanism and the outcome of the constructive dialogue between the governmental experts from Mozambique, Namibia and Libya, by means of telephone conferences and e-mail exchanges in accordance with the terms of reference and involving from Libya: from the National Anti-Corruption Commission: Mr. Alsideeg Ahmed Meiteeg, Focal Point, Dr. Majdi Sharif Shabaani, Director of the Office of Advisors, Mr. Yousef Mabrouk Abirid, Director of International Relations and Treaties; from Mozambique: Mr. Eduardo Sumana, Public Prosecutor, Anti-Corruption Bureau; from Namibia: Ms. Gladice Pickering, Ministry of Justice, Deputy Permanent Secretary; and from the Secretariat: Ms. Lindy Muzila and Mr. Badr El Banna.
6. A joint meeting between Libya and Mozambique and Namibia was held at the United Nations Office in Vienna from 10 to 12 September 2018.

III. Executive summary

1. Introduction: Overview of the legal and institutional framework of the State of Libya in the context of implementation of the United Nations Convention against Corruption

The State of Libya signed the United Nations Convention against Corruption on 23 December 2003, ratified it through Act No. 10 of 2005 and deposited its instrument of ratification with the Secretary-General of the United Nations on 7 June 2005.

According to the Constitutional Declaration of 3 August 2011, the National Transitional Council, composed of representatives of local councils, exercises the role of the Government as the highest authority in the State during the transitional period. The task of policy implementation is assigned to the Executive Office of the National Transitional Council, which issues executive regulations relating to promulgated laws.

With regard to the status of international conventions, Libya, through Constitutional Appeal No. 57/1 S of 23 December 2013, has established that international conventions take precedence over domestic legislation. Legal principles adopted by the Supreme Court are binding on all courts and all other judicial entities in Libya, in accordance with Law No. 6 of 1982, as amended by Law No. 33 of 2012. The same principle has also been established in article 13 of the draft constitution of Libya, which stipulates that ratified treaties and conventions have a higher status than laws but a lower status than the Constitution.

The national anti-corruption framework comprises provisions from several legislative instruments, notably, the Criminal Code; the Code of Criminal Procedure; the Law on the Establishment of the National Anti-Corruption Commission; the Law on Economic Crimes; and the Law on Countering Money-Laundering and the Financing of Terrorism.

Libya has several anti-corruption agencies and bodies, including, most notably, the National Anti-Corruption Commission, the Office of the Attorney General, the Administrative Control Authority, the Accountancy Bureau and the Financial Information Unit.

The summary contained herein corresponds to the country review conducted in the fourth year of the first review cycle.

2. Chapter III: Criminalization and law enforcement

Libya has a legal and institutional framework in place to fight corruption at the national level. Owing to a lack of relevant data, however, it is difficult to make a detailed assessment of Libyan practice regarding criminalization and law enforcement in corruption cases.

2.1. Observations on the implementation of the articles under review

Bribery and trading in influence (arts. 15, 16, 18 and 21)

Libya has adopted a broad definition of “public official” that covers all officials of the legislative, executive and judicial authorities (art. 16 (4) of the Criminal Code and art. 2 of the Law on Economic Crimes).

Article 226 of the Criminal Code and article 21 of the Law on Economic Crimes establish as an offence the solicitation or acceptance by an official of bribes in order to act or refrain

from acting in the exercise of his or her duties or to breach his or her duties. Article 226 also establishes as an offence the acceptance by an official of a gift in order to act in the exercise of his or her duties.

Article 229 of the Criminal Code and article 22 of the Law on Economic Crimes establish as an offence the active bribery of an official, even if the bribe is refused. In case of acceptance, the briber is criminally liable under article 226 of the Criminal Code and article 21 of the Law on Economic Crimes, which establish that the punishment applies to both the briber and the intermediary, thereby covering cases of indirect bribery.

Libyan legislation does not establish as an offence the active or passive bribery of foreign public officials or officials of public international organizations.

Article 227 of the Criminal Code establishes as an offence the solicitation or acceptance by an official of a bribe for using his or her real or supposed influence to obtain or attempt to obtain an advantage of any kind from any public authority or any entity under the supervision of a public authority. The briber and the intermediary have committed a criminal offence if the bribe is accepted, according to the provisions of article 226 read in conjunction with article 227 of the Criminal Code. Article 31 of the Law on Economic Crimes also establishes as an offence passive trading in influence by any person.

Libyan legislation covers neither active bribery of public officials in order that they abuse their influence where the bribe is refused nor active bribery of persons other than public officials in order that they abuse their influence.

Under article 229 bis (b) of the Criminal Code, it is an offence to request or accept a bribe in the private sector, but not to promise, offer or give a bribe.

Money-laundering, concealment (arts. 23 and 24)

Libya has established as an offence the laundering of proceeds of crime pursuant to article 38 of the Law on Countering Money-Laundering and the Financing of Terrorism. Under articles 38 and 40 of that Law, it has also established as offences the various elements of criminal participation and attempt.

Libya has adopted a comprehensive approach to the offences of money-laundering and concealment. Under article 1 of the Law on Countering Money-Laundering and the Financing of Terrorism, predicate offences include any act committed in Libya that constitutes an offence and any act committed abroad that is a criminal offence in both the State where that offence was committed and in Libya. "Self-laundering" is also a criminal offence.

Libyan legislation establishes as a separate offence the concealment of the proceeds of a crime or felony, with or without prior agreement, pursuant to article 465 bis (a) of the Criminal Code, article 20 of the Asset Disclosure Law and article 5 of the Asset Declaration Law.

Embezzlement, abuse of functions and illicit enrichment (arts. 17, 19, 20 and 22)

Article 230 of the Criminal Code establishes as an offence embezzlement by a public official of money or other movable property entrusted to him or her by virtue of his or her position, but excludes other types of property, especially immovable property. However, the Law on

Economic Crimes, particularly in its articles 14, 15 and 27, compensates for that exemption by covering all types of property.

In the Criminal Code (arts. 231 and 233 to 236), the Law on Economic Crimes (arts. 30, 33 and 34) and the Law on Abuse of Position or Occupation (art. 1), Libya establishes as an offence the abuse by a public official of his or her position or functions to obtain a benefit for himself or herself or for others.

Libya establishes illicit enrichment as an offence under article 6 of the Asset Disclosure Law and article 1 of the Law on Illicit Enrichment.

Article 465 of the Criminal Code establishes as an offence the embezzlement of money or movable property in the private sector, but excludes other types of property, especially immovable property.

Obstruction of justice (art. 25)

Article 269 of the Criminal Code establishes as an offence the giving or promise of a monetary gift or any other benefit to a witness, expert or interpreter to induce him or her to provide false testimony, a false opinion or a false interpretation, even if the offer, other benefit or promise is not accepted. The same penalty applies if the gift, benefit or promise is accepted, even if the gift or promise is accepted without lying or perjury having been committed.

Articles 75, 429 and 430 of the Code establish as an offence the use of coercion, violence or threats to force others to commit a crime, including the offence of perjury mentioned in article 226.

Libya does not establish as an offence the promise, offering or giving of an undue advantage to induce false testimony or to interfere in the giving of testimony if the promise, offer or gift is accepted and lying or false testimony is involved. Similarly, Libya does not establish as an offence the use of physical force, threats or intimidation or the promise, offering or giving of an undue advantage to interfere in the production of evidence in a proceeding in relation to the commission of offences established in accordance with the Convention.

Libya establishes as an offence the use of physical force, threats or intimidation against a public official under articles 245 to 248 of the Criminal Code and article 3 of the Law on Illicit Enrichment, which penalizes the exploitation by a person of his or her job, profession, position or influence to intimidate, influence or coerce others or to induce law enforcement officials to act contrary to the law or make others believe that he or she is not subject to the law.

Liability of legal persons (art. 26)

Libyan legislation does not establish the criminal liability of legal persons with respect to offences under the Convention, except for the offence of money-laundering (art. 48 of the Law on Countering Money-Laundering and the Financing of Terrorism). Articles 53, 166 and 177 of the Civil Code can be used as a basis for establishing the civil liability of a legal person if the prejudicial act was committed by a person with a connection to the legal person during or in relation to the exercise of his or her functions.

Several Libyan laws establish the administrative liability of legal persons. However, that liability appears to be restricted to the violation of relevant laws and does not extend to corruption offences.

The liability of a legal person, when established, does not prejudice the criminal liability of the natural person who committed the offence (art. 49 (4) of the Law on Countering Money-Laundering and the Financing of Terrorism).

Except for the criminal sanctions established for the offence of money-laundering, Libyan legislation does not impose on legal persons effective, proportionate and dissuasive sanctions in case of participation in acts established as offences in accordance with the Convention.

Participation and attempt (art. 27)

Criminal participation is dealt with in articles 100 to 103 bis (b) of the Criminal Code. Articles 59, 60 and 61 of that Code also establish as an offence attempts to commit any felony or misdemeanour, including acts established as offences in accordance with the Convention.

Preparation for an offence is not an offence under Libyan law.

Prosecution, adjudication and sanctions; cooperation with law enforcement authorities (arts. 30 and 37)

For offences established in accordance with the Convention, Libya has adopted custodial penalties ranging from 24 hours' imprisonment to life imprisonment, applied on the basis of the gravity of the offence, excluding the offences of illicit enrichment (art. 6 of the Asset Disclosure Law), passive bribery in the private sector (art. 229 bis (b) of the Criminal Code) and embezzlement in the private sector (art. 465 of the Criminal Code). In addition, fines, removal from office and confiscation are applicable to a number of those offences.

Immunities do not appear to constitute an impediment to the effective prosecution of such offences.

Libya applies the principle of legality with regard to prosecution (art. 1 of the Code of Criminal Procedure).

Pretrial detention is possible in relation to corruption offences. Release pending trial may be granted subject to the presentation of financial or other guarantees. Persons sentenced to deprivation of liberty may be conditionally released after serving three quarters of their prison sentence and paying all their financial obligations, unless they can prove their inability to pay (art. 450 of the Code of Criminal Procedure).

Public officials may be suspended if doing so is in the public interest or the interest of an investigation (arts. 31 and 32 of the Law establishing the Administrative Control Authority). A public official in pretrial detention or serving a criminal sentence may be suspended by law while detained or imprisoned (art. 158 of the Law on the Organization of Labour Relations).

The Criminal Code provides for disqualification from holding public office, without explicitly covering disqualification from employment in State-owned enterprises.

In addition to criminal sanctions, disciplinary penalties may be imposed in corruption cases under article 155 of the Law on the Organization of Labour Relations.

Libya has no dedicated programme to monitor the reintegration into society of convicted persons after their release (aftercare). However, those persons may attend several educational, training and rehabilitation programmes during their imprisonment. The Code of Criminal Procedure provides that a convicted person may be rehabilitated for a certain period after the end of his or her sentence (art. 491).

Libya has not adopted any measures to grant cooperating offenders immunity from prosecution, and the benefits offered to persons involved in corruption offences who are encouraged to report such offences are limited to exemption from penalties in cases of bribery, money-laundering and concealment, or mitigation of the penalty in cases of money-laundering. Persons who cooperate with the justice system may be exempted from punishment if they report the offence before it is committed (art. 24 of the Law on Economic Crimes in relation to the briber and the intermediary in bribery offences), or be exempted from punishment or have their punishment mitigated if they report the offence before the authorities become aware of it (art. 52 of the Law on Countering Money-Laundering and the Financing of Terrorism). In money-laundering cases, if the offence is reported after the authorities become aware of it and, as a result, the instrumentalities and proceeds of the crime have been seized or other perpetrators have been arrested, the court may decide to suspend the sentence (art. 52 of the Law on Countering Money-Laundering and the Financing of Terrorism).

Libya has not adopted any measures to provide effective protection to offenders who cooperate with the justice system.

Libya may enter into ad hoc agreements to exempt from punishment persons who cooperate with the justice system and who are located abroad, in accordance with applicable legal controls.

Protection of witnesses and reporting persons (arts. 32 and 33)

Libya has not adopted any measures to provide effective protection to witnesses or experts who give testimony in relation to offences established in accordance with the Convention.

Libya does not permit testimony to be given through the use of communications technology.

Libyan legislation does not provide for the views and concerns of victims to be presented or considered at appropriate stages of criminal proceedings against offenders.

Libyan legislation does not provide for the legal protection of reporting persons.

Freezing, seizing and confiscation; bank secrecy (arts. 31 and 40)

Articles 163 and 164 of the Criminal Code and article 59 of the Law on Countering Money-Laundering and the Financing of Terrorism provide for confiscation of the proceeds of crime and instrumentalities used in or destined for use in the commission of offences. Confiscation may be non-conviction-based.

The Code of Criminal Procedure (arts. 11 to 84), the Law on Countering Money-Laundering and the Financing of Terrorism (arts. 53 to 57) and the Law on the Establishment of the National Anti-Corruption Commission (arts. 4 and 5) establish a wide range of investigative measures for the identification, tracing and freezing of the proceeds and instrumentalities of crime with a view to their confiscation, in line with the Convention.

Libya has established a number of procedures and legislative provisions relating to the administration of seized items. Article 92 of the Code of Criminal Procedure provides that a seized item may be sold if it is perishable or if the cost of its maintenance exceeds its value. Article 58 of the Law on Countering Money-Laundering and the Financing of Terrorism provides for the establishment, by decision of the Attorney General, of an office for the management of seized and confiscated funds, which would report directly to the Attorney General and which would be tasked with managing seized and confiscated funds, collecting and maintaining all information related to those funds and making decisions regarding those funds. However, such an office has not yet been established.

Libya allows value-based confiscation and the seizure, freezing and confiscation of transformed, converted or intermingled property. Libyan legislation, particularly the Law on Countering Money-Laundering and the Financing of Terrorism, provides for the possibility to seize, freeze and confiscate income and other benefits derived from criminal proceeds.

Under the general provisions of the Code of Criminal Procedure (arts. 43 and 84), article 53 of the Law on Countering Money-Laundering and the Financing of Terrorism and article 5 of the Law on the Establishment of the National Anti-Corruption Commission, bank, financial and commercial records must be made available where necessary, and may be seized.

Article 6 of the Law on the Establishment of the National Anti-Corruption Commission enables the Commission to require any person suspected of acquiring illicit funds to indicate the legitimate source of his or her assets.

The Criminal Code (arts. 163 and 164) and the Law on the Establishment of the National Anti-Corruption Commission (arts. 56, 59 and 60) provide for protection of the rights of bona fide third parties.

Bank secrecy is not an obstacle to effective criminal investigations (arts. 61 and 94 of the Law on Banks).

Statute of limitations; criminal record (arts. 29 and 41)

Article 26 of the Law on the Establishment of the National Anti-Corruption Commission establishes that corruption offences are not subject to a statute of limitations period.

Libyan legislation does not allow an alleged offender's previous conviction in another State to be taken into account in criminal proceedings in Libya.

Jurisdiction (art. 42)

Libya has established its jurisdiction over the cases referred to in article 42, except for corruption offences committed against Libyan citizens.

Consequences of acts of corruption; compensation for damage (arts. 34 and 35)

Corruption is a factor in annulling a contract under article 136 of the Civil Code. Any contract, agreement or disposition found to be intended to prevent the confiscation of funds may also be rescinded (art. 60 of Law on Countering Money-Laundering and the Financing of Terrorism).

The Code of Criminal Procedure provides for the right of a party affected by the commission of an offence to bring a civil suit to claim compensation from the accused person (arts. 17, 193 and 224).

Specialized authorities and inter-agency coordination (arts. 36, 38 and 39)

Libya has established a specialized independent commission to prevent and combat corruption pursuant to Law No. 11 of 2014 on the Establishment of the National Anti-Corruption Commission. In addition, several government agencies are responsible for various aspects of the fight against corruption, each in its respective area of competence. Those agencies include the Office of the Attorney General, the Administrative Control Authority, the Accountancy Bureau and the Financial Intelligence Unit. The independence of those agencies is ensured by law. Libya is also considering the establishment of a specialized court and prosecutor's office to fight corruption.

Libya has not provided information sufficient to verify that the various law enforcement and criminal justice institutions are functioning effectively and that those institutions are provided with adequate training and resources and are given the necessary independence in line with the Convention.

With regard to cooperation between national authorities, article 258 of the Criminal Code and article 16 of the Code of Criminal Procedure require every public official and any other person tasked with the performance of a public service who becomes aware of an offence during or in relation to the exercise of his or her functions to report the offence. Article 24 of the Law on the Establishment of the National Anti-Corruption Commission stipulates that anyone who has significant information or documents that relate to a corruption offence shall report such information or submit such documents to the Commission, but does not establish a penalty for persons who fail to do so. That article is a general provision that also applies to public officials. Article 5 of the same law gives the National Anti-Corruption Commission the power to obtain information from public and non-public entities. Article 51 of the Law establishing the Administrative Control Authority stipulates that entities subject to control by the Authority shall inform it of violations committed within them upon discovery of such violations. Article 52 of the same law obliges those entities to consider the observations and inquiries addressed to them and respond within the specified deadlines. Article 12 of the Law on Countering Money-Laundering and the Financing of Terrorism requires oversight authorities to immediately notify the Financial Intelligence Unit of any information related to suspicious transactions or money-laundering.

Although different laws in Libya provide for close cooperation and coordination between the various national competent authorities, it was clear to the reviewers that such cooperation was hindered by several factors, primarily the current situation in the country.

The Law on Countering Money-Laundering and the Financing of Terrorism obliges a number of private-sector entities, including banks, currency exchange companies, insurance companies, lawyers and accountants to report to the Financial Intelligence Unit any suspicious transaction, in addition to providing any information, data or documents request by the Unit or the Attorney General.

Article 15 of the Code of Criminal Procedure establishes the moral obligation of persons who become aware of an offence to report it, but does not establish a penalty for persons who fail to do so. Article 24 of the Law on the Establishment of the National Anti-Corruption

Commission establishes a similar moral obligation for reporting corruption offences. Neither of those articles are limited to public officials, as they apply to the general public.

2.2. Successes and good practices

- *Criminalization of the acceptance by a public official of a gift for acting in the exercise of his or her duties (art. 15 (b))*
- *Criminalization of the exploitation by a person of his or her functions, profession, position or influence to intimidate or influence others or to induce law enforcement officials to act contrary to the law or to make others believe that he or she is not subject to the law (art. 25 (b)).*

2.3. Challenges in implementation

It is recommended that Libya:

- *Adapt its information system so that it can collect data and provide more detailed statistics on criminalization and law enforcement*
- *Establish as an offence active bribery of a foreign public official or an official of a public international organization (art. 16 (1)); and consider establishing as an offence the passive bribery of such persons (art. 16 (2))*
- *Consider establishing as an offence the active bribery of persons other than public officials in order that those persons abuse their influence, and consider establishing as an offence the active bribery of public officials in order that those officials abuse their influence, even if the bribe is refused (art. 18 (a))*
- *Consider establishing as an offence the promise, offering or giving of a bribe in the private sector (art. 21 (a))*
- *Consider amending its legislation on the embezzlement of property in the private sector to cover embezzlement of all types of property, including immovable assets (art. 22)*
- *Establish as an offence the promise, offering or giving of an undue advantage to induce false testimony or to interfere in the giving of testimony if the undue advantage is accepted and lying or perjury is committed; and establish as an offence the use of physical force, threats or intimidation or the promise, offering or giving of an undue advantage in order to interfere in the production of evidence in a proceeding in relation to the commission of offences established in accordance with the Convention (art. 25 (a))*
- *Consider establishing the criminal and administrative liability of legal persons for participation in offences established in accordance with the Convention (art. 26 (1) and (2))*
- *Ensure that legal persons are subject to effective, proportionate and dissuasive sanctions for participation in offences established in accordance with the Convention (beyond money-laundering offences) (art. 26 (4))*

- *Consider amending its legislation to establish more dissuasive penalties for the offences of illicit enrichment, passive bribery in the private sector and embezzlement in the private sector (art. 30 (1))*
- *Consider establishing explicit procedures for the disqualification of persons convicted of offences established in accordance with the Convention from holding office in an enterprise owned in whole or in part by the State (art. 30 (7) (b))*
- *Adopt additional measures to strengthen the reintegration into society of persons convicted of corruption offences (art. 30 (10))*
- *Adopt additional measures to improve regulation of the administration of frozen, seized and confiscated property (art. 31 (3))*
- *Adopt measures to provide effective protection for witnesses and experts who give testimony concerning offences established in accordance with the Convention, as well as for their relatives and all other persons close to them. Such measures should cover victims if they are witnesses; and review its legislation to permit testimony to be given through the use of communications technology (art. 32 (1), (2) and (4))*
- *Consider entering into agreements for the relocation of persons (art. 32 (3))*
- *Enable the views and concerns of victims to be presented and considered at appropriate stages of criminal proceedings against offenders (art. 32 (5))*
- *Consider adopting the necessary measures to provide protection against any unjustified treatment for any person reporting a case of corruption (art. (33))*
- *Ensure that the various anti-corruption institutions are provided with adequate training and resources and ensure their independence in line with the Convention (art. 36)*
- *Adopt appropriate measures to encourage cooperation by persons who participate or who have participated in the commission of offences established in accordance with the Convention, beyond bribery, money-laundering and concealment, in accordance with article 37 (1), and consider providing for the possibility of mitigating the punishment of such persons, beyond money-laundering (art. 37 (2)), and the possibility of granting such persons immunity from prosecution (art. 37 (3))*
- *Adopt measures to provide effective protection to offenders who cooperate with the justice system, as well as to their relatives and all other persons close to them (art. 37 (4))*
- *Take the necessary measures to enhance cooperation and coordination between the different competent national authorities (art. 38)*
- *Adopt measures to encourage cooperation between national investigating and prosecuting authorities and entities of the private sector, beyond the requirements for combating money-laundering (art. 39 (1))*
- *Adopt further measures to encourage its nationals and other persons with a habitual residence in its territory to report cases of corruption (art. 39 (2))*
- *Consider establishing its jurisdiction over corruption offences committed against Libyan citizens (art. 42 (2) (a)).*

2.4 Technical assistance needs identified to improve implementation of the Convention

- *The development and implementation of dedicated programmes to monitor convicted persons after their release, with a view to their reintegration into society (art. 30)*
- *Capacity-building and the creation of mechanisms to improve the administration of frozen, seized and confiscated assets (art. 31)*
- *Model legislation on the protection of witnesses and reporting persons (arts. 32 and 33)*
- *Good practices in the establishment of a specialized court and a specialized prosecutor's office to combat corruption (art. 36)*
- *Specialized training for members of the National Anti-Corruption Commission (art. 36).*

3. Chapter IV: International cooperation

Libya has a framework in place to fight corruption through international cooperation. Owing to a lack of relevant data, however, it is difficult to make a detailed assessment of Libyan practice regarding international cooperation in corruption cases.

3.1. Observations on the implementation of the articles under review

Extradition, transfer of sentenced persons; transfer of criminal proceedings (arts. 44, 45, 47)

Libya has no separate law on extradition, but the matter is regulated by the provisions of the Code of Criminal Procedure (arts. 493 to 510) and the Law on Countering Money-Laundering and the Financing of Terrorism (arts. 77 to 80), in addition to applicable bilateral and multilateral treaties, the principle of reciprocity and international practice. Libya has concluded a number of regional and bilateral extradition treaties and considers the Convention a legal basis for extradition.

Extradition procedures include both judicial and administrative procedures.

Extradition requests must be submitted through diplomatic channels for transmission to the Ministry of Justice. The Minister of Justice may propose or authorize the extradition of a person accused or convicted abroad. On that basis, the Cabinet has the right to decide the priority of extradition in the event of more than one extradition request. Persons cannot be extradited without a decision by the Criminal Court. Nevertheless, extradition may be granted without the matter being brought before the Court if extradition concerns only one country and is requested or is not opposed by the person to be extradited.

Extradition may be carried out irrespective of the existence of an extradition treaty, provided that the requirements of the Code of Criminal Procedure are met.

In general, Libya requires dual criminality for an offence to be extraditable, but does not require a minimum penalty (art. 493 bis (a) of the Code of Criminal Procedure). However, some of the international agreements to which Libya is a party do not require dual criminality as a condition for extradition in a number of cases (such as the Riyadh Arab Agreement on Judicial Cooperation and an agreement with Jordan). On the basis of dual criminality, some

offences in the Convention are not subject to extradition because they have not been established as criminal offences in Libya.

The fact that the offence involves financial matters is not a ground for refusal.

Libya does not consider any act of corruption a political offence.

Libya has not taken adequate measures to expedite extradition procedures or simplify relevant evidentiary requirements.

Libya does not extradite its nationals (art. 493 bis (a) of the Code of Criminal Procedure). Libyan legislation does not include exceptions to that principle. However, there is an express provision in Libyan legislation that establishes the principle of trial in case of non-extradition of a Libyan national (art. 80 of the Law on Countering Money-Laundering and the Financing of Terrorism).

Libya may detain a person sought for extradition, on the basis of article 497 of the Code of Criminal Procedure.

The interim Constitutional Declaration of 2011 guarantees the right to litigation for all people regardless of their nationality. The Code of Criminal Procedure establishes procedures that allow a person sought for extradition to defend himself or herself.

Libyan legislation does not provide for the enforcement of foreign criminal judgments (except for confiscation, under art. 65 of the Law on Countering Money-Laundering and the Financing of Terrorism).

Authorities have indicated that in practice, consultations take place with the requesting State before an extradition request is denied.

Libya is party to a number of agreements and arrangements on the transfer of sentenced persons, including the Judicial Cooperation Agreement of the Arab Maghreb Union and the Riyadh Arab Agreement on Judicial Cooperation.

Libya has no legislation, agreements or arrangements governing the transfer of criminal proceedings.

Mutual legal assistance (art. 46)

Libya has no separate law on mutual legal assistance, but the matter is regulated by the provisions of the Law on Countering Money-Laundering and the Financing of Terrorism (arts. 62 to 76), in addition to applicable bilateral and multilateral treaties and the principle of reciprocity. Libya has concluded a number of regional and bilateral treaties on mutual legal assistance. The Convention can also be applied directly to comply with a number of relevant obligations.

The Attorney General is the central authority responsible for dealing with requests for mutual legal assistance. Libya accepts requests submitted in Arabic. The Secretary-General of the United Nations has not been notified of either of those facts.

Requests for mutual legal assistance are submitted to the Attorney General who, if he or she decides to accept them, transmits them to the competent authorities for execution.

Libyan legislation does not establish clear procedures on how to send, receive or execute requests for mutual legal assistance. The authorities have indicated that such requests should be sent through diplomatic channels. It does not appear that, in urgent circumstances,

requests may be made through direct contact between the competent judicial authorities before the request is received through diplomatic channels.

The Law on Countering Money-Laundering and the Financing of Terrorism establishes dual criminality as a requirement for mutual legal assistance only when such assistance involves coercive measures. The same range of measures and procedures that are available in domestic criminal proceedings are also available in the context of mutual legal assistance. In addition, the same provisions that apply to requests for mutual legal assistance in relation to natural persons also apply to requests for mutual legal assistance in relation to legal persons.

The Law on Countering Money-Laundering and the Financing of Terrorism and international agreements to which Libya is a party cover many forms of assistance, including mutual legal assistance in the conduct of investigations, such as the interrogation of accused persons and the hearing of witnesses, experts and victims, in addition to procedures related to the inspection and seizure of items. Nothing in Libyan legislation prevents Libya from conducting hearings of witnesses or experts through videoconference.

Bank secrecy and the fact that an offence also involves financial matters are not grounds on which mutual legal assistance may be refused under the Law on Countering Money-Laundering and the Financing of Terrorism. Requests for mutual legal assistance must comply with Libyan law and be based on multilateral or bilateral agreements or the principle of reciprocity.

Libya may postpone the provision of assistance in view of the existence of an ongoing investigation or case. Consultations are held before assistance is refused or postponed, in accordance with the Law on Countering Money-Laundering and the Financing of Terrorism and the international agreements to which Libya is a party. Furthermore, Libyan authorities may exchange information without prior request.

Law enforcement cooperation; joint investigations; special investigative techniques (arts. 48, 49, 50)

Libyan law enforcement authorities may cooperate at the international level through a number of mechanisms and networks, including the International Criminal Police Organization (INTERPOL). The Financial Intelligence Unit may also cooperate with its foreign counterparts, but has not yet joined the Egmont Group of Financial Intelligence Units. The National Anti-Corruption Commission cooperates directly with a number of foreign counterparts despite the absence of provisions governing the matter in the law establishing the Commission.

Libya has a range of tools for communication and analysis at the international level. Standard communication channels are used, in addition to confidential, secure channels such as the INTERPOL I-24/7 system.

Libya considers the Convention a legal basis for mutual cooperation in the area of law enforcement. Libya has also signed a number of security cooperation agreements (such as a security cooperation agreement between member States of the Community of Sahelo-Saharan States and a cooperation agreement with France in the area of security and the fight against organized crime). The Financial Intelligence Unit has also signed a number of memorandums of understanding with its counterparts.

Libya has a draft law on electronic crimes and acts of piracy. Some of the bilateral agreements to which Libya is a party provide for cooperation in combating such crimes (such

as the aforementioned cooperation agreement with France in the area of security and the fight against organized crime).

Libya has not been involved in exchanges of personnel.

Article 76 of the Law on Countering Money-Laundering and the Financing of Terrorism expressly provides that the competent entities may conclude bilateral or multilateral agreements or arrangements to form joint investigative teams or conduct joint investigations. In the absence of such agreements or arrangements, joint investigations may be conducted on a case-by-case basis.

For offences established in accordance with the Convention, measures established in the Code of Criminal Procedure and the Law on Countering Money-Laundering and the Financing of Terrorism, including the monitoring of communications and the recording of conversations, may be used in the context of the application of special investigative techniques. Furthermore, Libyan legislation does not prevent the conclusion of appropriate bilateral or multilateral agreements or arrangements for the use of special investigative techniques, including the use of controlled deliveries and covert operations, in the context of international cooperation.

3.2. Successes and good practices

- Libya appears to have adopted a flexible approach to extradition through its use of the Convention as a legal basis and by not making extradition conditional on the existence of a treaty (art. 44 (5) to (7)).*

3.3. Challenges in implementation

It is recommended that Libya:

- Adapt its information system to allow the country to collect data and provide more detailed statistics on international cooperation*
- Ensure that offences not yet criminalized (see section 2.3, “Challenges in implementation”) are considered extraditable (art. 44 (4))*
- In order to further improve extradition procedures, endeavour to expedite such procedures and simplify the relevant evidentiary requirements (art. 44 (9))*
- Notify the Secretary-General of the United Nations of the central authority and the acceptable languages with regard to requests for mutual legal assistance (art. 46 (13), (14) and (17))*
- Establish clear and effective procedures for the timely execution of requests for mutual legal assistance and for communication with foreign authorities; and consider adopting a manual and procedures or guidelines on mutual legal assistance that would set out in greater detail the steps to be followed by authorities in executing and making requests for mutual legal assistance, as well as any requirements and time frames to be followed, with a view to providing greater clarity to Libyan authorities and to requesting States (art. 46 (13) and (14))*
- Ensure that requests for mutual legal assistance are executed in a timely manner, taking into account any deadlines (art. 46 (24))*

- *Consider establishing a procedural framework to regulate the transfer of proceedings for the prosecution of an offence established in accordance with the Convention in cases where such transfer is considered to be in the interests of the proper administration of justice (art. 47)*
- *Adopt a clearer legal provision allowing the National Anti-Corruption Commission to cooperate at the international level; and strengthen its cooperation in the area of law enforcement, including through the exchange of personnel (art. 48 (1)).*

3.4. Technical assistance needs identified to improve implementation of the Convention

- *A model law on mutual legal assistance and the implementation of related procedures (art. 46).*

IV. Implementation of the Convention

A. Ratification of the Convention

7. The State of Libya (Libya) signed the United Nations Convention against Corruption (the Convention) on 23 December 2003, ratified it by Law No. 10 of 2005 on the ratification of the United Nations Convention against Corruption, and deposited its instrument of ratification to the Convention with the Secretary-General of the United Nations on 7 June 2005.

B. Legal system of Libya

8. According to the Constitutional Declaration of 2 August 2011¹, which is the supreme legal instrument of the State, Libya adopts a democratic political system based on political and party pluralism. The Transitional National Council, which is composed of representatives of local councils, exercises the system of government as the highest authority in the State under the transitional period. The Council carries out acts of sovereignty, including legislation and the establishment of the general policy of the State as the sole legitimate representative of the Libyan people.
9. The task of implementing the policy is assigned to the Executive Office of the Transitional National Council which issues the executive regulations of the issued laws. It also has the power to submit bills to the National Transitional Council for consideration and to take appropriate action.
10. All the existing legislations continue to be effective in so far as they are not inconsistent with the Constitutional Declaration until they are amended or repealed. Each reference in these legislations to the “People’s Congresses”, the “General People’s Congress”, shall be deemed as a reference to the Interim Transitional National Council or to the National Public Conference. Each reference to “General People’s Committee” or the “People’s Committees” shall be deemed as a reference to the Executive Office, to the members of the Executive Office, to the interim government or to the members thereof each within its

¹ Amended on 9 February 2012.

respective area of jurisdiction. Each reference to (Great Socialist People's Libyan Arab Jamahiriya) shall be deemed as a reference to (Libya) (art. 35 of the Constitutional Declaration).

11. Article 32 of the Constitutional Declaration enshrines the independence of the judiciary, which is vested in four-tier courts, consisting of the Supreme Court, the Courts of Appeal, the Courts of First Instance and the District Courts².
12. With regard to the functions of the Public Prosecution, it is exercised under the authority of the Attorney General. Each Court of Appeal has a prosecutor. Libya has also established an appeal prosecutor within the jurisdiction of each Court of Appeal and a first instance prosecutor in the jurisdiction of each Court of First Instance, and a district prosecutor within the jurisdiction of each District Court. The Public Prosecution undertakes the functions of investigation and prosecution of felonies and misdemeanors. The judges and the prosecutors are fully independent and are an integral part of the Supreme Judicial Council.
13. The Transitional National Council has the authority to ratify the international agreements³. Libya, through Constitutional Appeal No. 57/1 S of 23 December 2013, enshrined the principle of supremacy of international conventions over domestic legislation. Accordingly, international treaties ratified by Libya are considered to be higher than national legislation and take precedence in application if they conflict with them⁴. It should be noted in this regard that the legal principles adopted by the Supreme Court in its rulings are binding for all courts and all other entities in Libya, in accordance with Law No. 6 of 1982, as amended by Law No. 33 of 2012. This was also adopted in the text of article 13 of the draft Libyan draft constitution, which stipulates: “The treaties and Convention ratified have supremacy over laws and are lower than the Constitution”.

² Article 11 of Law No. 6 of 2006 and amended by Law No. 4 of 2011.

³ Article 17 of the Constitutional Declaration.

⁴ “It is established that international conventions adhered to by the Libyan State are directly applicable once ratified by the State’s legislative power. They have supremacy over domestic legislation. In case of contradiction between the provisions of the international conventions and those of domestic legislation, the provisions of the international conventions have priority of application. [...]”

C. Implementation of selected articles

Chapter III. Criminalization and law enforcement

14. Libya has a legal and institutional framework in place to combat corruption at the national level. However, it was difficult to assess in detail Libya's practice regarding criminalization and law enforcement in corruption cases, due to the absence of relevant data.
15. It is recommended that Libya adapt its information system to allow it to collect data and provide more detailed statistics on criminalization and law enforcement.

Article 15 Bribery of national public officials

Subparagraph (a)

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

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

(a) Summary of information relevant to reviewing the implementation of the article

16. Libya indicated that it has implemented the provision under review and referred to the following articles:

Penal Code

Article 16 (4), Definitions - Public Official means any person entrusted with a public function in the service of the government, provinces or public bodies, whether an official or employee, permanent or temporary, and with or without salary. Included in this expression are public notaries, members and assistants of the courts, arbitrators, experts, interpreters, and witnesses while performing their respective duties.

Article 226, Bribery - Any public official who requests, accepts, or takes for himself or for another a gift or promise of anything to which he is not entitled, whether money or any other benefit, for the purpose of doing or refraining from an act, or misleadingly construes or claims that they are among the functions of his position or to violate his duties, even if he does not intend to commit or refrain from such act or violate his duties, or if the public official accepts a gift for a function of his position that he has performed, shall be punished by imprisonment for a period not exceeding five years and a fine equivalent to the gift received or promised.

The same penalty shall be applied to the briber and anyone who intentionally acts as an intermediary between the person who offers the bribe and the person who receives the bribes.

Article 228 bis - The briber or intermediary shall be exempted from the penalty if he notifies the authorities of the offence before it occurs and before any proceeding is initiated. If the notification takes place after proceedings are initiated, it must lead to the conviction of the offenders.

Article 229, Offer of Bribery - Anyone who offers to a public official a gift or promise to which the said public official is not entitled, whether money or any other benefit, in order to induce him to perform any

function of his position or act contrary to his duties, or to refrain from or delay the same, and said official does not accept the offer, the person offering the bribe shall be punished with imprisonment.

Article 229 bis (c)

Without prejudice to the definition of public official mentioned in item (4) of Article (16), it is also considered as a public official:

- a) Heads and members of parliamentary or local bodies, whether elected or otherwise elected.
- b) Chairmen and members of the People's Committees.
- c) Heads and members of the boards of directors, managers, employees and employees of companies, institutions, associations and establishments if the State or a public body or institution contributes to its capital.

Law No. (2) of 1979 on economic crimes

Article 2 - In the implementation of the provisions of this law, "public servant" shall refer to anyone who has been entrusted with a public function in committees, congresses, secretariats, municipalities, local administrative units or bodies, public institutions, unions, syndicates, leagues, associations, private public-interest bodies, companies or enterprises in which these bodies are shareholders, and enterprises in which the "partners, not wage earners" applies, whether he is a member, employee, producer or labourer, permanent or temporary, paid or unpaid. This includes notary publics, arbiters, experts, translators, and witnesses during their performance of their duties.

Article 21 – Any public servant who requests, receives, or accepts a gift or promise of cash to which he is not entitled for himself or another person, to induce him to refrain from one of his position's functions, to mistakenly believe or claim that some act is a function of his position, or to violate his duties, even if he does not intend to commit such act, or does not actually abstain from it or violate his work duties, or if the public servant accepts a gift for performing one of his position's functions, shall be sentenced to imprisonment.

The same penalty shall apply to the briber and anyone who intentionally mediated between the briber and the person bribed.

Article 22 - Anyone who offers a public servant a gift or promise of money or a benefit to which he is not entitled, whether in the form of cash or another benefit, to induce the public servant to perform one of his position's functions, perform an act contrary to his duties, or abstain from or delay the same, and the public servant does not accept, shall be sentenced to imprisonment.

Article 24 - The briber or intermediary shall be exempted from the punishment if he informs the authorities of the crime before any action is taken in this regard.

Law No. (12) of 2010 on labor relations

Article (5)

The following expressions and phrases in this law have the meanings against each in applying the legislations of this law:

Employee: person who occupies one of the functions in administration's organization chart.

(b) Observations on the implementation of the article

- 17. Article 229 of the PC and article 22 of the Law on Economic crimes criminalize the active bribery of an official in case of refusal of the bribe. In case of acceptance, the briber will be punished pursuant to article 226 of the PC and article 21 of the Law on Economic crimes which provide that the sentence includes the briber and the intermediary, which covers indirect bribery.
- 18. Libya did not provide examples of implementation.
- 19. The Libyan authorities also confirmed during the joint meeting that the definition of public official includes all those who work in the legislative, executive and judicial authorities.

Article 15 Bribery of national public officials

Subparagraph (b)

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

(b) The solicitation or acceptance by a public official, directly or indirectly, of an undue advantage, for the official himself or herself or another person or entity, in order that the official act or refrain from acting in the exercise of his or her official duties.

(a) Summary of information relevant to reviewing the implementation of the article

20. Libya indicated that it has implemented the provision under review and referred to the following texts:

Penal Code

Article 226, Bribery - Any public official who requests, accepts, or takes for himself or for another a gift or promise of anything to which he is not entitled, whether money or any other benefit, for the purpose of doing or refraining from an act, or misleadingly construes or claims that they are among the functions of his position or to violate his duties, even if he does not intend to commit or refrain from such act or violate his duties, or if the public official accepts a gift for a function of his position that he has performed, shall be punished by imprisonment for a period not exceeding five years and a fine equivalent to the gift received or promised.

The same penalty shall be applied to the briber and anyone who intentionally acts as an intermediary between the person who offers the bribe and the person who receives the bribes.

Article 227 bis - If the purpose of the bribe is to commit an act for which the law prescribes a more severe penalty than the penalty prescribed for bribery, the penalty prescribed for the act shall be imposed along with the fine prescribed for bribery.

Article 228, Increased Penalty for Bribery - If the act set forth in Articles (226) and (227), results in a sentence of life imprisonment or imprisonment, the penalty shall be imprisonment for a period of no less than six years and a fine of no less than LYD 200.

If the result of the act is a death sentence, then the penalty shall be life imprisonment.

Law No. (2) of 1979 on economic crimes

Article 21 - Any public servant who requests, receives, or accepts a gift or promise of cash to which he is not entitled for himself or another person, to induce him to refrain from one of his position's functions, to mistakenly believe or claim that some act is a function of his position, or to violate his duties, even if he does not intend to commit such act, or does not actually abstain from it or violate his work duties, or if the public servant accepts a gift for performing one of his position's functions, shall be sentenced to imprisonment.

The same penalty shall apply to the briber and anyone who intentionally mediated between the briber and the person bribed.

Article 23 - If the purpose of the bribe is the perpetration of an action punishable by law with a penalty more severe than the penalty prescribed for the bribe, then the penalty shall be the penalty prescribed for the action along with the fine prescribed for the bribe.

(b) Observations on the implementation of the article

21. Article 226 of the PC and article 21 of the Law on Economic crimes criminalize the solicitation or acceptance of bribes by an official to perform or to refrain from performing an act within his or her duties or to breach his or her duties. Article 226 also criminalizes the acceptance of a gift by an official following the completion of an act within his or her duties. The sentence includes the briber and the intermediary.
22. Libya did not provide examples of implementation.

(c) Successes and good practices

23. The explicit criminalization of the acceptance of a gift by a public official following the completion of an act within his or her duties.

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

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

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

(a) Summary of information relevant to reviewing the implementation of the article

24. Libya indicated that the Libyan legislator has never criminalized active nor passive bribery of foreign officials or employees of public international organizations. The Libyan Penal Code and the entire Libyan legal system do not include provisions that criminalize such acts. However, according to a weak opinion, Libya criminalizes these acts, considering that the foreign public official and the employee of public international organization are charged with public service, which, according to this opinion, is punishable by the same penalty as the national employee in relation to bribery and the same provisions apply to him. However, there is no legal application in the Libyan courts which supports this opinion.

(b) Observations on the implementation of the article

25. There is no provision in the Libyan legislation that criminalizes the bribery of foreign public officials and officials of public international organizations.

26. To implement the provision under review, Libya should criminalize the active bribery of foreign public officials and officials of public international organizations, and consider criminalizing the passive bribery of such persons.

Article 17 Embezzlement, misappropriation or other diversion of property by a public official

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

(a) Summary of information relevant to reviewing the implementation of the article

27. Libya indicated that it has implemented the provision under review and referred to the following texts:

Penal Code

Article 230, Embezzlement of Public and Private Property - Any public official who, by virtue of his position, service or profession has in his possession money or any other movable property of the Public Administration or of the members thereof, and who embezzles the same or claims the ownership thereof or attributes the ownership to another, shall be punished with imprisonment for a period not exceeding ten years.

Article 232, Defrauding the Public Administration - Any public official entrusted with an act and who employs a number of persons less than the number of persons he was required to employ but who claims that he has employed the full number required, and thereby obtains for himself the amount allocated to pay the said persons in terms of salary or wages, or anyone who records in government accounts, or in the accounts of any other public body, the names of persons employed by him for personal affairs, so that he may pay their salaries or expenses from State funds or from the funds of the public body, shall be punished with imprisonment of between one and five years and by a fine equal to double the amount that he has fraudulently obtained.

Article 241, Concealment of Items Seized or Distrained, or Their Destruction or Dissipation - Anyone, whether a public official or not, who embezzles, conceals, destroys, dissipates, or damages any item that is judicially or administratively distrained or seized, for which he has been entrusted the guardianship thereof, and his sole intention in doing the said acts is to assist the owner thereof, shall be punished by detention for a period of no less than six months and a fine of between LYD 10 and 50.

The owner of the item, if the guardianship thereof is entrusted thereto, if he commits any of the preceding acts, shall be punished by a penalty of detention for a period of from three months to two years and a fine of from LYD 5 to 25.

The penalty shall be detention for a period not exceeding one year or a fine not exceeding LYD 25 if the offence is committed by the owner of the thing when that thing is not entrusted to his guardianship.

Law No. (2) of 1979 on economic crimes

Article 3 - In the implementation of the provisions of this law, public funds shall refer to funds that are owned by or subject to the administration or supervision of one of the bodies mentioned in the previous Article, or any other body whose funds are considered by law to be public funds.

Article 14 - Any public servant who uses the funds entrusted to him by virtue of his position for purposes other than those for which the funds were allocated as part of an economic and social transformation plan, and in a way that inflicts damage to the goals of such plan, shall be sentenced to imprisonment.

Article 15 - Any public servant commissioned with safeguarding and maintaining public funds found negligent in doing so shall be sentenced to imprisonment. The court may rule to compel to offender to pay the value of damages inflicted to the public funds that he failed to safeguard and maintain.

Article 27 - Any public servant who embezzles, claims ownership over, or grants another person public funds or the funds of another person entrusted to him by virtue of his position shall be sentenced to imprisonment. If the conditions are met, he shall be punished by the *hudud* punishment for theft.

(b) Observations on the implementation of the article

28. Article 230 of the PC criminalizes the embezzlement by a public official of money or any other movable property entrusted to him by virtue of his or her position, without covering other property, especially immovable property. However, the Law on Economic Crimes covers this deficiency by criminalizing these acts in general terms, particularly in articles 14, 15 and 27.
29. Libya did not provide examples of implementation.

Article 18 Trading in influence

Subparagraph (a)

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

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

(a) Summary of information relevant to reviewing the implementation of the article

30. Libya indicated that it has implemented the provision under review and referred to the following texts:

Penal Code

Article 226, Bribery - Any public official who requests, accepts, or takes for himself or for another a gift or promise of anything to which he is not entitled, whether money or any other benefit, for the purpose of doing or refraining from an act, or misleadingly construes or claims that they are among the functions of his position or to violate his duties, even if he does not intend to commit or refrain from such act or violate his duties, or if the public official accepts a gift for a function of his position that he has performed, shall be punished by imprisonment for a period not exceeding five years and a fine equivalent to the gift received or promised.

The same penalty shall be applied to the briber and anyone who intentionally acts as an intermediary between the person who offers the bribe and the person who receives the bribes.

Article 227, Acts Considered Bribery - It shall be legally deemed bribery if any public official acquires for himself or for another a gift or promise of any gift or favor:

1. To acquire or attempt to acquire from any public authority obligations, licenses, supply or contracting agreements, positions, services, ranks, decorations or any other remuneration or benefit.

2. To use or attempt to use the real or alleged influence of his public position to obtain business, orders, rulings, or decisions from any administrative or judicial authority.

Article 227 bis - If the purpose of the bribe is to commit an act for which the law prescribes a more severe penalty than the penalty prescribed for bribery, the penalty prescribed for the act shall be imposed along with the fine prescribed for bribery.

Article 228, Increased Penalty for Bribery - If the act set forth in Articles (226) and (227), results in a sentence of life imprisonment or imprisonment, the penalty shall be imprisonment for a period of no less than six years and a fine of no less than LYD 200.

If the result of the act is a death sentence, then the penalty shall be life imprisonment.

Law No. (2) of 1979 on economic crimes

Article 31- Anyone who claims to have influence over a public servant and obtains for himself or for another person or induces another person to give money or another benefit to him or the other person or promises the same in return for acting as an intermediary between the other person and the public servant shall be sentenced to imprisonment for a period not exceeding five years.

The same punishment shall apply to anyone who obtains money, another benefit, or a promise of such, for himself or for another person by claiming the necessity of using this money or benefit to win the favour of and reward the public servant.

Law No. 6 of 1985 on the criminalization of mediation and nepotism

Article 1:

Mediation and nepotism in the application of the provisions of this Law shall mean anything that may affect the benefit of an advantage or service provided by public and private corporate persons of public interest with a view to preventing or impairing it, disrupt the priority for obtaining it.

Article 2:

Anyone who acts with mediation and nepotism or acted accordingly shall be punished by imprisonment for a term not exceeding three months and a fine not exceeding five hundred dinars or by one of these two penalties. The person convicted for such acts is put at the end of the list of beneficiaries and the restitution of the benefits may be pronounced.

Ordering the suspension of the execution of the penalty is not allowed if the crime relates to the allocation of land, housing, electricity or postal services.

Law No. (22) for the year 1985 on the fight against abuse of function or profession and fraud in elections

Article 2:

Any persons who influence the elections of the Congresses and peoples' Committees, unions, professional associations and similar other popular organizations for its own illegal benefit or for the benefit of other shall be sentenced to imprisonment. Such conviction entails deprivation from participation in elections unless he has been rehabilitated.

(b) Observations on the implementation of the article

31. Article 227 of PC criminalizes the solicitation or acceptance of bribes by an official to use a real or alleged influence to obtain or attempt to obtain from any public authority or any authority under its supervision an advantage of any kind. The briber and the intermediary are criminalized, if the bribe is accepted, according to the provisions of article 226 read in conjunction with article 227 of the PC.
32. Libya's legislation covers neither the active trading in influence of public officials in case of refusal of the bribe, nor the active trading in influence of persons other than public officials.
33. Libya did not provide examples of implementation.

34. To implement the provision under review, Libya should consider criminalizing active trading in influence of persons other than public officials and consider criminalizing active trading in influence of public officials in cases of refusal of the bribe.

Article 18 Trading in influence

Subparagraph (b)

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

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

(a) Summary of information relevant to reviewing the implementation of the article

35. Libya indicated that it has implemented the provision under review and referred to the following texts:

Penal Code

Article 227, Acts Considered Bribery - It shall be legally deemed bribery if any public official acquires for himself or for another a gift or promise of any gift or favor:

1. To acquire or attempt to acquire from any public authority obligations, licenses, supply or contracting agreements, positions, services, ranks, decorations or any other remuneration or benefit.
2. To use or attempt to use the real or alleged influence of his public position to obtain business, orders, rulings, or decisions from any administrative or judicial authority.

Law No. (2) of 1979 on economic crimes

Article 31 - Anyone who claims to have influence over a public servant and obtains for himself or for another person or induces another person to give money or another benefit to him or the other person or promises the same in return for acting as an intermediary between the other person and the public servant shall be sentenced to imprisonment for a period not exceeding five years.

The same punishment shall apply to anyone who obtains money, another benefit, or a promise of such, for himself or for another person by claiming the necessity of using this money or benefit to win the favour of and reward the public servant.

Law No. 6 of 1985 on the criminalization of mediation and nepotism

Article 1:

Mediation and nepotism in the application of the provisions of this Law shall mean anything that may affect the benefit of an advantage or service provided by public and private corporate persons of public interest with a view to preventing or impairing it, disrupt the priority for obtaining it.

Article 2:

Anyone who acts with mediation and nepotism or acted accordingly shall be punished by imprisonment for a term not exceeding three months and a fine not exceeding five hundred dinars or by one of these two penalties. The person convicted for such acts is put at the end of the list of beneficiaries and the restitution of the benefits may be pronounced.

Ordering the suspension of the execution of the penalty is not allowed if the crime relates to the allocation of land, housing, electricity or postal services.

(b) Observations on the implementation of the article

36. Article 227 of PC criminalizes the solicitation or acceptance of bribes by an official to use a real or alleged influence to obtain or attempt to obtain from any public authority or any authority under its supervision an advantage of any kind. Article (31) of the Economic Crimes Law also criminalized the passive trading of influence by any person.
37. Libya did not provide examples of implementation.

Article 19 Abuse of Functions

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

(a) Summary of information relevant to reviewing the implementation of the article

38. Libya indicated that it has implemented the provision under review and referred to the following texts:

Penal Code

Article 231, Extortion - Any official who abuses his position or the functions thereof and compels or induces another to give him or promise to give him or another money or any other benefit to which he has not entitled shall be punished with imprisonment for a period not exceeding 12 years and a fine between LYD 200 and 800. The penalty shall be detention for a period of not less than six years if the public official receives the item to which he is not entitled by taking advantage of the error of another.

Article 233, Exploitation of Office for Private Benefit - Any public official who obtains for himself, either directly or by any other manner, or by various acts, any benefit from any of the public administration functions by which he exercises his office, shall be punished by a penalty of detention for no less than six months.

Article 234, Abuse of Office that is Detrimental to the Interest of Public Administration or the Judiciary - Any public official who abuses the authority of his office in order to stay the execution of orders issued by the government, or laws or regulations in force, or to delay the collection of legally prescribed monies or fees or the execution of any court ruling or order, or any order issued by the competent authority shall be punished by detention and removal from office.

The same penalty shall be imposed on any public official who intentionally refrains from executing a ruling or order of the foregoing after ten days have passed from his being warned by a bailiff, if the execution of the order or ruling enters within his competences.

Article 235, Abuse of Authority in Cases Not Provided for by Law - Any public official who abuses the powers of his office for the benefit of another or to the detriment of another and there is no other applicable criminal text in the law, he shall be punished with detention for a period of no less than six months.

Article 236, Disclosing the Secrets of a Public Office - Any public official who violates the duties of his office, or abuses the same by disclosing official information that is required to remain secret, or who by any means facilitates the disclosure thereof shall be punished by a penalty of detention for no less than six months.

Law No. (2) of 1979 on economic crimes

Article 6 - Any public servant who intervenes for his own account or that of another in contracting, supplies, auctions, or tenders, or any other operations related to one of the bodies stipulated in Article (2) of this law, shall be sentenced to imprisonment for a period of no less than five years.

Article 14 - Any public servant who uses the funds entrusted to him by virtue of his position for purposes other than those for which the funds were allocated as part of an economic and social transformation plan, and in a way that inflicts damage to the goals of such plan, shall be sentenced to imprisonment.

Article 19 - Any public servant in a cooperative or commercial enterprise that unlawfully withholds, refuses to sell, or conceal the commodities that he was entrusted with selling to the public, or that gives these commodities as a favour to a specific person or persons in amounts exceeding their normal needs, shall be sentenced to imprisonment for a period of no less than two years, and fined the equivalent of the value of the commodities that he withheld, refused to sell, concealed, or gave away.

Article 30 - Any public servant who abuses his position or function to coerce or induce another person to give him or promise to give him or another person cash or another benefit to which he is not entitled shall be sentenced to imprisonment for a period of no less than ten years.

The perpetrator shall be sentenced to imprisonment for a period of no less than two years if the public servant accepts the undeserved item solely in exploitation of the other person.

Article 33 - Any public servant who obtains an unlawful benefit for himself from the activities of the department where he exercises his position, whether directly, through another person, or through other actions, shall be sentenced to imprisonment for a period of no less than two years.

Article 34 - Any public servant who abuses the powers of his position for the benefit or harm of another person shall be sentenced to imprisonment for a period of no less than six months if no other criminal text in the law applies.

Law No. (22) for the year 1985 on the fight against abuse of function or profession and fraud in elections

Article 1:

Anyone who misuses his or her profession, profession, craft or industry for his benefit or for the benefit of another shall be punished by imprisonment ...

(b) Observations on the implementation of the article

39. Libya criminalizes the abuse by a public official of his or her position or functions to obtain a benefit for himself or herself or for another person, and that's in the PC (arts. 231 and from 233 to 236), in the Law on Economic Crimes (articles 30, 33 and 34) and in article 1 of the Law on the abuse position or occupation.
40. Libya did not provide examples of implementation.

Article 20 Illicit Enrichment

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

(a) Summary of information relevant to reviewing the implementation of the article

41. Libya indicated that it has implemented the provision under review and referred to the following texts:

Law no. (10) for the year 1994 on Purging

Article 1

The members of the People's Committees, the secretaries and members of the secretariats of the congresses, judges, prosecutors, the People's Procuratorate and other members of the judicial bodies of the Supreme Court, the People's Court and other courts, as well as lawyers, contract editors, doctors, arbitrators, experts, translators, officers, armed people, police, customs guards, and others who have the status of judicial control and employees of public and private bodies of public benefit and institutions and companies wholly or partially owned by the State, companies and enterprises that are referred to as "partners not employees" or any public official or public service officer within or outside the Jamahiriya on a permanent or temporary basis for a fee or without payment.

It is also subject to the provisions of this law from those who claim or attempt to influence the aforementioned parties or engage in their activities or mediate them or engage in harmful activities for the economy of the society, such as evading taxes and fees, speculation in currency and trading in commodities and other economic activities prohibited by law.

The licensee shall also be subject to the provisions of this law. Any person holding a license to practice a job, profession, industry or work, whether alone or in partnership, as well as whoever carries out any economic activity without a license.

Article 6

It is considered as illicit gain and robbery any illegal money or commission obtained by one of the persons subject to the provisions of this Law for himself or for another person because of his exploitation of his position or the abuse of his powers of office or because of bias, threat or influence, whether directly or indirectly or the gain is due to currency speculation, trade in commodities or the exercise of prohibited activity.

It is also considered as illicit gain and robbery any increase of the assets after the assumption of the position or the status, when such increase is not commensurate with his resources or the resources of his spouse or his minor children and fails to prove the legal origin of such increase.

It is also considered as illicit gain and robbery any money or material benefit obtained by any person through his participation or complicity with any person to whom the provisions of this law shall apply.

Article 4

Any person who is subject to the provisions of this law shall submit within sixty days from the date of his appointment or the date of assuming a public function or service a financial declaration for his person, his spouse and his minor children, according to the relevant sample, specifying what he has or they have as movable and immovable property, as well as obligations.

The provisions of the previous paragraph are enforceable over those who are in duty at the moment of the entry in force of this law. The calculation of the aforementioned period of sixty days starts on the day of the entry of force of the law. The other categories subject to these provisions shall submit during the aforementioned period the disclosure /declaration to the purging committees created by virtue this law. The deadlines may be extended according to the implementing regulation.

Article 5

Any person who is subject to the provisions of this Law shall submit within thirty days from the date of termination of his public function or service, or leaving the profession, industry or work, a financial declaration for his person, his spouse and his minor children, according to the relevant sample, specifying what he has or they have as movable and immovable property, as well as obligations.

He or she shall also submit the financial declaration referred to in the preceding paragraph whenever requested from him or her on the basis of a serious complaint.

The declarations provided for in this Article shall include, in addition to the data provided for in paragraph 1, the source of the increase in the financial status.

The declarations submitted by the concerned parties and the examination and investigation thereof shall be regarded as entrusted secrets. Any person who has an interest in implementing the provisions of this law shall not disclose them.

Law no. (3) of 1986 on "from where have you obtained this"

Article 1

No person shall acquire illegally money, or benefit, or material or moral favour. It is considered as an unlawful gain if its source is favouritism, or threat or violation of law, or abuse of power or position, or influence, or has an unknown source or cause, or does not commensurate with the legitimate resources of that person.

Article 7

Any person who is aware of the unlawful gain of a person or of any other violation of the provisions of this law shall inform the Public Prosecution. The public Prosecution, as soon as it is aware, shall immediately take the necessary actions in this regard. Filing of criminal proceedings of the offences provided for in this law shall not be subjected to a permission, or a request or a complaint.

Law No. (11) of 2014 on the establishment of the National Anti-Corruption Commission

Article (6)

The NACC may, by a decision of its council, require any person suspected of acquiring illicit funds to indicate the legitimate source of his funds.

(b) Observations on the implementation of the article

42. Libya criminalizes illicit enrichment, pursuant to article 6 of the Law on purging and article (1) of the Law on “from where have you obtained this”.
43. Libya did not provide examples of implementation.

Article 21 Bribery in the private sector

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

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

(b) The solicitation or acceptance, directly or indirectly, of an undue advantage by any person who directs or works, in any capacity, for a private sector entity, for the person himself or herself or for another person, in order that he or she, in breach of his or her duties, act or refrain from acting.

(a) Summary of information relevant to reviewing the implementation of the article

44. Libya referred to the following texts:

Penal Code

Article 229 bis (a) - Any person who takes or accept a gift or benefit with the purpose of knowingly delivering the same to another for this reason shall be punished with detention for a period not exceeding one year and a fine of no less than LYD 20 and not exceeding LYD 100, if he had not been an intermediate arranging the bribe.

Article 229 bis (b) - Any employee who requests, accepts, or takes for himself or another a promise or gift without the knowledge or approval of his employer for the purpose of performing or refraining from a function which he is assigned shall be punished by detention.

(b) Observations on the implementation of the article

- 45. Libya criminalizes passive bribery in the private sector, pursuant to article 229 *bis* (b) of the PC, but not active bribery.
- 46. Libya did not provide examples of implementation.
- 47. To implement the provision under review, Libya should consider criminalizing active bribery in the private sector.

Article 22 Embezzlement of property in the private sector

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

(a) Summary of information relevant to reviewing the implementation of the article

- 48. Libya indicated that it has partially implemented the provision under review and referred to the following texts:

Penal Code

Article 465, Misappropriation - Anyone who has in his possession in any way money or any other movable property owned by another, and misappropriates the same in order to obtain a unlawful benefit for himself or for another, shall be punished by imprisonment for a period not exceeding three years and a fine not exceeding LYD 100. Proceedings shall only be instituted upon a complaint by the injured party.

If the items were in the custody of the offender as bailment of necessity, or if the offence is committed by abuse of authority, a familial relationship, or a relationship arising from office, work, co-habitation, or hospitality, the penalty shall be increased by no more than half and institution of proceedings shall not be depending upon a complaint by the injured party.

(b) Observations on the implementation of the article

- 49. Article 465 of the PC criminalizes the embezzlement of money or movable property in the private sector, without covering other property, especially immovable property.
- 50. Libya did not provide examples of implementation.
- 51. The reviewers encourage Libya to reconsider its legislation relating to embezzlement of property in the private sector to cover the embezzlement of all types of properties including immovable assets.

Article 23 Laundering of proceeds of crime

Subparagraph 1 (a) (i)

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

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

(a) Summary of information relevant to reviewing the implementation of the article

52. Libya indicated that it has implemented the provision under review and referred to the Anti-Money Laundering and Combating the Financing of Terrorism Law (AML/CFT Law) issued by Decision of the Presidency Council of the Government of National Accord No. 1013 of 2017.

AML/CFT Law of 2017

ARTICLE 38: MONEY LAUNDERING OFFENCE

1. Any person who commits any of the following acts shall be deemed to have committed the offence of money laundering:
 - a. Converts or transfers funds with the knowledge that such funds are proceeds of crime in order to disguise or conceal the illicit source of such funds or to assist any person involved in the commission of an offence to evade the legal consequences of the offence,
 - b. Disguises or conceals the nature, location, disposition, movement or ownership of such funds, or rights pertaining thereto with the knowledge that such funds are proceeds of crime,
 - c. Acquires, possesses or uses funds with the knowledge at the time of receipt that such funds are proceeds of crime, or
2. The criminalization set in the previous paragraph shall include contribution to money laundering by way of participation, agreement, instigation, assistance, conspiracy to commit, facilitation, counseling, and any other means of contribution.
3. A conviction for the predicate offence shall not be required to prove that funds are proceeds of a crime.
4. The offence of money laundering is considered a separate offence from the predicate offence. Punishment of the perpetrator of a predicate offence shall not preclude conviction of that same person for a money laundering offence or any related offences.

ARTICLE 40: GENERAL PROVISION ON SANCTIONS

Without prejudice to any more severe sanctions stipulated in any other laws, the offences under this Law shall be punishable by the penalties set forth in the articles of this section. An accomplice in any of these offences shall be punished by the penalty of the perpetrator and, in all cases, be sentenced with confiscation of seized funds and instrumentalities. Any attempt to commit the offence shall be punished by the penalty of the actual offence.

ARTICLE 41: PENALTY FOR MONEY LAUNDERING

Whoever commits a money laundering offence under article 39 of this Law shall be punished by imprisonment for up to seven years and a fine of not less than LD 100,000 but not exceeding LD 1,000,000.

ARTICLE 1: DEFINITIONS

For the purpose of this Law, the following phrases and words shall have the meanings indicated in this Law unless otherwise specified:

FUNDS: Assets or property, regardless of the type – whether material or immaterial, tangible or intangible, movable or immovable, however acquired – all rights related thereto, documents or deeds evidencing ownership thereof or ownership of a share therein, regardless of the form of such evidence, including electronic or digital documents, including but not limited to funds issued in local and foreign currencies, bank accounts balances, commercial papers, bank credits, travelers checks, financial drafts, securities such as stocks and bonds, letters of credit or guarantee, documents for collection, and insurance policies.

PERSON: Natural person, legal person or legal arrangement.

PREDICATE OFFENCE: Any act constituting an offence committed in Libya or in another country, where the act is criminalized in that country and in Libya.

INSTRUMENTALITIES: Any means used or intended to be used, fully or partially, in any form to commit a criminal offence.

PROCEEDS OF CRIME: Any funds resulting or obtained directly or indirectly from the commission of an offence of money laundering, terrorism financing or a predicate offence, including funds transferred or converted partially or wholly into other funds, any interest, profits, or returns on such funds or values accruing to or arising therefrom.

(b) Observations on the implementation of the article

53. Libya has implemented the provision under review.

54. Libya did not provide examples of implementation.

Article 23 Laundering of proceeds of crime

Subparagraph 1 (a) (ii)

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

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

(a) Summary of information relevant to reviewing the implementation of the article

55. Libya indicated that the AML/CFT Law criminalizes the forms of material behavior mentioned in this paragraph in Article 38, paragraph 1(b) thereof, whose text was previously mentioned.

(b) Observations on the implementation of the article

56. Libya has implemented the provision under review.

57. Libya did not provide examples of implementation.

Article 23 Laundering of proceeds of crime

Subparagraph 1 (b) (i)

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

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

(i) The acquisition, possession or use of property, knowing, at the time of receipt, that such property is the proceeds of crime;

(a) Summary of information relevant to reviewing the implementation of the article

58. Libya indicated that the AML/CFT Law criminalizes the forms of material behavior mentioned in this paragraph in Article 38, paragraph 1(c) thereof, whose text was previously mentioned.

(b) Observations on the implementation of the article

59. Libya has implemented the provision under review.

60. Libya did not provide examples of implementation.

Article 23 Laundering of proceeds of crime

Subparagraph 1 (b) (ii)

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

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

(ii) Participation in, association with or conspiracy to commit, attempts to commit and aiding, abetting, facilitating and counselling the commission of any of the offences established in accordance with this article.

(a) Summary of information relevant to reviewing the implementation of the article

61. Libya indicated that the AML/CFT Law criminalizes the forms of material behavior mentioned in this paragraph in article 38, paragraph 2 and article 40 thereof, whose texts were previously mentioned.

(b) Observations on the implementation of the article

62. Article 38 para. 2 and article 40 of the AML/CFT Law criminalize the different aspects of criminal participation as well the attempt.

63. Libya did not provide examples of implementation.

Article 23 Laundering of proceeds of crime

Subparagraphs 2 (a) and (b)

2. For purposes of implementing or applying paragraph 1 of this article:

(a) Each State Party shall seek to apply paragraph 1 of this article to the widest range of predicate offences;

(b) Each State Party shall include as predicate offences at a minimum a comprehensive range of criminal offences established in accordance with this Convention;

(a) Summary of information relevant to reviewing the implementation of the article

64. Libya indicated that it has implemented the provision under review since the AML/CFT Law of 2017 adopted the all-offences approach when criminalizing money laundering. According to article 1 of the AML/CFT, predicate offences include any act constituting an offence committed in Libya or in another country, where the act is criminalized in that country and in Libya.

(b) Observations on the implementation of the article

65. Libya has implemented the provision under review.

66. Libya adopted the all-offences approach; according to article 1 of the AML/CFT Law of 2017, predicate offences include any act constituting an offence committed in Libya or in another country, where the act is criminalized in that country and in Libya.

67. Libya did not provide examples of implementation.

Article 23 Laundering of proceeds of crime

Subparagraph 2 (c)

2. For purposes of implementing or applying paragraph 1 of this article:

(c) For the purposes of subparagraph (b) above, predicate offences shall include offences committed both within and outside the jurisdiction of the State Party in question. However, offences committed outside the jurisdiction of a State Party shall constitute predicate offences only when the relevant conduct is a criminal offence under the domestic law of the State where it is committed and would be a criminal offence under the domestic law of the State Party implementing or applying this article had it been committed there;

(a) Summary of information relevant to reviewing the implementation of the article

68. Libya referred to its previous answer.

(b) Observations on the implementation of the article

69. Libya has implemented the provision under review.

70. Libya adopted the all-offences approach; according to article 1 of the AML/CFT Law of 2017, predicate offences include any act constituting an offence committed in Libya or in another country, where the act is criminalized in that country and in Libya.

71. Libya did not provide examples of implementation.

Article 23 Laundering of proceeds of crime

Subparagraph 2 (d)

2. For purposes of implementing or applying paragraph 1 of this article:

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

(a) Summary of information relevant to reviewing the implementation of the article

72. Libya indicated that it has furnished copies of its laws in accordance with the provision under review.

(b) Observations on the implementation of the article

73. Libya has furnished copies of its laws in the framework of the review process.

Article 23 Laundering of proceeds of crime

Subparagraph 2 (e)

2. For purposes of implementing or applying paragraph 1 of this article:

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

(a) Summary of information relevant to reviewing the implementation of the article

74. Libya indicated that it has implemented the provision under review. Article 38, paragraph 4, of the AML/CFT Law of 2017 states that: "The offence of money laundering is considered a separate offence from the predicate offence. Punishment of the perpetrator of a predicate offence shall not preclude conviction of that same person for a money laundering offence or any related offences."

(b) Observations on the implementation of the article

75. Libya has implemented the provision under review. The AML/CFT Law criminalizes self-laundering.

76. Libya did not provide examples of implementation.

Article 24 Concealment

Without prejudice to the provisions of article 23 of this Convention, each State Party shall consider adopting such legislative and other measures as may be necessary to establish as a criminal offence, when committed intentionally after the commission of any of the offences established in accordance with this Convention without having participated in such offences, the

concealment or continued retention of property when the person involved knows that such property is the result of any of the offences established in accordance with this Convention.

(a) Summary of information relevant to reviewing the implementation of the article

77. Libya indicated that it has implemented the provision under review and referred to the following texts:

Penal Code

Article 241, Concealment of Items Seized or Distrained, or Their Destruction or Dissipation - Anyone, whether a public official or not, who embezzles, conceals, destroys, dissipates, or damages any item that is judicially or administratively distrained or seized, for which he has been entrusted the guardianship thereof, and his sole intention in doing the said acts is to assist the owner thereof, shall be punished by detention for a period of no less than six months and a fine of between LYD 10 and 50. The owner of the item, if the guardianship thereof is entrusted thereto, if he commits any of the preceding acts, shall be punished by a penalty of detention for a period of from three months to two years and a fine of from LYD 5 to 15.

The penalty shall be detention for a period not exceeding one year or a fine not exceeding LYD 25 if the offence is committed by the owner of the thing when that thing is not entrusted to his guardianship.

Article 348, Destruction, Damage, or Concealment of Authentic Documents – Anyone who destroys, damages, or conceals authentic official or private documents shall be punished by imprisonment for a period not exceeding five years. If the act pertains to private documents and the purpose set forth in the previous article is satisfied, the penalty shall be detention.

Article 465 bis (a) - Anyone who knowingly receives or conceals items that are stolen or obtained in any manner by a felony or misdemeanour or enables another to obtain any such item, shall be punished by detention for a period not exceeding two years.

If the offender is aware of the received or concealed items that were obtained from an offence the punishment for which the penalty is more severe, he shall be sentenced to the penalty prescribed for that offence.

Law no. (10) for the year 1994 on Purging

Article 20

Any person who in any way conceals money obtained from an unlawful gain or is convicted of its refund in accordance with the provisions of this law, shall be punished in accordance with the provisions of the law of robbery and theft. The accused may be exempted from punishment but not from the refund, if he assists during the search or investigation in revealing the truth about that money or other funds obtained from illicit gain.

Law no. (3) of 1986 on “from where have you obtained this”

Article 5

Anyone who conceals money obtained from an unlawful gain or subject to return under the provisions of this act shall be punished by imprisonment and a fine not exceeding one thousand dinars or one of these two penalties.

(b) Observations on the implementation of the article

78. Libya has implemented the provision under review.

79. Libyan legislations criminalize as a separate offence the concealment of proceeds of a crime or felony with or without prior agreement, pursuant to article 465 bis (a) of the PC, article 20 of the Law on purging and article 5 of the law on “from where have you obtained this”.

80. Libya did not provide examples of implementation.

Article 25 Obstruction of Justice

Subparagraph (a)

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

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

(a) Summary of information relevant to reviewing the implementation of the article

81. Libya indicated that it has implemented the provision under review and referred to the following texts:

Penal Code

Article 75, Constraint - No one shall be subject to punishment if he commits an act under constraint by another through physical force that he could not resist or from which he could not extricate himself. In such a case, the person who exercises the constraint is liable for the offence.

Article 266, False Testimony - Anyone who gives testimony before the judiciary and conceals, denies, or fails to disclose, whether in whole or in part, what he knows of the facts on which he is questioned shall be punished by detention for a period not exceeding two years.

If the false testimony results in a sentence of imprisonment not exceeding five years, the penalty shall be detention. If the sentence issued is imprisonment exceeding five years, the penalty shall be imprisonment for a period not exceeding seven years.

If the false testimony results in a sentence of life imprisonment, the penalty shall be imprisonment. The penalty shall be life imprisonment if the false testimony results in a sentence of death.

Article 269, Bribery of a Witness or an Expert - Anyone who offers a gift of money, or any other benefit, or promises the same to a witness, expert, or interpreter, even if such takes place before the said witness, expert, or interpreter assumes that capacity, for the purpose of inducing him to give false testimony or to give an incorrect opinion or false interpretation, and the offer, or other benefit, or promise is not accepted, shall be punished by the penalties set forth in Articles (266) and (267), with a reduction by between one half and two thirds. The same penalty shall apply if the gift or promise is accepted and the false testimony or evidence is not given.

Article 429, Use of Force to Compel Another - Anyone who compels another by force or threat to commit, accept, or omit to perform, any act shall be punished by detention for a period not exceeding two years.

The penalty shall be detention if the threat is intended to compel another to commit an act that is an offence, or if the threat is in writing. If the offender obtains an unlawful benefit to the detriment of another, the penalty shall be imprisonment for a period not exceeding five years.

The penalty shall be increased by one third if the force or threat is accompanied by use of weapons, or if the force or threat are used by a number of persons in concert, or by a person wearing a mask.

Article 430, Threats - Anyone who threatens another with unlawful injury shall be punished by detention for a period not exceeding six months or a fine not exceeding LYD 50, but proceedings shall only be instituted upon a complaint by the injured party.

If the threats are to commit an offence against life or property, or disclose matters that violate honour, or any of the forms mentioned in the last paragraph of the previous article, the penalty shall be detention for a

period not exceeding one year and the institution of proceedings shall not depend upon a complaint by the injured party.

(b) Observations on the implementation of the article

82. Article 269 of the PC criminalizes the promise or offering of money or any other benefit to a witness, expert, or interpreter for the purpose of inducing him or her to give false testimony or to give an incorrect opinion or false interpretation, if the offer, or other benefit, or promise is not accepted. The same penalty shall apply if the gift or promise is accepted and the false testimony or perjury does not take place.
83. Articles 75, 429 and 430 of the same law criminalize the use of coercion or the use of violence or threats to force others to commit a crime, including the offence of article 226 concerning perjury.
84. Libya does not criminalize the promise, offering or giving of an undue advantage to induce false testimony or to interfere in the giving of testimony if the gift or promise is accepted and the false testimony is given. Similarly, Libya has not criminalized the use of physical force, threats or intimidation or the promise, offering or giving of an undue advantage to interfere in the production of evidence in a proceeding in relation to the commission of offences established in accordance with the Convention.
85. Libya did not provide examples of implementation.
86. To implement the provision under review, Libya should criminalize the promise, offering or giving of an undue advantage to induce false testimony or to interfere in the giving of testimony if the gift or promise is accepted and the false testimony is given. Libya should also criminalize the use of physical force, threats or intimidation or the promise, offering or giving of an undue advantage to interfere in the production of evidence in a proceeding in relation to the commission of offences established in accordance with the Convention.

Article 25 Obstruction of Justice

Subparagraph (b)

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

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

(a) Summary of information relevant to reviewing the implementation of the article

87. Libya indicated that it has implemented the provision under review and referred to the following texts:

Penal Code

Article 245, Contempt of Public Officials and Judicial Officers and Bodies - Anyone who insults a public official, or disparages his dignity, during or because of the performance his position, either by gestures, speech, or threats, or by means of telegraph, telephone, documents, or drawings addressed to him, shall be punished by detention for a period not exceeding one year.

The penalty shall be increased by no more than one half if the attack is directed against a judicial officer during pleadings, or against any member of a judicial or administrative body during the time that the said body is convened.

The penalty shall be detention if the attack is directed against the honour or dignity of the judicial or administrative body when the said body is convened.

Article 246, Use of Force or Threats against Public Officials - Anyone who uses force or threats against any public official to compel him to commit an act that violates the functions of his position or the service assigned to him or to induce him to refuse to perform his legal duty shall be punished by detention for no less than six months.

If the act committed is limited to merely compelling any of the aforementioned persons to perform an act pertaining to his position or the service assigned thereto or to influence his performance of his functions or service in any way, the penalty shall be detention.

Article 247, Resisting a Public Official - Anyone who, by force or threat, resists any security personnel or any other public official while he is performing the duties of his position shall be punished by detention for a period not exceeding two years.

The same penalty shall apply to anyone who uses force or threat against anyone who provides assistance upon request by the aforementioned persons.

If the act is accompanied by beating or any wound results therefrom, the penalty shall be detention.

Article 248, Use of Force of Threat against an Administrative or Judicial Body - If the acts provided for by the two previous articles are committed against an administrative or judicial body, the penalty shall be detention for a period of no less than one year.

Article 274, Influencing the Course of a Case - The penalties prescribed by the previous article shall apply to anyone from whom any acts or publications, written or printed, are issued that are such as to influence the judges entrusted with the adjudication of cases brought before any judicial body in the country or before any judicial authority, prosecutor or other officials entrusted with investigation, or are such as to influence witnesses called to give testimony in such cases or investigations, or concerning matters that are such as to prevent a person from revealing first-hand information in the matter, or influence public opinion in favour of or against a party in the case or investigation.

If the purpose of the act is to cause the said influence, the penalty shall be detention for a period not exceeding one year and a fine of no less than LYD 20 and not exceeding LYD 100, or either of the said two penalties.

Law No. (2) of 1979 on economic crimes

Article 18 - Anyone who uses force, violence, terrorism, threats, or perpetrates other illegal acts with intent to coerce another person to abstain from work shall be sentenced to imprisonment for a period of no less than one year.

The perpetrator shall be sentenced to imprisonment if he intends to cause damage to national production or obstruct the transformation plan.

Law no. (3) of 1986 on “from where have you obtained this”

Article 3

No person shall exploit his or her job, profession, position or influence to intimidate or influence others or to compel law enforcement officials to act contrary to the laws or to make them believe that he or she is not subject to the laws.

(b) Observations on the implementation of the article

88. Libya has implemented the provision under review.

89. Libya criminalizes in the Penal Code the use of physical force, threats or intimidation against a public official (arts. 245 to 248) and in article 3 of the Law on “from where have you obtained this” which criminalizes the exploitation by a person of his or her job, profession, position or influence to intimidate or influence others or to compel law enforcement officials to act contrary to the laws or to make them believe that he or she is not subject to the laws.

90. Libya did not provide examples of implementation.

(c) Successes and good practices

91. The explicit criminalization of the exploitation by a person of his or her job, profession, position or influence to intimidate or influence others or to compel law enforcement officials to act contrary to the laws or to make them believe that he or she is not subject to the laws.

Article 26 Liability of legal persons

Paragraphs 1 and 2

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

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

(a) Summary of information relevant to reviewing the implementation of the article

92. Libya indicated that the responsibility of legal persons was not provided for in the Libyan Penal Code nor in the legislation annexed thereto. However, Libyan legislation criminalizes legal for money laundering in the AML/CFT Law of 2017.

AML/CFT Law of 2017

ARTICLE 1: DEFINITIONS

For the purpose of this Law, the following phrases and words shall have the meanings indicated in this Law unless otherwise specified:

PERSON: Natural person, legal person or legal arrangement.

ARTICLE 48: THE CRIMINAL LIABILITY OF LEGAL PERSONS

A legal person shall be criminally liable for the offences provided for in this Law if committed in its name or for its account or by one of its means by a member of his board of directors, directors, representatives, employees or associates.

ARTICLE 49: PENALTIES OF LEGAL PERSONS

1. Any legal person that commits the offence of money laundering or terrorism financing shall be punished by a fine equivalent of the full value of the funds that were the object of the offence and not less than LD 100,000.
2. Any legal person that commits any of the other offences provided for in this Law shall be punished by the fine provided for therein, after increasing its limits to the double.
3. The Court may also punish the legal person by, permanently or temporarily, prohibiting it from continuing to engage in its activities, fully or partially. The Court may also order the assignment of a receiver or liquidate its business. In all cases, the Court verdict shall be published.
4. The punishment of a legal person shall not prevent a natural person from being tried for the offence and punished with the penalty set forth in this Law.

Law No. 23 of 2010 on Commercial Activities

Article (248) Compulsory Liquidation (Joint Stock Company)

The court may decide to liquidate the company for compulsory liquidation at the request of any interested party in the following cases:

1. If the company committed serious violations of the law or its statutes.

Civil Code

Article (52) Juristic Persons

Juristic Persons are:

1. The State, the provinces (mudirias), towns and villages in accordance with the provisions fixed by law; administrations, departments and other public institutions to which the law has granted the status of juristic persons,
2. Religious groups and communities which the State has recognised as juristic persons.
3. Awqaf.
4. Associations and Foundations created in accordance with the subsequent provisions hereof.
5. Any group of persons or properties recognised as juristic persons by virtue of a provision of the law.

Article (53) Rights of Juristic Persons

1. A juristic person enjoys, within the limits established by law, all rights, with the exception of those rights which are inherent in the nature of an individual.
2. A juristic person has:
 - (a) Its own "patrimonium" (Proprietary Rights).
 - (b) Legal capacity, within the limits fixed by its constitution or established by law.
 - (c) The right to sue.
 - (d) Its own domicile. This domicile is the place where its seat of management is situated. A corporation whose seat of management is situated abroad but operates in Libya is deemed, in accordance with internal law, to have its seat of management at the place where its local seat of management is situated.
3. A Juristic person has a representative to express its will.

Article (166) General Rule

Every fault which causes injury to another imposes an obligation to make reparation upon the person by whom it is committed.

Article (177) Responsibility of Master (33)

- 1- A master is liable for the damage caused by an unlawful act of his servant (34). when the act was performed by the servant in the course, or as a result of his employment.
2. The relationship between master and servant exists even when the master has not been free to choose his servant, provided he has actual powers of supervision and control over his servant.
- (33) The word master in this Article is used to denote a person who entrusts another with the management of his affairs.
- (34) The word servant is used to denote the person entrusted with the management of the master's affairs.

(b) Observations on the implementation of the article

93. Except for the offence of money laundering, Libya's legislation does not provide for the criminal liability of legal persons with respect to offences under the Convention (art. 48 of the AML/CFT Law). Articles 53, 166 and 177 of the Civil Code can be used as a basis for civil liability of a legal person if the prejudicial act was committed by a related person in the exercise of, or due to his or her functions.
94. Libya's legislation provides for the administrative liability of legal persons in several laws. However, such liability seems to be restricted to the violation of relevant laws and does not extend to corruption offences.
95. Libya did not provide examples of implementation.
96. The reviewers encourage Libya to consider establishing the criminal and administrative liability of legal persons for participation in the offences established in accordance with the Convention.

Article 26 Liability of legal persons

Paragraph 3

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

(a) Summary of information relevant to reviewing the implementation of the article

97. Libya indicated that it has implemented the provision under review since the Libyan legislator did not provide that the liability of a legal person, where applicable, would affect the criminal responsibility of the natural person who committed the offence. It also referred to paragraph (4) of Article (49) of the AML/CFT Law of 2017, which explicitly states that: “The punishment of a legal person shall not prevent a natural person from being tried for the offence and punished with the penalty set forth in this Law.”

(b) Observations on the implementation of the article

98. Libya has implemented the provision under review. The liability of a legal person, when applicable, does not affect the criminal liability of the natural person who committed the offence.

99. Libya did not provide examples of implementation.

Article 26 Liability of legal persons

Paragraph 4

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

(a) Summary of information relevant to reviewing the implementation of the article

100. Libya referred to article 49 of the AML/CFT Law previously mentioned.

(b) Observations on the implementation of the article

101. Except for the criminal sanctions foreseen for money laundering offences, Libya’s legislation does not subject legal persons to effective, proportionate or dissuasive sanctions in case of participation in the offences established in accordance with the Convention.

102. Libya did not provide examples of implementation.

103. To implement the provision under review, Libya should subject legal persons to effective, proportionate and dissuasive sanctions for participation in the offences established in accordance with the Convention (beyond money-laundering offences).

Article 27 Participation and attempt

Paragraph 1

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

(a) Summary of information relevant to reviewing the implementation of the article

104. Libya indicated that its legislation provides for the liability of the accomplice in all forms of complicity and referred to the following provisions:

Penal Code

Article 100, Accessories – Any person who commits the following shall be deemed an accessory:

1. Anyone who incites the commission of the act constituting the offence, if such act is performed based on the incitement.
2. Anyone who gives the offender or offenders arms or other instruments of any kind used in the commission of the offence, with knowledge thereof, or assists the offender or offenders in any other manner in acts that prepare, facilitate or complete the commission of the offence.
3. Anyone who agrees with another person to commit an offence, and the offence is committed on the basis of this agreement.

Article 101, Penalty for the Accessory – Every accessory to an offence shall be punished with the penalty prescribed for the offence, unless an exception is made by a special legal provision, and subject to the following qualifications:

1. The accessory is not affected by the conditions personal to the offender that alter the characterisation of the offence, if he was not aware of these personal conditions.
2. If due to the intention of the offender or his knowledge of the commission of the offence, the characterisation of the offence is changed, then the accessory shall be punished with the penalty prescribed for the offence as if the intention and knowledge of the offender was the intention and knowledge of the accessory.

Article 102, Punishment of the Accessory in Lieu of the Offender - The accessory shall be punished in lieu of the offender if the offender is excused by valid reasons for exculpation, due to absence of criminal intent, or by reason of other circumstances particular to him. Nevertheless, the accessory shall be punished with the penalty prescribed for the offence by law.

Article 103, Crime for which the Accessory is Punishable - Anyone who is an accessory to an offence is punishable with the penalty therefor, even if the offence was not the offence intended, provided that the offence that actually occurred was a normal and probable consequence of the incitement, agreement, or assistance that occurred.

Article 103 bis (a) - In cases where the law provides for exacerbation of the penalty for a plurality of offenders, the condition of plurality shall be fulfilled by the presence of an accessory in the commission of the offence.

Article 103 bis (b) - If all the accused, both principals and accessories, receive the same sentence for a single offence, fines shall be imposed on each of them separately, except for proportional fines, which they shall be jointly liable for.

AML/CFT Law of 2017

ARTICLE 38: MONEY LAUNDERING OFFENCE

1. Any person who commits any of the following acts shall be deemed to have committed the offence of money laundering:

- a. Converts or transfers funds with the knowledge that such funds are proceeds of crime in order to disguise or conceal the illicit source of such funds or to assist any person involved in the commission of an offence to evade the legal consequences of the offence,
 - b. Disguises or conceals the nature, location, disposition, movement or ownership of such funds, or rights pertaining thereto with the knowledge that such funds are proceeds of crime,
 - c. Acquires, possesses or uses funds with the knowledge at the time of receipt that such funds are proceeds of crime, or
2. The criminalization set in the previous paragraph shall include contribution to money laundering by way of participation, agreement, instigation, assistance, conspiracy to commit, facilitation, counseling, and any other means of contribution.
 3. A conviction for the predicate offence shall not be required to prove that funds are proceeds of a crime.
 4. The offence of money laundering is considered a separate offence from the predicate offence. Punishment of the perpetrator of a predicate offence shall not preclude conviction of that same person for a money laundering offence or any related offences.

ARTICLE 40: GENERAL PROVISION ON SANCTIONS

Without prejudice to any more severe sanctions stipulated in any other laws, the offences under this Law shall be punishable by the penalties set forth in the articles of this section. An accomplice in any of these offences shall be punished by the penalty of the perpetrator and, in all cases, be sentenced with confiscation of seized funds and instrumentalities. Any attempt to commit the offence shall be punished by the penalty of the actual offence.

(b) Observations on the implementation of the article

105. Libya has implemented the provision under review. Criminal participation is dealt with under articles 100 to 103 *bis* (b) of the PC.
106. Libya did not provide examples of implementation.

Article 27 Participation and attempt

Paragraph 2

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

(a) Summary of information relevant to reviewing the implementation of the article

107. Libya indicated that it has implemented the provision under review since the Libyan legislation punishes the attempt to commit any felony or misdemeanor. Therefore, under the Libyan Penal Code, the attempt to commit any of the offences set forth in the Convention and criminalized under Libyan law is punishable, provided it is categorized as a felony or a misdemeanor.
108. Libya referred to the following provisions:

Penal Code

Article 59, Attempt – An attempt is the beginning to execute an act with the intention of committing a felony or misdemeanor, if its effect is stopped or fails by reason of circumstances external to the will of the perpetrator.

The mere intention to commit a felony or misdemeanour and preparatory acts for such shall not be deemed attempts.

Article 60, Penalties for Attempted Felonies – Attempted felonies shall be punished by the following penalties, unless otherwise provided by law:

Life imprisonment, if the penalty for the felony is death.

Imprisonment for a period of no less than eight years, if the penalty for the felony is life imprisonment.

In other cases, the sentence shall be imprisonment with a reduction by half.

Article 61, Punishment of Attempted Misdemeanours – Attempted misdemeanours shall be punished by the penalties prescribed for the full misdemeanour reduced by half.

Article 240, Attack upon the Liberty of Public Officials and Employees in their Positions – Anyone who by the use of force, violence, terror, or threats, or by any unlawful means as set forth in Article (359) of this Code, attacks or attempts to attack the rights of public officials in their function shall be punished by the penalty prescribed in Article (238), Paragraph (2).

AML/CFT Law of 2017

ARTICLE 40: GENERAL PROVISION ON SANCTIONS

Without prejudice to any more severe sanctions stipulated in any other laws, the offences under this Law shall be punishable by the penalties set forth in the articles of this section. An accomplice in any of these offences shall be punished by the penalty of the perpetrator and, in all cases, be sentenced with confiscation of seized funds and instrumentalities. Any attempt to commit the offence shall be punished by the penalty of the actual offence.

(b) Observations on the implementation of the article

109. Articles 59, 60 and 61 of the PC criminalize the attempt to commit any felony or misdemeanor, which covers those Convention offences criminalized in Libya.

110. Libya did not provide examples of implementation.

Article 27 Participation and attempt

Paragraph 3

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

(a) Summary of information relevant to reviewing the implementation of the article

111. Libya indicated that the Libyan legislator does not incriminate the mere determination or preparation for the commission of a crime unless such crimes was attempted and both the mental state (*mens rea*) and conduct (*actus reus*) provided for by law exist.

Penal Code

Article 59, Attempt – An attempt is the beginning to execute an act with the intention of committing a felony or misdemeanour, if its effect is stopped or fails by reason of circumstances external to the will of the perpetrator.

The mere intention to commit a felony or misdemeanour and preparatory acts for such shall not be deemed attempts.

(b) Observations on the implementation of the article

112. The preparatory acts for an offence are not criminalized under Libya's legislation.

Article 28 Knowledge, intent and purpose as elements of an offence

Knowledge, intent or purpose required as an element of an offence established in accordance with this Convention may be inferred from objective factual circumstances.

(a) Summary of information relevant to reviewing the implementation of the article

113. Libya indicated that, as is the case for all crimes, the law allows a judge in Libya to infer from objective factual circumstances the existence of the element of knowledge, intent, or purpose as an element of an offence criminalized under the Convention, on the basis of Article 275 of the CPC.

Penal Code

Article 62, Conscience and Volition – An act or negligence to act that is made an offence by law is not punishable unless it was committed consciously and voluntarily.

No act that the law makes a felony or misdemeanour may be punishable if it is not committed intentionally, with the exception of those cases of felonies and misdemeanours expressly provided for by law.

Contrary to the foregoing, the law shall determine the cases in which the act shall be imputed to the perpetrator as a result of his act or negligence to act.

In infractions, everyone is accountable for his own acts or negligence to act provided they are conscious and voluntary, whether they involve criminal intent or are mistakes.

Article 63, Criminal Intent, Exceeding Intention, and Negligence - A felony or misdemeanour is committed intentionally if the perpetrator foresees or intends the injury or danger that is the result of his act or negligence to act and upon which the law makes the existence of the offence dependent.

An act exceeds intention, when an injury or danger results from the act or negligence to act that is more severe than intended by the perpetrator.

It is negligent when the incident, even if foreseen, was not intended by the perpetrator, and occurred through carelessness, recklessness, lack of knowledge or failure to observe the laws, regulations, orders or codes.

The aforementioned distinction between intentional offences and negligent offences shall also apply to infractions, whenever the law makes any legal effect dependent on this distinction.

Criminal Procedure Code

Article 275, Bases of Rulings - The judge shall rule in the case according to the beliefs he has freely reasoned. However, he shall not base his verdict on any evidence that was not submitted before him during the hearing.

(b) Observations on the implementation of the article

114. Article 275 of the Criminal Procedure Code provides that the judge shall rule in the case according to the beliefs he has freely reasoned.
115. Libya did not provide examples of implementation.

Article 29 Statute of limitations

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

(a) Summary of information relevant to reviewing the implementation of the article

116. Libya indicated that it has implemented the provision under review and referred to the following text:

Law No. (11) of 2014 on the establishment of the National Anti-Corruption Commission
Article (26)

Crimes of corruption shall not be extinguished by prescription.

(b) Observations on the implementation of the article

117. Article 26 of Law No. 11 of 2014 on the establishment of the NACC states that corruption offences do not fall within the statute of limitations.

Article 30 Prosecution, adjudication and sanctions

Paragraph 1

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

(a) Summary of information relevant to reviewing the implementation of the article

118. Libya indicated that the Libyan legislator underlined the need for the criminal punishment to be commensurate with the size and gravity of the crime, allowing the judge to impose an appropriate penalty, taking into account the maximum and minimum permissible limits. The penalties for the offences established by the Convention range from fine to life imprisonment, taking into account the seriousness of the crime.
119. Libya referred to the following texts:

Bribery: Articles 226 to 229 (b) of the Penal Code and articles 21 to 23 of Law No. (2) of 1979 on economic crimes.

Penal Code

Article 17, Types of Penalties – Penalties are of two types: principal and accessory. Principal penalties are:

1. Death.
2. Life imprisonment.
3. Imprisonment.
4. Detention.

5. Fine.

Accessory penalties are:

1. Deprivation of civil rights.
2. Interdiction from practicing professions or arts.
3. Loss of legal capacity.
4. Publication of the conviction.

Article 18, Imposition of Principal and Accessory Penalties - Upon conviction, the judge shall pronounce the principal penalties, but the accessory penalties follow by operation of law and there is no necessity for them to be pronounced except when the law specifically provides therefor.

Article 20, Life Imprisonment - Life imprisonment is the confinement of a person in a place designated for the purpose and the infliction of hard labour for the duration of the convict's life as provided for by the Prison Regulations.

Article 21, Imprisonment - Imprisonment is the confinement of a person in a place designated for the purpose and the infliction of hard labour as provided for by the Prison Regulations. Imprisonment shall not be less than 3 years, nor more than 15 years, except in cases provided for by law.

Article 22, Detention - Detention is the confinement of a person in a central or local prison for the duration of his sentence. In any case, this period shall not be less than 24 hours nor more than three years, except in cases provided for by law.

Article 27, Powers of the Judge to Determine Penalties - The judge shall inflict the penalty that he deems fit within the limits stipulated by the law. He shall set forth the grounds supporting his assessment, and he shall not transgress the limits stipulated by the law either by increase or reduction, except in the cases provided for by the law.

Article 28, Assessment of the Penalty - In his assessment of the penalty in accordance with the preceding article, the judge shall consider the gravity of the offence and the offender's inclination toward crime. The gravity of the offence shall be determined by the following circumstances:

1. The nature and kind of the act and the means used in its commission, and its purpose, location, occurrence, time, and other circumstances connected therewith.
2. The magnitude of the damage or danger resulting from the act.
3. The degree of criminal intent, whether intentional or unintentional.

The offender's inclination toward crime is indicated by the following circumstances:

1. The motives for the offence and the character of the offender.
2. The prior criminal and judicial convictions of the offender and his life in general before the commission of the crime.
3. The offender's conduct during commission or the crime and afterwards.
4. The personal, familial and social living circumstances of the offender.

Article 226, Bribery - Any public official who requests, accepts, or takes for himself or for another a gift or promise of anything to which he is not entitled, whether money or any other benefit, for the purpose of doing or refraining from an act, or misleadingly construes or claims that they are among the functions of his position or to violate his duties, even if he does not intend to commit or refrain from such act or violate his duties, or if the public official accepts a gift for a function of his position that he has performed, shall be punished by imprisonment for a period not exceeding five years and a fine equivalent to the gift received or promised.

The same penalty shall be applied to the briber and anyone who intentionally acts as an intermediary between the person who offers the bribe and the person who receives the bribes.

Article 227, Acts Considered Bribery - It shall be legally deemed bribery if any public official acquires for himself or for another a gift or promise of any gift or favor:

1. To acquire or attempt to acquire from any public authority obligations, licenses, supply or contracting agreements, positions, services, ranks, decorations or any other remuneration or benefit.
2. To use or attempt to use the real or alleged influence of his public position to obtain business, orders, rulings, or decisions from any administrative or judicial authority.

Article 228, Increased Penalty for Bribery - If the act set forth in Articles (226) and (227), results in a sentence of life imprisonment or imprisonment, the penalty shall be imprisonment for a period of no less than six years and a fine of no less than LYD 200.

If the result of the act is a death sentence, then the penalty shall be life imprisonment.

Article 229, Offer of Bribery – Anyone who offers to a public official a gift or promise to which the said public official is not entitled, whether money or any other benefit, in order to induce him to perform any function of his position or act contrary to his duties, or to refrain from or delay the same, and said official does not accept the offer, the person offering the bribe shall be punished with imprisonment.

Article 229 bis (a) - Any person who takes or accept a gift or benefit with the purpose of knowingly delivering the same to another for this reason shall be punished with detention for a period not exceeding one year and a fine of no less than LYD 20 and not exceeding LYD 100, if he had not been an intermediate arranging the bribe.

Article 229 bis (b) - Any employee who requests, accepts, or takes for himself or another a promise or gift without the knowledge or approval of his employer for the purpose of performing or refraining from a function which he is assigned shall be punished by detention.

Law No. (2) of 1979 on economic crimes

Article 21 – Any public servant who requests, receives, or accepts a gift or promise of cash to which he is not entitled for himself or another person, to induce him to refrain from one of his position's functions, to mistakenly believe or claim that some act is a function of his position, or to violate his duties, even if he does not intend to commit such act, or does not actually abstain from it or violate his work duties, or if the public servant accepts a gift for performing one of his position's functions, shall be sentenced to imprisonment.

The same penalty shall apply to the briber and anyone who intentionally mediated between the briber and the person bribed.

Article 22 - Anyone who offers a public servant a gift or promise of money or a benefit to which he is not entitled, whether in the form of cash or another benefit, to induce the public servant to perform one of his position's functions, perform an act contrary to his duties, or abstain from or delay the same, and the public servant does not accept, shall be sentenced to imprisonment.

Article 23 - If the purpose of the bribe is the perpetration of an action punishable by law with a penalty more severe than the penalty prescribed for the bribe, then the penalty shall be the penalty prescribed for the action along with the fine prescribed for the bribe.

Embezzlement: Articles 230, 232, 241 and 465 159 of the Penal Code and articles 15, 16 and 27 of the Law No. (2) of 1979 on economic crimes.

Penal Code

Article 230, Embezzlement of Public and Private Property - Any public official who, by virtue of his position, service or profession has in his possession money or any other movable property of the Public Administration or of the members thereof, and who embezzles the same or claims the ownership thereof or attributes the ownership to another, shall be punished with imprisonment for a period not exceeding ten years.

Article 232, Defrauding the Public Administration - Any public official entrusted with an act and who employs a number of persons less than the number of persons he was required to employ but who claims that he has employed the full number required, and thereby obtains for himself the amount allocated to pay the said persons in terms of salary or wages, or anyone who records in government accounts, or in the accounts of any other public body, the names of persons employed by him for personal affairs, so that he may pay their salaries or expenses from State funds or from the funds of the public body, shall be punished with imprisonment of between one and five years and by a fine equal to double the amount that he has fraudulently obtained.

Article 241, Concealment of Items Seized or Distrained, or Their Destruction or Dissipation –

Anyone, whether a public official or not, who embezzles, conceals, destroys, dissipates, or damages any item that is judicially or administratively distrained or seized, for which he has been entrusted the guardianship thereof, and his sole intention in doing the said acts is to assist the owner thereof, shall be punished by detention for a period of no less than six months and a fine of between LYD 10 and 50.

The owner of the item, if the guardianship thereof is entrusted thereto, if he commits any of the preceding acts, shall be punished by a penalty of detention for a period of from three months to two years and a fine of from LYD 5 to 15.

The penalty shall be detention for a period not exceeding one year or a fine not exceeding LYD 25 if the offence is committed by the owner of the thing when that thing is not entrusted to his guardianship.

Article 465, Misappropriation - Anyone who has in his possession in any way money or any other movable property owned by another, and misappropriates the same in order to obtain a unlawful benefit for himself or for another, shall be punished by imprisonment for a period not exceeding three years and a fine not exceeding LYD 100. Proceedings shall only be instituted upon a complaint by the injured party.

If the items were in the custody of the offender as bailment of necessity, or if the offence is committed by abuse of authority, a familial relationship, or a relationship arising from office, work, co-habitation, or hospitality, the penalty shall be increased by no more than half and institution of proceedings shall not be depending upon a complaint by the injured party.

Law No. (2) of 1979 on economic crimes

Article 14 – Any public servant who uses the funds entrusted to him by virtue of his position for purposes other than those for which the funds were allocated as part of an economic and social transformation plan, and in a way that inflicts damage to the goals of such plan, shall be sentenced to imprisonment.

Article 15 - Any public servant commissioned with safeguarding and maintaining public funds found negligent in doing so shall be sentenced to imprisonment. The court may rule to compel to offender to pay the value of damages inflicted to the public funds that he failed to safeguard and maintain.

Article 27 - Any public servant who embezzles, claims ownership over, or grants another person public funds or the funds of another person entrusted to him by virtue of his position shall be sentenced to imprisonment. If the conditions are met, he shall be punished by the *hudud* punishment for theft.

Trading in influence: Articles 227 to 228 of the Penal Code, article 31 of Law No. (2) of 1979 on economic crimes, article 2 of the Law No. 6 of 1985 on the criminalization of mediation and nepotism and article 2 of the Law No. (22) for the year 1985 on the fight against abuse of function or profession and fraud in elections

Penal Code

Article 226, Bribery – Any public official who requests, accepts, or takes for himself or for another a gift or promise of anything to which he is not entitled, whether money or any other benefit, for the purpose of doing or refraining from an act, or misleadingly construes or claims that they are among the functions of his position or to violate his duties, even if he does not intend to commit or refrain from such act or violate his duties, or if the public official accepts a gift for a function of his position that he has performed, shall be punished by imprisonment for a period not exceeding five years and a fine equivalent to the gift received or promised.

The same penalty shall be applied to the briber and anyone who intentionally acts as an intermediary between the person who offers the bribe and the person who receives the bribes.

Article 227, Acts Considered Bribery - It shall be legally deemed bribery if any public official acquires for himself or for another a gift or promise of any gift or favor:

1. To acquire or attempt to acquire from any public authority obligations, licenses, supply or contracting agreements, positions, services, ranks, decorations or any other remuneration or benefit.
2. To use or attempt to use the real or alleged influence of his public position to obtain business, orders, rulings, or decisions from any administrative or judicial authority.

Article 227 bis - If the purpose of the bribe is to commit an act for which the law prescribes a more severe penalty than the penalty prescribed for bribery, the penalty prescribed for the act shall be imposed along with the fine prescribed for bribery.

Article 228, Increased Penalty for Bribery - If the act set forth in Articles (226) and (227), results in a sentence of life imprisonment or imprisonment, the penalty shall be imprisonment for a period of no less than six years and a fine of no less than LYD 200.

If the result of the act is a death sentence, then the penalty shall be life imprisonment.

Law No. (2) of 1979 on economic crimes

Article 31 - Anyone who claims to have influence over a public servant and obtains for himself or for another person or induces another person to give money or another benefit to him or the other person or promises the same in return for acting as an intermediary between the other person and the public servant shall be sentenced to imprisonment for a period not exceeding five years.

The same punishment shall apply to anyone who obtains money, another benefit, or a promise of such, for himself or for another person by claiming the necessity of using this money or benefit to win the favour of and reward the public servant.

Law No. 6 of 1985 on the criminalization of mediation and nepotism

Article 2:

Anyone who acts with mediation and nepotism or acted accordingly shall be punished by imprisonment for a term not exceeding three months and a fine not exceeding five hundred dinars or by one of these two penalties. The person convicted for such acts is put at the end of the list of beneficiaries and the restitution of the benefits may be pronounced.

Ordering the suspension of the execution of the penalty is not allowed if the crime relates to the allocation of land, housing, electricity or postal services.

Law No. (22) for the year 1985 on the fight against abuse of function or profession and fraud in elections

Article 2:

Any persons who influence the elections of the Congresses and peoples' Committees, unions, professional associations and similar other popular organizations for its own illegal benefit or for the benefit of other shall be sentenced to imprisonment. Such conviction entails deprivation from participation in elections unless he has been rehabilitated.

Abuse of functions: Articles 231 and 233 to 236 of the Penal Code, articles (6), (14), (19), (30), (33) and (34) of Law No. (2) of 1979 on Economic Crimes, and article 1 of the Law No. (22) for the year 1985 on the fight against abuse of function or profession and fraud in elections

Penal Code

Article 231, Extortion – Any official who abuses his position or the functions thereof and compels or induces another to give him or promise to give him or another money or any other benefit to which he has not entitled shall be punished with imprisonment for a period not exceeding 12 years and a fine between LYD 200 and 800.

The penalty shall be detention for a period of not less than six years if the public official receives the item to which he is not entitled by taking advantage of the error of another.

Article 233, Exploitation of Office for Private Benefit - Any public official who obtains for himself, either directly or by any other manner, or by various acts, any benefit from any of the public administration functions by which he exercises his office, shall be punished by a penalty of detention for no less than six months.

Article 234, Abuse of Office that is Detrimental to the Interest of Public Administration or the Judiciary - Any public official who abuses the authority of his office in order to stay the execution of orders issued by the government, or laws or regulations in force, or to delay the collection of legally

prescribed monies or fees or the execution of any court ruling or order, or any order issued by the competent authority shall be punished by detention and removal from office.
The same penalty shall be imposed on any public official who intentionally refrains from executing a ruling or order of the foregoing after ten days have passed from his being warned by a bailiff, if the execution of the order or ruling enters within his competences.

Article 235, Abuse of Authority in Cases Not Provided for by Law - Any public official who abuses the powers of his office for the benefit of another or to the detriment of another and there is no other applicable criminal text in the law, he shall be punished with detention for a period of no less than six months.

Article 236, Disclosing the Secrets of a Public Office - Any public official who violates the duties of his office, or abuses the same by disclosing official information that is required to remain secret, or who by any means facilitates the disclosure thereof shall be punished by a penalty of detention for no less than six months.

Law No. (2) of 1979 on economic crimes

Article 6 – Any public servant who intervenes for his own account or that of another in contracting, supplies, auctions, or tenders, or any other operations related to one of the bodies stipulated in Article (2) of this law, shall be sentenced to imprisonment for a period of no less than five years.

Article 14 - Any public servant who uses the funds entrusted to him by virtue of his position for purposes other than those for which the funds were allocated as part of an economic and social transformation plan, and in a way that inflicts damage to the goals of such plan, shall be sentenced to imprisonment.

Article 19 - Any public servant in a cooperative or commercial enterprise that unlawfully withholds, refuses to sell, or conceal the commodities that he was entrusted with selling to the public, or that gives these commodities as a favour to a specific person or persons in amounts exceeding their normal needs, shall be sentenced to imprisonment for a period of no less than two years, and fined the equivalent of the value of the commodities that he withheld, refused to sell, concealed, or gave away.

Article 30 - Any public servant who abuses his position or function to coerce or induce another person to give him or promise to give him or another person cash or another benefit to which he is not entitled shall be sentenced to imprisonment for a period of no less than ten years.

The perpetrator shall be sentenced to imprisonment for a period of no less than two years if the public servant accepts the undeserved item solely in exploitation of the other person.

Article 33 - Any public servant who obtains an unlawful benefit for himself from the activities of the department where he exercises his position, whether directly, through another person, or through other actions, shall be sentenced to imprisonment for a period of no less than two years.

Article 34 - Any public servant who abuses the powers of his position for the benefit or harm of another person shall be sentenced to imprisonment for a period of no less than six months if no other criminal text in the law applies.

Law No. (22) for the year 1985 on the fight against abuse of function or profession and fraud in elections

Article 1:

Anyone who misuses his or her profession, profession, craft or industry for his benefit or for the benefit of another shall be punished by imprisonment ...

Illicit Enrichment: Article 6 the Law no. (10) for the year 1994 on Purging, read in conjunction with article 444 of the Penal Code on theft and paragraph 1 of article 4 of Law no. (3) of 1986 on “from where have you obtained this”

Law no. (10) for the year 1994 on Purging

Article 6

It is considered as illicit gain and robbery any illegal money or commission obtained by one of the persons subject to the provisions of this Law for himself or for another person because of his exploitation of his

position or the abuse of his powers of office or because of bias, threat or influence, whether directly or indirectly or the gain is due to currency speculation, trade in commodities or the exercise of prohibited activity.

It is also considered as illicit gain and robbery any increase of the assets after the assumption of the position or the status, when such increase is not commensurate with his resources or the resources of his spouse or his minor children and fails to prove the legal origin of such increase.

It is also considered as illicit gain and robbery any money or material benefit obtained by any person through his participation or complicity with any person to whom the provisions of this law shall apply.

Penal Code

Article 444, Theft - Anyone who steals the movable property of another shall be punished by detention.

Under the Penal Code, electric power and all other forms of power with an economic value shall be deemed movable property.

Law no. (3) of 1986 on “from where have you obtained this”

Article 4

Without prejudice to any more severe punishment provided for by the Penal Code or other laws:

1. Any person who violates the provisions of Article 1 shall be punished by imprisonment for a period of not less than six months and a fine of not less than five hundred Dinars.

Laundering of proceeds of crime: Articles 40 and 41 of the AML/CFT Law of 2017

AML/CFT Law of 2017

ARTICLE 40: GENERAL PROVISION ON SANCTIONS

Without prejudice to any more severe sanctions stipulated in any other laws, the offences under this Law shall be punishable by the penalties set forth in the articles of this section. An accomplice in any of these offences shall be punished by the penalty of the perpetrator and, in all cases, be sentenced with confiscation of seized funds and instrumentalities. Any attempt to commit the offence shall be punished by the penalty of the actual offence.

ARTICLE 41: PENALTY FOR MONEY LAUNDERING

Whoever commits a money laundering offence under article 39 of this Law shall be punished by imprisonment for up to seven years and a fine of not less than LD 100,000 but not exceeding LD 1,000,000.

Participation: Articles 101 to 103 bis (b) of the Penal Code

Penal Code

Article 101, Penalty for the Accessory – Every accessory to an offence shall be punished with the penalty prescribed for the offence, unless an exception is made by a special legal provision, and subject to the following qualifications:

1. The accessory is not affected by the conditions personal to the offender that alter the characterisation of the offence, if he was not aware of these personal conditions.
2. If due to the intention of the offender or his knowledge of the commission of the offence, the characterisation of the offence is changed, then the accessory shall be punished with the penalty prescribed for the offence as if the intention and knowledge of the offender was the intention and knowledge of the accessory.

Article 102, Punishment of the Accessory in Lieu of the Offender - The accessory shall be punished in lieu of the offender if the offender is excused by valid reasons for exculpation, due to absence of criminal intent, or by reason of other circumstances particular to him. Nevertheless, the accessory shall be punished with the penalty prescribed for the offence by law.

Article 103, Crime for which the Accessory is Punishable - Anyone who is an accessory to an offence is punishable with the penalty therefor, even if the offence was not the offence intended, provided that the offence that actually occurred was a normal and probable consequence of the incitement, agreement, or assistance that occurred.

Article 103 bis (a) - In cases where the law provides for exacerbation of the penalty for a plurality of offenders, the condition of plurality shall be fulfilled by the presence of an accessory in the commission of the offence.

Article 103 bis (b) – If all the accused, both principals and accessories, receive the same sentence for a single offence, fines shall be imposed on each of them separately, except for proportional fines, which they shall be jointly liable for.

Attempt: Article 60 and 61 of the Penal Code

Penal Code

Article 60, Penalties for Attempted Felonies– Attempted felonies shall be punished by the following penalties, unless otherwise provided by law:

Life imprisonment, if the penalty for the felony is death.

Imprisonment for a period of no less than eight years, if the penalty for the felony is life imprisonment.

In other cases, the sentence shall be imprisonment with a reduction by half.

Article 61, Punishment of Attempted Misdemeanours– Attempted misdemeanours shall be punished by the penalties prescribed for the full misdemeanour reduced by half.

Law No. (11) of 2014 on the establishment of the National Anti-Corruption Commission

Article (3)

The NACC shall assume its competences as follows:

7. Investigate and detect crimes of corruption, in particular:

- a. Crimes stipulated by Law No. (2) of 2005 on combating money laundering.
- b. Crimes against public funds and public trust stipulated by the Penal Code.
- c. Economic crimes stipulated by Law No. (2) of 1979 and the amendments thereof.
- d. Crimes of misuse of position or occupation, mediation, and favouritism.
- e. Crimes stipulated by Law No. (3) of 1986 on illicit gains;
- f. Crimes stipulated by Law No. (10) of 1994 on purging.
- g. Any other act set forth by the United Nations Convention against Corruption (UNCAC).

Article (25)

Without prejudice to any harsher penalty, whoever commits a crime of corruption stipulated by Article (3), Clause (7) of this law shall be punished by imprisonment for a minimum of five years or by a fine not exceeding ten thousand LYD, or by both penalties.

(b) Observations on the implementation of the article

120. Libya adopted penalties for the Convention offences that range from 24 hours up to life imprisonment, taking into account the gravity of the offence, except for offences of illicit enrichment (article 6 of the Law on purging), passive bribery in the private sector (art. 229 bis (b) PC) and embezzlement in the private sector (art. 465 PC). In addition, fines, removal from office and confiscation are applicable for certain offences.
121. The reviewers encourage Libya to consider reviewing its legislation to provide for more deterrent penalties for offences of illicit enrichment (article 6 of the Law on purging) and passive bribery in the private sector (art. 229 bis (b) PC) and embezzlement in the private sector (art. 465 PC).

Article 30 Prosecution, adjudication and sanctions

Paragraph 2

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

(a) Summary of information relevant to reviewing the implementation of the article

122. Libya indicated that the Libyan regime adopts the system of procedural immunity only. This is evident in various Libyan legislations, whether they are related to members of the judiciary, the legislative or executive branches. These legislations do not grant them any special immunities, and such immunities do not hinder the prosecution of these crimes.

Law No. (4) of 2014 on the adoption of the rules of procedure of the Parliament

Part Three – Membership

Chapter Three - Parliamentary immunity and its lifting

Article (89)

Every member of the Parliament has a parliamentary immunity, and it is prohibited unless in a flagrante situation to take him under arrest or take any criminal procedural against him without a written permission from the Parliament.

If he was arrested in a flagrante situation, the President of the Parliament must be notified within forty-eight hours. The President of the Parliament notifies the other members about the situation in the first session he holds. The Parliament has the right to decide where appropriate to hold the prosecution against the member, and for him to be released temporarily until his membership in the Parliament is finished and that is based on the report of joint commission committees.

Article (90)

The Attorney General submits the request of permission to prosecute attached to a warrant that includes the type of criminal act with the time and place when and where the act was taken, and a summary that includes sufficient evidences that are needed to take urgent procedures.

Article (91)

The request of lifting the immunity if submitted to the President of the Parliament, that calls for a joint committee as soon as the request of permission to prosecute is submitted. Which has to submit a report about it to the council within two weeks from receiving the request as the maximum time period.

Article (92)

If it did not submit the report in the time frame allocated in the previous article, the Parliament's office has to report that to the Parliament in the first session it holds. The Parliament can decide to give the committee an extra period with the time the Parliament deems fitting or takes control of the request and decide on it immediately.

Article (93)

When the Parliament starts considering the request to uplift immunity, the discussions must continue until a final decision on the subject is taken. The Parliament must make sure that the request of permission to prosecute is not related to the political purposes and ends or with the intention to scorn a member of to prevent him from his duties. The decision to lifting an immunity is taken by the absolute majority of those present.

Article (94)

The request to prosecute is only valid for the act specified in the request to uplift immunity.

Advisory opinion dated 26/7/2012 from the Department of Law in the Ministry of Justice on the issue of immunity

“... ”

Article (6) of the Constitutional Declaration states that “Libyans are equal before the law”.

It is taken from the previous articles that the chosen from the national transitional council or from the general national congress such as ministers or members of the national transitional council have the same immunity that the chosen from the general people's congress and this immunity is in the form of prohibiting investigation and criminal prosecution unless with a permission from the secretariat of the general people's council (the national transitional council).

...

Adding immunity against prosecution goes against the principle of equality between citizens and is considered as a violation of article (6) of the Constitutional Declaration. The immunities that are stated in forcible laws are all to put some limitations on the investigations and prosecutions in fear of abuse of the important job occupants and that is what was stated previously either in the law number (1) of (2007) or in Libya's constitution in the days of the previous monarchy.

..."

Law No. (6) of 2006 on the justice system

Article 96

A committee shall be formed including as its chairperson one of the counsellors of the Supreme Court as selected by its general assembly and two members selected among the presidents of the Courts of Appeal by the Council. The members of the committee shall not include any member of the Council.

The committee shall be responsible for the following:

1. Granting authorization to arrest, detain, interrogate, or bring criminal charges against members of judicial bodies.
2. Appointing the court competent to adjudicate cases of felonies or misdemeanours committed by members of judicial bodies, even if not committed in relation to their positions, without regards to the general provisions of territorial jurisdiction.

Article 97

Except in cases of *in flagrante delicto*, no judicial body member shall be arrested or detained except upon authorization by the committee provided for in the preceding article.

In cases of *in flagrante delicto*, the Attorney General shall submit the case to the aforementioned committee within twenty-four hours from the detention or arrest of the judicial body member. The committee shall decide either to keep the member in detention or to release him or her, either with or without bail. The member of the judicial body may request that the committee hear his or her statement when the matter is presented to the committee. The committee shall determine the period of detention in the decree authorizing the detention or its continuation. The aforementioned procedures shall be observed whenever it is deemed necessary to extend the provisional detention following the expiration of the period set by the committee.

Except as stated, no investigative procedures may be conducted or criminal cases be brought against members of judicial bodies regarding felonies or misdemeanours, except with the permission of the aforementioned committee and upon request from the Attorney General.

Members of judicial bodies shall be detained and serve custodial sentences in premises specifically established for this purpose.

The State Financial Law of 1967 and its amendments

Article 28

The financial violations attributed to public officials shall be determined upon the request of the Minister of Finance or the Minister with whom the public official is affiliated or the President of the Audit Bureau. The investigation shall be carried out by a prosecutor from the Attorney General's Office specially appointed for this purpose. The Investigator shall have access to all necessary documents related the subject matter of the investigation, even if confidential, and may call as witnesses public officials or other members of the Audit Bureau or other professionals. The public official shall be notified of the investigation at least three days before its commencement, and may be present at the investigation in person, unless his absence is required in the interest of the investigation. The investigator shall have the power to provisionally suspend the public official if the interest of his investigation so requires, if the suspension period does not exceed 3 months, except upon a decision by the Council.

Law No. (11) of 2014 on the establishment of the National Anti-Corruption Commission

Article (19)

In cases other than *in flagrante delicto*, the NACC chairman, deputy, Council members, or employees enjoying the capacity of judicial officers may only be apprehended, placed under investigation, or subjected to criminal procedures by an authorisation of the competent entity.

In cases of *in flagrante delicto*, the competent entities shall be notified to issue the arrest authorisation within the subsequent twenty-four hours.

(b) Observations on the implementation of the article

123. Immunities do not seem to constitute an impediment to the effective prosecution of the Conventions' offences.

Article 30 Prosecution, adjudication and sanctions

Paragraph 3

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

(a) Summary of information relevant to reviewing the implementation of the article

124. Libya indicated that it has implemented the provision under review and referred to the following texts:

Criminal Procedure Code

On Criminal Cases

Article 1, Filing and Initiating – The Public Prosecution shall be the only entity competent to file and initiate criminal proceedings, which may only be filed by other entities in the circumstances set out in the law.

Criminal cases may not be abandoned, stopped, or obstructed, except in the circumstances set out in the law.

On the Prosecution-General's Handling of the Accusation After the Collection of Evidence

Article 49, Retaining Documents - If the Public Prosecution deems that the case cannot be continued, it shall order to retain the documents.

Article 50, Retention Order Announcement - If the Public Prosecution issues a retention order, it shall notify the same by registered letter to the victim, civil plaintiff, and complainant, even if he did not file a civil case. If one of the latter had died, his heirs shall be all notified together at his place of residence.

Article 51, Continuing the Proceedings and Delegating the Investigation to a Judge or Counsellor - If, in accordance with the Articles related to petty offences and misdemeanours, the Public Prosecution deems it valid to file the case based on the evidence heard, the accused shall be summoned to present himself directly before the competent court.

In accordance with the Articles related to petty offences and misdemeanours, the Public Prosecution may request from the President of the Court of First Instance to delegate the investigating magistrate or proceed to do the same itself, either before or after the start of the investigation.

The competent Chief Prosecutor may request from the Court of Appeal to delegate a counsellor to investigate a particular crime or crimes of a certain type, and the delegation shall be by a decision from the General Assembly. In this case, the delegate counsellor shall be the only person responsible for conducting the investigation as soon as he starts work.

In accordance with the Articles on felonies, the accused may request the delegation of the investigating magistrate and in this case, the President of the Court shall issue his decision after hearing the statements of the Public Prosecution. Such decision shall not be subject to appeal and the Public Prosecution shall continue the investigation until the delegate judge starts it.

(b) Observations on the implementation of the article

125. Prosecution in Libya follows the principle of legality (art. 1 of the CPC).

Article 30 Prosecution, adjudication and sanctions

Paragraph 4

4. In the case of offences established in accordance with this Convention, each State Party shall take appropriate measures, in accordance with its domestic law and with due regard to the rights of the defence, to seek to ensure that conditions imposed in connection with decisions on release pending trial or appeal take into consideration the need to ensure the presence of the defendant at subsequent criminal proceedings.

(a) Summary of information relevant to reviewing the implementation of the article

126. Libya indicated that it has implemented the provision under review and referred to the following texts:

Criminal Procedure Code

Article 124, Provisional Release – After hearing the statements of the Public Prosecution, the investigating magistrate may, at any time, whether on his own or at the request of the accused, order the provisional release of the latter if he has issued the confinement order, provided the accused undertakes to appear whenever requested and not escape the execution of the ruling that may be rendered against him.

Article 125, Electing Domicile for the Accused - In cases other than when the release is an obligatory duty, the accused shall not be released with or without guarantee before electing a domicile for him in the area where the Court's headquarters are located if he does not reside in the said area.

Article 126, Bail - In cases other than when the release is an obligatory duty, provisional release may be conditioned on the payment of bail.

The investigating magistrate or summary judge referred to in Article (123), according to the case, shall assess the amount of the bail and allocate a specific part thereof as a sufficient penalty for the failure of the accused to attend all the investigation and case procedures, present himself to execute the ruling, and carry out all the other duties imposed thereon. The other part shall be allocated to pay the following, in this order:

1. The fees that the civil plaintiff paid in advance.
2. The fees incurred by the government.
3. The financial penalties that may be rendered against the accused.

Article 127, Payment of Bail - The accused or any other person shall pay the assessed amount of the bail to the court treasury in cash or through government bonds or secured government bonds.

Whoever filled out the pledge may pay the assessed amount of bail if the accused breaches one of the conditions of release. Such pledge shall be documented in the record of the investigation or in a report in the court registrar.

The record or report shall have the effect of an enforceable bond.

Article 128, Bail Forfeiture - If without an acceptable excuse, the accused fails to implement one of the obligations imposed on him, the first part of the bail becomes the property of the government without need for any verdict.

The second part of the bail shall be refunded to the accused in the event of dismissal or acquittal.

Article 129, Police Surveillance and Ban on Frequenting Certain Locations - If the investigating magistrate considers that the situation of the accused does not allow him to provide bail, he shall force him to surrender to a police station at the times prescribed to him in the release order, taking into account his personal circumstances. He may also ask him to choose a place of residence other than where the crime took place, and he may prohibit him from frequenting a certain location.

Article 130, Arrest after Release - The order of release shall not prevent the investigating magistrate from issuing a new order to arrest the accused or imprison him if the evidence against him becomes stronger, if he breaches the imposed conditions, or if circumstances emerge requiring such a measure.

Article 131, Competent Entity of Release after Referral - If the accused is referred to the Indictment Chamber or to the court, his release (if he is detained) or imprisonment (if he is free) shall be within the powers of the entity he is referred to.

In the event of referral to the criminal court, the action shall be decided outside the hearings under the jurisdiction of the Indictment Chamber.

If a ruling of non-jurisdiction is issued, the Indictment Chamber shall be the entity competent to consider the request for release or imprisonment until the action is filed before the competent court.

(b) Observations on the implementation of the article

127. Preventive imprisonment can be applied for corruption offences. Release pending trial can also be subject to financial or other guarantees.

Article 30 Prosecution, adjudication and sanctions

Paragraph 5

5. Each State Party shall take into account the gravity of the offences concerned when considering the eventuality of early release or parole of persons convicted of such offences.

(a) Summary of information relevant to reviewing the implementation of the article

128. Libya indicated that it has implemented the provision under review and referred to the following texts:

Criminal Procedure Code

Article 450, Conditional Release – The person sentenced to a custodial penalty may be placed on parole after he has completed three quarters of his prison term, provided his behaviour in prison inspires trust that he will stand correct and be on good behaviour release. Time spent in prison shall not be less than nine months in all cases.

If the penalty is a life sentence, conditional release may take place only after 20 years in prison and only if the subject has fulfilled the financial obligations prescribed by the Criminal Court for his crime, provided such fulfilment is not impossible.

Law No. (5) of 2005 on correction and rehabilitation institutions

In the implementation of the conditional release

Article (77)

Conditional release is not permissible for a person sentenced to a penalty of deprivation of liberty, unless he spends three quarters of the sentence in the institution, and his behavior while he is in it calls for confidence

in his self-evaluation and his release should not pose a threat to public security and that the period spent in prison should not be less than nine months.

If the penalty is life imprisonment, the sentenced person may not be released unless he or she has spent at least 20 years in the institution.

In all cases, the convicted person must have fulfilled the financial obligations imposed upon him unless he is proved incapable of doing so.

Article (82)

In the event that the released person is under observation, he must present himself immediately upon his release to the designated police station.

Article (83)

If the released person disagrees with the conditions laid down for release, the competent police must inform the chief prosecutor in order to issue an order to cancel the release.

If the release order is cancelled, the person should be returned to the institution for the remaining period of his sentence, and the administration of the institution shall calculate the remaining period of his stay from the day of his release, in addition to the period he spent under the condition.

(b) Observations on the implementation of the article

129. Early release is possible if three quarters of the prison sentence has been completed and all financial obligations adjudicated by the Court have been settled, unless the prisoner proves his or her incapacity to do so.

Article 30 Prosecution, adjudication and sanctions

Paragraph 6

6. Each State Party, to the extent consistent with the fundamental principles of its legal system, shall consider establishing procedures through which a public official accused of an offence established in accordance with this Convention may, where appropriate, be removed, suspended or reassigned by the appropriate authority, bearing in mind respect for the principle of the presumption of innocence.

(a) Summary of information relevant to reviewing the implementation of the article

130. Libya indicated that it has implemented the provision under review. Articles 31 and 32 of the ACA Law expressly provide for the possibility of the provisional suspension of a public official by the ACA. The provisional suspension decision is a temporary administrative decision. It does not create rights and does not prejudice the legal status of the person suspended. The temporary nature of such decisions requires that they end. Therefore, the decision of provisional suspension does not enjoy the same legal protection granted to individual administrative decisions, which create rights or change the legal status of the public official. Therefore, the execution of a decision for provisional suspension cannot be stayed nor is it subject to appeal before the administrative judiciary.
131. Libya referred to the following texts:

Law no. (20) of 2013 on the establishment of the Administrative Control Authority

Article (31)

Oversight and investigation personnel in the Authority may request that an employee be provisionally suspended from work for the public interest or the interest of the investigation, if there are substantial grounds for this action. The suspension decision shall be issued by the Authority chairman or his authorised

representative, and the period of suspension may not be more than three months, except by virtue of a decision from the authority that is competent to discipline.

Article (32)

If the Administrative Control Authority reveals actions that harmed public funds, whether movable or immovable, the Authority chairman may order the suspension of the person who caused the damage. He may also stop the disposition of funds from the bank accounts of the party that was harmed. Such funds shall not be released before ensuring that the damage has ceased and it is without prejudice to the provisions concerning criminal and disciplinary responsibility.

Law No. (12) of 2010 on labor relations

Article (158)

Each employee who is precautionary imprisoned or for execution of criminal legislation will be suspended from work by law force during the period of imprisonment. If imprisonment is for execution of criminal legislation, he will not be entitled salary during imprisonment period and this period will not be considered in degree's seniority or annual allowance or leave.

(b) Observations on the implementation of the article

132. Public officials can be suspended if the public interest or the interest of the investigation require such measures (arts. 31 and 32 of the Law on the establishment of the ACA). Public officials are suspended by law while they are in preventive detention or serving a criminal sentence (art. 158 of the Law on labor relations).

Article 30 Prosecution, adjudication and sanctions

Paragraph 7

7. Where warranted by the gravity of the offence, each State Party, to the extent consistent with the fundamental principles of its legal system, shall consider establishing procedures for the disqualification, by court order or any other appropriate means, for a period of time determined by its domestic law, of persons convicted of offences established in accordance with this Convention from:

(a) Holding public office; and

(b) Holding office in an enterprise owned in whole or in part by the State.

(a) Summary of information relevant to reviewing the implementation of the article

133. Libya referred to the following provisions:

Penal Code

Article 16 (4), Definitions – In criminal law, the following expressions shall have the following meanings:

4. Public Official means any person entrusted with a public function in the service of the government provinces or public bodies, whether an official or employee, permanent or temporary, and with or without salary. Included in this expression are public notaries, members and assistants of the courts, arbitrators, experts, interpreters, and witnesses while performing their respective duties.

Article 17, Types of Penalties – Penalties are of two types: principal and accessory. Principal penalties are:

1. Death.
2. Life imprisonment.
3. Imprisonment.

4. Detention.

5. Fine.

Accessory penalties are:

1. Deprivation of civil rights.

2. Interdiction from practicing professions or arts.

3. Loss of legal capacity.

4. Publication of the conviction.

Article 18, Imposition of Principal and Accessory Penalties – Upon conviction, the judge shall pronounce the principal penalties, but the accessory penalties follow by operation of law and there is no necessity for them to be pronounced except when the law specifically provides therefor.

Article 33 – Deprivation of civil rights is of two kinds: perpetual and temporary. Perpetual deprivation of civil rights deprives the offender of the following rights and privileges, unless otherwise provided by law:

1. The right to run for or be elected to any representative body, and all other political rights.

2. The right to retain any public office or accept any public service, unless the service is compulsory.

The offender shall also be deprived of any capacity acquired as a result of the public office or service.

3. The right to act as trustee or guardian, even temporarily, and all other rights pertaining to trusteeship or guardianship.

4. Titles, ranks, decorations, and other public distinctions.

5. All honorific rights arising from any office, service, degree or title, and the capacities and distinctions specified in the foregoing.

6. The capacity to assume or acquire any right, capacity, service, title, degree, or decoration specified in the foregoing.

Temporary deprivation debars the offender from the capacity to acquire, exercise or enjoy any of the aforementioned rights, capacities, titles and honours for the duration of the deprivation.

Article 34, Circumstances that Involve Deprivation of Civil Rights - A sentence of life imprisonment or of imprisonment for ten years or more involves perpetual deprivation of civil rights starting from the day that the sentence becomes final. A sentence of imprisonment for three years or more involves deprivation of civil rights for the duration of the sentence and for a period thereafter of not less than one year and not more than five years.

If in the sentence it is decided that the offender is a habitual criminal, that he is a professional in the commission of felonies or misdemeanours or that he has a deviant criminal tendency, then the deprivation shall be perpetual.

Article 35, Interdiction from Practicing Professions or Arts – Interdiction from the professions or arts deprives the offender, for the duration of the interdiction, of the right to conduct any profession, art, industry, commerce or trade that requires any special permit, authorisation, or license from any public authority. Such interdiction involves the forfeiture of any such permit, authorisation or license.

Article 36, Sentences that Involve Interdiction - The temporary interdiction set forth in the preceding article results from conviction of a felony or intentional misdemeanour committed by abuse of any profession, art, industry, commerce or trade, or breach of the duties pertaining thereto.

Temporary interdiction from public office or service, and from trusteeship or guardianship results from conviction of a felony or intentional misdemeanour committed by abuse of the power of, or by breach of the duties arising from the public office, public service, trusteeship or guardianship.

The interdiction set forth in the two preceding paragraphs shall be for the duration of the penalty and another subsequent period to be determined by the sentence, provided that it is no less than six months and no more than three years in the case of misdemeanours, and no less than one year and no more than five years in the case of felonies.

Law no. (10) for the year 1994 on Purging

Article 24

A final judgment of conviction in the offences set out in this law shall result in the deprivation of the following rights and benefits:

1. Deprivation of civil rights

2. Competency to assume or stay in any position.

3. Election to the secretariats of conferences, popular committees, trade unions, unions and professional associations.
4. Decorations, medals and honours.
5. Denial of testimony before courts.
6. Denial of a certificate of good conduct.
7. Incompetency to take on the responsibilities of guardianship and trusteeship.

(b) Observations on the implementation of the article

134. The PC contains the sanction of disqualification from holding public functions but does not explicitly cover the disqualification from holding office in State-owned enterprises.
135. To implement the provision under review, Libya should consider establishing explicit procedures for the disqualification of persons convicted of corruption offences from holding office in an enterprise owned in whole or in part by the State.

Article 30 Prosecution, adjudication and sanctions

Paragraph 8

8. Paragraph 1 of this article shall be without prejudice to the exercise of disciplinary powers by the competent authorities against civil servants.

(a) Summary of information relevant to reviewing the implementation of the article

136. Libya indicated that it has implemented the provision under review and referred to the following texts:

Law No. (12) of 2010 on labor relations

Article (155)

Each employee who violates any duties or commit prohibitions stipulated in this law will be fined with the penalty stipulated in this law without prejudice to the right of raising a civil or criminal case against him.

The employee will not be exempted from penalty for committing the action referring to his superior's order except if there is a written order issued to him from his superior; and in this case, the responsibility will be on the official who issued the order.

The employee will be questioned only on his personal error.

Article (157)

Considering the specializations of control authorities, submission to disciplinary board will be by decision from the concerned secretary or public clerk and may suspend the employee from work temporarily if it is for the interest of investigation. The suspension period may not exceed 3 months without decision from the disciplinary board.

If suspension decision is not issued from the concerned secretary, he should be notified during 3 days from its issuance.

If the disciplinary or criminal procedures resulted that the employee is not guilty, he should be returned to work and full salary to be paid during suspension period.

(b) Observations on the implementation of the article

137. Disciplinary sanctions can be taken under article (155) of the Law on labor relations and can be imposed in addition to criminal sanctions in corruption cases.

Article 30 Prosecution, adjudication and sanctions

Paragraph 10

10. States Parties shall endeavour to promote the reintegration into society of persons convicted of offences established in accordance with this Convention.

(a) Summary of information relevant to reviewing the implementation of the article

138. Libya indicated that it has implemented the provision under review since it has special programs to rehabilitate prisoners during their period of imprisonment and has welfare programs for released prisoners and their reintegration into society, which are provided for in the laws and regulations on prisons, the most prominent of which is Law No. (5) of 2005 on correction and rehabilitation institutions.

Law No. (5) of 2005 on correction and rehabilitation institutions

Chapter (6)

Educating and Teaching Inmates

Article (36)

Education shall be compulsory for illiterate inmates and the management of the institution shall work on educating other inmates and train them professionally, taking into account their age, the extent of their readiness, and the duration of the sentence, according to the methods prescribed in the various levels of education in the country. The General People's Committee for Justice and the General People's Committee shall provide the elements of education and training in every institution.

Article (37)

The Judicial Police shall facilitate the means of study and examinations for inmates who have a level of education that allows them to do so and desire to continue studying.

Inmates may only leave the institution to perform their exams with the permission of the competent Chief Prosecutor. This shall only be authorized in the case of offences related to the security of the State after the approval of the Attorney General. The inmates' leaving the institution shall be replaced by assigning examination committees for them within the institution, in accordance with regulations established for this purpose.

Article (38)

A library shall be established in each institution with the aim of educating and improving the manners of inmates. All inmates may make use of it in their spare time. With the consent of the head of the institution, inmates may bring the books, newspapers, and magazines they want at their own expense.

Article (39)

The Judicial Police shall provide various media for inmates and shall work to hold educational and entertainment seminars and lectures for them.

Article (40)

Inmates shall be granted an incentive financial bonus if during their stay in the institution, they succeed in memorizing all or half the Holy Koran or if they receive a public, graduate, or post-graduate degree. Executive regulations shall determine the value of the bonus for each case.

Article (41)

Every institution shall have one or more religious preachers in charge of guidance and assistance to correct the delinquency of inmates and bring them back to society as good citizens.

Criminal Procedure Code

On Exoneration

Article 481, Exoneration, Effect, and Competent Entities –

a. Every person that has been convicted in a felony or a misdemeanour may be exonerated for the verdict and ancillary penalties, and all other related effects, without prejudice to the civil obligations resulting from the conviction.

b. An exoneration ruling shall be issued by the Criminal Court that has jurisdiction over the convicted party's place of residence, upon the subject's request in the form of a petition to the Prosecutor-General. The petition shall include details of the petitioner's identity, the date of the verdict, and place of residency of the petitioner since the verdict.

Article 481 bis, Terms and Conditions for Exoneration - For exoneration to take place:

a. The penalty shall be fully completed or expired and the subject shall submit proof of proper conduct;
b. Six years shall have elapsed from the execution or expiry of the original penalty for a felony, and three years for a misdemeanour. The time shall be doubled in case of recidivism, criminal tendency, professional criminality, and delinquent criminals.

Political crimes are exempted from this condition, and for the purposes of this law, political crimes do not include homicide crimes, and felonies and misdemeanours that are damaging to the state, as prescribed in Title (2), Chapter (1), Section (1), of the Criminal Code.

c. The civil obligation, fines, and all other amounts in the verdict shall have been served, or otherwise a proof that the petitioner does not have the capacity to pay should be presented.

d. The petitioner shall not be subject to any preventive measures.

Article 491, Exoneration by Force of Law - Exoneration shall be granted by force of law:

First: To a person who is sentenced for a felony or a misdemeanour for theft, hiding of stolen goods, fraud, breach of trust, counterfeiting, or for an attempt to commit such crimes, or for the unjustified killing of an animal of another person, or destruction of plantations, twelve years after these penalties have been executed, pardoned, or lapsed, provided the convicted person has not been issued a penalty for a felony or a misdemeanour during these years.

Second: To a person who is sentenced for any other crime, six years after these penalties have been executed or pardoned if the convicted person has not been issued a penalty for a felony or a misdemeanour during these years, except if the convicted person is considered in the verdict as a recidivist, or if the penalty was extinguished by the lapse of time, in which cases twelve years should pass before exoneration is granted by force of law.

(b) Observations on the implementation of the article

139. Libya does not have a dedicated reintegration programme for convicted persons after their release from prison. However, these persons are involved in several educational, training and rehabilitation programmes during the period of their imprisonment. Under the CPC, the convicted person may be rehabilitated after a period following serving the sentence.

140. The reviewers encourage Libya to adopt additional measures to strengthen the reintegration into society of persons convicted of corruption offences.

(c) Technical assistance needs

141. Libya indicated that the following form of technical assistance, if any, will help improve the implementation of the provision under review:

– Assistance in developing and implementing dedicated reintegration programmes for convicted persons after their release from prison.

Article 31 Freezing, seizure and confiscation

Subparagraph 1 (a)

1. Each State Party shall take, to the greatest extent possible within its domestic legal system, such measures as may be necessary to enable confiscation of:

(a) Proceeds of crime derived from offences established in accordance with this Convention or property the value of which corresponds to that of such proceeds;

(a) Summary of information relevant to reviewing the implementation of the article

142. Libya indicated that it has implemented the provision under review and referred to the following texts:

Penal Code

Article 163, Required Confiscation – Confiscation of the following items shall always be required:

1. Items obtained or acquired by the offence for which a conviction or judicial pardon has been issued, unless the owner thereof personally had no part in the offence.
2. Items that the manufacture, use, carrying, possession, or disposition thereof is deemed an offence in itself, even if no conviction is handed down.

Article 164, Permissible Confiscation - Upon sentence to a penalty or in the case of judicial pardon, the following items may be confiscated:

1. Items used or prepared for the commission of the offence;
2. Items that the manufacture, use, carrying, possession, or disposition thereof is deemed an offence, unless the relevant license from the administrative authorities exists.

The preceding provisions of this article shall not apply where the owner personally had no part in the offence.

Law No. (2) of 1979 on economic crimes

Article 35 - In all cases stipulated in Articles (5), (21), (22), (27), (28), (29), (30), (31), (32), (33), the perpetrator shall be fined an amount of money equivalent to double that which was smuggled, embezzled, requested, accepted, promised, offered, obtained, seized, or compelled someone else to give, and the amounts obtained due to the commission of the crimes set forth in the Articles referenced in this Article shall be confiscated or returned.

AML/CFT Law of 2017

ARTICLE 1: DEFINITIONS

For the purpose of this Law, the following phrases and words shall have the meanings indicated in this Law unless otherwise specified:

INSTRUMENTALITIES: Any means used or intended to be used, fully or partially, in any form to commit a criminal offence.

PROCEEDS OF CRIME: Any funds resulting or obtained directly or indirectly from the commission of an offence of money laundering, terrorism financing or a predicate offence, including funds transferred or converted partially or wholly into other funds, any interest, profits, or returns on such funds or values accruing to or arising therefrom.

CONFISCATION: A permanent deprivation of funds based on a court ruling or a decision issued by a legally competent authority by virtue of which the ownership of the confiscated funds is transferred to the State.

ARTICLE 40: GENERAL PROVISION ON SANCTIONS

Without prejudice to any more severe sanctions stipulated in any other laws, the offences under this Law shall be punishable by the penalties set forth in the articles of this section. An accomplice in any of these offences shall be punished by the penalty of the perpetrator and, **in all cases, be sentenced with confiscation of seized funds and instrumentalities**. Any attempt to commit the offence shall be punished by the penalty of the actual offence.

ARTICLE 59: CONFISCATION

1. Without prejudice to the rights of bona fide third parties, in the event of a conviction for a predicate offence or the offences of money laundering or terrorism financing, the Court shall, in addition to the main penalties, order the confiscation of the following:

- a. Proceeds of crime, funds intermingled with, derived from or exchanged for such proceeds, and
- b. Funds which constitute the object of the offence or which provided the means for committing the offence.

2. The court shall issue a ruling for the confiscation of the equivalent in value to funds mentioned in the previous paragraph if the original funds subject to confiscation are inaccessible or were transferred, at a value commensurate with the value of such funds, to a third party that has no knowledge of the source of these funds, or if the funds cannot be confiscated.

3. If the crime is proved but no conviction is made against the perpetrator because his identity is unknown or due to prescription or any other reason, the Office of the Attorney General shall refer the papers of the case to the competent court to issue a confiscation order. The court shall issue a confiscation order if there is sufficient evidence that the funds are one of the funds to be confiscated as provided for in paragraph 1 of this article.

ARTICLE 60: NULLITY OF DISPOSITION OF CONFISCATED FUNDS

Without prejudice to the rights of bona fide third parties, the competent court has the right to declare null and void any contract, agreement or disposition if it is established that the purpose thereof is to prevent the confiscation of funds in accordance with the previous article.

ARTICLE 61: TRANSFER OF CONFISCATED FUNDS TO THE PUBLIC TREASURY

Funds confiscated under this Law shall be transferred to the State Treasury.

(b) Observations on the implementation of the article

143. Articles 163 and 164 of the PC and article 59 of the AML/CFT Law provide for the possibility to confiscate proceeds of crime and instrumentalities used or destined for use in the commission of the offence. Confiscation can be non-conviction based.

144. Libya allows for value-based confiscation.

Article 31 Freezing, seizure and confiscation

Subparagraph 1 (b)

1. Each State Party shall take, to the greatest extent possible within its domestic legal system, such measures as may be necessary to enable confiscation of:

(b) Property, equipment or other instrumentalities used in or destined for use in offences established in accordance with this Convention.

(a) Summary of information relevant to reviewing the implementation of the article

145. Libya referred to its previous answer.

(b) Observations on the implementation of the article

146. Articles 163 and 164 of the PC and article 59 of the AML/CFT Law provide for the possibility to confiscate proceeds of crime and instrumentalities used or destined for use in the commission of the offence. Confiscation can be non-conviction based.
147. Libya allows for value-based confiscation.

Article 31 Freezing, seizure and confiscation

Paragraph 2

2. Each State Party shall take such measures as may be necessary to enable the identification, tracing, freezing or seizure of any item referred to in paragraph 1 of this article for the purpose of eventual confiscation.

(a) Summary of information relevant to reviewing the implementation of the article

148. Libya indicated that it has implemented the provision under review and referred to the following texts:

Criminal Procedure Code

First book

Section II

In the collection of inferences and the prosecution

Chapter One

In judicial control officers and their duties

Article 11, Powers of Judicial Officers – Judicial officers shall search for crimes and their perpetrators and collect evidence that requires investigation and prosecution.

Article 12, Supervision of the Public Prosecution – Judicial officers shall be subordinate to the Public Prosecution and subject to its supervision with regard to the actions of their functions. The Public Prosecution may request the competent authority to consider the matter of any officer who violates his duties or neglects his work, and may request taking disciplinary action against him. This shall not preclude filing criminal proceedings.

Article 19, Collection of Evidence - While collecting evidence, judicial officers shall hear the statements of the persons who have information on criminal facts and perpetrators and ask the defendant about them. They may seek the assistance of physicians and other professionals and request their opinion orally or in writing. They may not make witnesses or experts take the oath unless it is feared that it will not be possible later to hear the testimony under oath.

Article 39, Objective of the Search - Search may only be conducted to search for items related to the crime for which evidence are collected or which is investigated. However, if items whose possession is an offence or that are useful to uncover the truth in another crime incidentally appear during the search, the judicial officer may seize them.

Article 42, Placing Seals - Judicial officers may place seals on locations with signs or items useful for revealing the truth and they may assign a guard for them. They shall notify the Public Prosecution of the same immediately, and the latter may order to remove the seals if it deems the procedure unnecessary. If it deems that the seals shall remain, the property holder may file a grievance before the summary judge with a petition submitted to the Public Prosecution, and thereupon the grievance shall be submitted to the judge immediately.

Article 43, Seizing Crime-Related Items - Judicial officers may seize documents, weapons, instruments, and any object that may have been used to commit the crime, resulted from the commission thereof, or against which the crime was committed, as well as any object useful to reveal the truth. Such items shall be shown to the accused and he shall be asked for comments thereon. A record shall be drawn up to this effect and it shall be signed by the accused or it shall state that the latter refused to sign.

Article 44, Placing Seized Objects in Evidence Pouches – Items and documents seized shall be put in sealed evidence pouches, which shall be tied whenever possible and sealed. A strip in the seal shall show the date of the record drawn up on the seizure of such items and indicate the matter for which such items were seized.

Section III

In the investigation by the examining magistrate

Chapter III

In the transition, inspection and seizure of objects related to the crime

Article 74, Travel of the Investigator – The investigator shall travel to any location whenever he deems it necessary to document the status of locations, items, people, material evidence, and anything that proves the status of the same.

Article 75, Search Locations – Searching houses are an act of investigation and shall only be resorted to in open investigations and based on a charge against a resident of the house to be searched that he committed a felony or misdemeanour or was an accomplice in the commission thereof. Moreover, searching houses may be resorted to if evidence is found that such resident is in possession of items related to the crime. The investigator may search any location and seize documents, weapons, instruments, and all that could have been used to commit the crime or that resulted therefrom, that against which the crime was committed, and anything that serves to reveal the truth.

Article 79, Seizure of Correspondence and Letters – The investigating magistrate may seize in all post offices all correspondence, letters, newspapers, publications, and parcels and all cables in telegraph offices. He may also monitor telephone conversations whenever this serves to reveal the truth.

Article 83, Seizure of Items and Orders to Present them – The investigating magistrate may order the possessor of a certain object to present it if he deems it necessary to seize or check it. The provisions of Article (257) shall apply to violators of such orders, except in cases where the law authorises abstention from testimony.

AML/CFT Law of 2017

ARTICLE 1: DEFINITIONS

For the purpose of this Law, the following phrases and words shall have the meanings indicated in this Law unless otherwise specified:

FREEZING: A provisional prohibition of transfer, conversion, exchange, disposal or movement of funds, equipment or other instrumentalities pursuant to a decision from a competent entity under articles 55, 56 and 83 of this Law for as long as the decision remains applicable. Freezing shall include any dividends, or returns on such funds.

SEIZURE: A provisional prohibition of transfer, conversion, exchange, disposal or movement of funds, equipment or other instrumentalities imposed by a competent authority for as long as the decision remains applicable. Seizure shall include any dividends, or returns on such funds. Article 58 shall govern the management of such funds.

ARTICLE 10: NOTIFYING THE OFFICE OF THE ATTORNEY GENERAL AND OTHER ENTITIES

1. The Unit shall notify the Office of the Attorney General of the results of its analysis where there are reasonable grounds to suspect the occurrence of money laundering, predicate offences or terrorism financing.
2. If necessary, the Unit may notify the competent entities of the results of the analysis of information.
3. The Unit may request the Office of the Attorney General to take provisional measures concerning suspected proceeds of money laundering, terrorism financing, or predicate offences pursuant to the provisions of this Law or the Criminal Procedure Code.

SECTION 5 – PROVISIONAL MEASURES AND CONFISCATION

ARTICLE 53: ACCESS TO INFORMATION AND DATA

The Attorney General, or any general attorney whom he authorizes, may order the review or obtainment of any information or data related to accounts, deposits, funds, or other transactions of financial institutions, non-financial businesses and professions, or non-profit organizations in order to uncover facts related to the offences set forth in this Law.

ARTICLE 54: SEIZURE OF LETTERS PUBLICATIONS AND MONITORING AND RECORDING OF COMMUNICATIONS

1. The Attorney General, or any general attorney whom he authorizes, may order the seizure of all types of letters, printed materials, postal boxes and telegrams, the monitoring of all means of communication, and the recording of any activities done in public or private places if this action facilitates the uncovering of facts related to any offence stipulated in this Law.
2. A seizure, monitoring or recording order must be justified, shall be valid for up to 90 days to be extended by an order issued by a competent court.

ARTICLE 55: FREEZING OF FUNDS AND SUSPENSION OF TRANSACTIONS BY THE UNIT

1. The director of the Unit may order the freezing of funds and the suspension of transactions suspected to be related to money laundering, predicate offences or terrorism financing for a period not to exceed five business days.
2. The Attorney General may, upon request of the Unit, order the extension of freezing of funds and the suspension of transactions for a period up to ten days for further analysis.

ARTICLE 56: FREEZING AND SEIZING OF FUNDS BY THE ATTORNEY GENERAL

1. The Public Prosecutor or his deputy may issue an order to take provisional measures including freezing or seizure of funds suspected to be related to money laundering, its predicate offences, or terrorism financing, and any property of similar value to such proceeds, without prejudice to the rights of bona fide third parties. If the funds are located at a financial institution, the Central Bank shall notify the latter of such an order. Concerned parties may complain before the Court within 30 days of the date of its implementation. The decision of the court regarding such grievance shall be final.
2. Seized funds remain the property of the person who owned the funds when the seizing order was signed, and shall be managed by the Seized and Confiscated Funds Management Office.

ARTICLE 57: SEIZURE BY THE CUSTOMS AUTHORITY

In case of suspicion of money laundering, its related predicate offence, or terrorism financing, or in case of non-declaration or false declaration as stipulated in Article 47, the Customs Authority shall seize the currency and bearer-negotiable instruments for a period not to exceed 45 days and immediately notify the Unit.

The Attorney General may extend the seizure for a similar period upon request of the Unit.

Law No. (11) of 2014 on the establishment of the National Anti-Corruption Commission

Article (4)

The NACC chairman may order a freeze on any funds suspected of being acquired through a crime of corruption. If the crime is substantiated in accordance with the legislation in force, the chairman may order administrative restraint in accordance with Law No. (152) of 1970 on administrative restraint.

Article (5)

The NACC employees who enjoy the capacity of judicial officers may examine the files of suspects. They may also obtain information from official and non-official departments. In the performance of their duties, they may resort to any expert or specialist they deem necessary and they shall have the right to examine all documents, even confidential documents, and summon any person they deem necessary to hear his statement.

(b) Observations on the implementation of the article

149. The CPC (arts. 11-84), the AML/CFT Law (arts. 53 to 57) and the NACC Law (arts. 4 and 5) provide for a wide range of investigative measures available for the identification, tracing, and freezing of criminal proceeds and instrumentalities for the purpose of confiscation in line with the Convention.

Article 31 Freezing, seizure and confiscation

Paragraph 3

3. Each State Party shall adopt, in accordance with its domestic law, such legislative and other measures as may be necessary to regulate the administration by the competent authorities of frozen, seized or confiscated property covered in paragraphs 1 and 2 of this article.

(a) Summary of information relevant to reviewing the implementation of the article

150. Libya indicated that it has implemented the provision under review and referred to the following texts:

Criminal Procedure Code

Article 92, Perishable Items and Items with Exorbitant Costs - If the item seized perishes over time or its preservation entails costs that would consume its value, it may be ordered to sell the same by way of public auction when the requirements of the investigation permit so. In this case, the person with the right to such items may claim the price it sells for within the time limit specified in the previous article.

AML/CFT Law of 2017

ARTICLE 58: MANAGEMENT AND SALE OF SEIZED AND CONFISCATED FUNDS

1. The Public Prosecution shall establish an office called 'The Seized and Confiscated Funds Management Office'. It shall report to the Public Prosecution. It shall manage seized and confiscated funds, collect and maintain all information related to such funds and decisions taken in regard thereto.
2. The Attorney General may authorize the sale of, assets that may depreciate in value as a result of management or high storage cost not commensurate with the value of such assets. In this case, the seizure shall be applied to the proceeds of the sale.

Law No. (152) of 1970 on Administrative Freezing

Article (1)

The administrative freezing rules and procedures set forth in this Law may be followed in case of failure to settle the amounts stated in the following items, whether these amounts are due to the government or public bodies or institutions:

- ...
- d) legally due penalties and misappropriated amounts of public funds
- ...
- i) The other amounts which the laws provide for collection by administrative freezing.

Article 8:

1. When executing the freeze, the representative of the freezing authority must appoint one or more custodians for the seized items. The debtor or holder may be appointed as a custodian.
2. If there is no one to accept custody and the debtor or the holder is present, the representative of the freezing authority shall entrust him with the custody irrespective of his refusal. If he/she is not present, custody shall be given to a municipal officer or the local administration.
3. The custody fees shall be set for the benefit of the non-debtor or non-holder by a decision of the party that issued the seizure order in accordance with the provision of paragraph 2 of article 2.

151. Libya also noted that there are other relevant laws such as Law No. (36) of 2012, as amended by Law No. (47) of 2012 on the Management of Property and Assets of some Persons, in addition to some provisions of Law No. (4) of 2011 amending Law No. (6) of 2006 on the Judicial System and the provisions of the Law no. (3) of 1986 on “from where have you obtained this”

(b) Observations on the implementation of the article

152. Libya has some procedures and legislative provisions relating to the administration of seized items. Seized items may be sold if perishable or if their maintenance requires expenses that exceed their value, pursuant to article 92 of the CPC. Article 58 of the AML/CFT Law provides for the establishment of an office by the Attorney General, called ‘The Seized and Confiscated Funds Management Office’. It shall report to the Public Prosecution and shall manage seized and confiscated funds, collect and maintain all information related to such funds and decisions taken in regard thereto. However, it was confirmed during the joint meeting that this office has not been established yet.
153. To implement the provision under review, Libya should adopt additional measures to improve the regulation of administration of frozen, seized and confiscated property.

Article 31 Freezing, seizure and confiscation

Paragraph 4

4. If such proceeds of crime have been transformed or converted, in part or in full, into other property, such property shall be liable to the measures referred to in this article instead of the proceeds.

(a) Summary of information relevant to reviewing the implementation of the article

154. Libya indicated that it has implemented the provision under review and referred to the following texts:

AML/CFT Law of 2017

ARTICLE 1: DEFINITIONS

For the purpose of this Law, the following phrases and words shall have the meanings indicated in this Law unless otherwise specified:

PROCEEDS OF CRIME: Any funds resulting or obtained directly or indirectly from the commission of an offence of money laundering, terrorism financing or a predicate offence, **including funds transferred or converted** partially or wholly into other funds, any interest, profits, or returns on such funds or values accruing to or arising therefrom.

ARTICLE 56: FREEZING AND SEIZING OF FUNDS BY THE ATTORNEY GENERAL

1. The Attorney General or his deputy may issue an order to take provisional measures including freezing or seizure of funds suspected to be related to money laundering, its predicate offences, or terrorism financing, **and any property of similar value to such proceeds**, without prejudice to the rights of bona fide third parties. If the funds are located at a financial institution, the Central Bank shall notify the latter of such an order. Concerned parties may complain before the Court within 30 days of the date of its implementation. The decision of the court regarding such grievance shall be final.
2. Seized funds remain the property of the person who owned the funds when the seizing order was signed, and shall be managed by the Seized and Confiscated Funds Management Office.

ARTICLE 59: CONFISCATION

1. Without prejudice to the rights of bona fide third parties, in the event of a conviction for a predicate offence or the offences of money laundering or terrorism financing, the Court shall, in addition to the main penalties, order the confiscation of the following:
 - a. Proceeds of crime, funds intermingled with, **derived from or exchanged for such proceeds**, and
 - b. Funds which constitute the object of the offence or which provided the means for committing the offence.
2. **The court shall issue a ruling for the confiscation of the equivalent in value to funds mentioned in the previous paragraph if the original funds subject to confiscation are inaccessible or were transferred, at a value commensurate with the value of such funds, to a third party that has no knowledge of the source of these funds, or if the funds cannot be confiscated.**
3. If the crime is proved but no conviction is made against the perpetrator because his identity is unknown or due to prescription or any other reason, the Office of the Attorney General shall refer the papers of the case to the competent court to issue a confiscation order. The court shall issue a confiscation order if there is sufficient evidence that the funds are one of the funds to be confiscated as provided for in paragraph 1 of this article.

(b) Observations on the implementation of the article

155. Libyan legislation, particularly the AML/CFT Law, allows for the possibility to seize, freeze and confiscate transformed or converted property.

Article 31 Freezing, seizure and confiscation

Paragraph 5

5. If such proceeds of crime have been intermingled with property acquired from legitimate sources, such property shall, without prejudice to any powers relating to freezing or seizure, be liable to confiscation up to the assessed value of the intermingled proceeds.

(a) Summary of information relevant to reviewing the implementation of the article

156. Libya indicated that it has implemented the provision under review and referred to paragraph 1 of Article 59 of the AML/CFT Law, above-mentioned.
157. Libya also reported a lack of statistics or case studies relevant to the implementation of this Article.

(b) Observations on the implementation of the article

158. Libya allows for value-based confiscation, which allows for the possibility to seize and confiscate intermingled property up to the assessed value of the intermingled proceeds.

Article 31 Freezing, seizure and confiscation

Paragraph 6

6. Income or other benefits derived from such proceeds of crime, from property into which such proceeds of crime have been transformed or converted or from property with which such

proceeds of crime have been intermingled shall also be liable to the measures referred to in this article, in the same manner and to the same extent as proceeds of crime.

(a) Summary of information relevant to reviewing the implementation of the article

159. Libya indicated that it has implemented the provision under review and referred to the following texts:

Penal Code

Article 163, Permissible Confiscation - Upon sentence to a penalty or in the case of judicial pardon, the following items may be confiscated:

1. Items used or prepared for the commission of the offence;
2. Items that the manufacture, use, carrying, possession, or disposition thereof is deemed an offence, unless the relevant license from the administrative authorities exists.

The preceding provisions of this article shall not apply where the owner personally had no part in the offence.

AML/CFT Law of 2017

ARTICLE 1: DEFINITIONS

For the purpose of this Law, the following phrases and words shall have the meanings indicated in this Law unless otherwise specified:

PROCEEDS OF CRIME: Any funds resulting or obtained directly or indirectly from the commission of an offence of money laundering, terrorism financing or a predicate offence, including funds transferred or converted partially or wholly into other funds, **any interest, profits, or returns on such funds or values accruing to or arising therefrom.**

ARTICLE 59: CONFISCATION

1. Without prejudice to the rights of bona fide third parties, in the event of a conviction for a predicate offence or the offences of money laundering or terrorism financing, the Court shall, in addition to the main penalties, order the confiscation of the following:

- a. Proceeds of crime, funds intermingled with, **derived from** or exchanged for such proceeds, and
 - b. Funds which constitute the object of the offence or which provided the means for committing the offence.
2. The court shall issue a ruling for the confiscation of the equivalent in value to funds mentioned in the previous paragraph if the original funds subject to confiscation are inaccessible or were transferred, at a value commensurate with the value of such funds, to a third party that has no knowledge of the source of these funds, or if the funds cannot be confiscated.
3. If the crime is proved but no conviction is made against the perpetrator because his identity is unknown or due to prescription or any other reason, the Office of the Attorney General shall refer the papers of the case to the competent court to issue a confiscation order. The court shall issue a confiscation order if there is sufficient evidence that the funds are one of the funds to be confiscated as provided for in paragraph 1 of this article.

(b) Observations on the implementation of the article

160. Libyan legislation, particularly the AML/CFT Law, provides for the possibility to seize, freeze and confiscate income and other benefits derived from criminal proceeds.

Article 31 Freezing, seizure and confiscation

Paragraph 7

7. For the purpose of this article and article 55 of this Convention, each State Party shall empower its courts or other competent authorities to order that bank, financial or commercial

records be made available or seized. A State Party shall not decline to act under the provisions of this paragraph on the ground of bank secrecy.

(a) Summary of information relevant to reviewing the implementation of the article

161. Libya indicated that it has implemented the provision under review and referred to the following texts:

Criminal Procedure Code

Article 43, Seizing Crime-Related Items – Judicial officers may seize documents, weapons, instruments, and any object that may have been used to commit the crime, resulted from the commission thereof, or against which the crime was committed, as well as any object useful to reveal the truth.

Such items shall be shown to the accused and he shall be asked for comments thereon. A record shall be drawn up to this effect and it shall be signed by the accused or it shall state that the latter refused to sign.

Article 83, Seizure of Items and Orders to Present them - The investigating magistrate may order the possessor of a certain object to present it if he deems it necessary to seize or check it. The provisions of Article (257) shall apply to violators of such orders, except in cases where the law authorises abstention from testimony.

AML/CFT Law of 2017

SECTION 5 – PROVISIONAL MEASURES AND CONFISCATION

ARTICLE 53: ACCESS TO INFORMATION AND DATA

The Attorney General, or any general attorney whom he authorizes, may order the review or obtainment of any information or data related to accounts, deposits, funds, or other transactions of financial institutions, non-financial businesses and professions, or non-profit organizations in order to uncover facts related to the offences set forth in this Law.

Law No. (11) of 2014 on the establishment of the National Anti-Corruption Commission

Article (5)

The NACC employees who enjoy the capacity of judicial officers may examine the files of suspects. They may also obtain information from official and non-official departments. In the performance of their duties, they may resort to any expert or specialist they deem necessary and they shall have the right to examine all documents, even confidential documents, and summon any person they deem necessary to hear his statement.

(b) Observations on the implementation of the article

162. It is possible to request that bank, financial and commercial records be made available and seized, pursuant to the general provisions of the CPC (arts. 43 and 84), in addition to article 53 of the AML/CFT Law and article 5 of the NACC Law.

Article 31 Freezing, seizure and confiscation

Paragraph 8

8. States Parties may consider the possibility of requiring that an offender demonstrate the lawful origin of such alleged proceeds of crime or other property liable to confiscation, to the extent that such a requirement is consistent with the fundamental principles of their domestic law and with the nature of judicial and other proceedings.

(a) Summary of information relevant to reviewing the implementation of the article

163. Libya indicated that it has implemented the provision under review and referred to the following texts:

Law no. (10) for the year 1994 on Purging

Article 6

It is considered as illicit gain and robbery any illegal money or commission obtained by one of the persons subject to the provisions of this Law for himself or for another person because of his exploitation of his position or the abuse of his powers of office or because of bias, threat or influence, whether directly or indirectly or the gain is due to currency speculation, trade in commodities or the exercise of prohibited activity.

It is also considered as illicit gain and robbery any increase of the assets after the assumption of the position or the status, when such increase is not commensurate with his resources or the resources of his spouse or his minor children **and fails to prove the legal origin of such increase.**

It is also considered as illicit gain and robbery any money or material benefit obtained by any person through his participation or complicity with any person to whom the provisions of this law shall apply.

Law No. (11) of 2014 on the establishment of the National Anti-Corruption Commission

Article (6)

The NACC may, by a decision of its council, require any person suspected of acquiring illicit funds to indicate the legitimate source of his funds.

(b) Observations on the implementation of the article

164. Article 6 of the NACC Law provides for the possibility for the NACC to require any person suspected of acquiring illicit funds to indicate the legitimate source of their funds.

Article 31 Freezing, seizure and confiscation

Paragraph 9

9. The provisions of this article shall not be so construed as to prejudice the rights of bona fide third parties.

(a) Summary of information relevant to reviewing the implementation of the article

165. Libya indicated that it has implemented the provision under review and referred to the following texts:

Penal Code

Article 163, Required Confiscation – Confiscation of the following items shall always be required:

1. Items obtained or acquired by the offence for which a conviction or judicial pardon has been issued, unless the owner thereof personally had no part in the offence.
2. Items that the manufacture, use, carrying, possession, or disposition thereof is deemed an offence in itself, even if no conviction is handed down.

Article 164, Permissible Confiscation - Upon sentence to a penalty or in the case of judicial pardon, the following items may be confiscated:

1. Items used or prepared for the commission of the offence;
2. Items that the manufacture, use, carrying, possession, or disposition thereof is deemed an offence, unless the relevant license from the administrative authorities exists.

The preceding provisions of this article shall not apply where the owner personally had no part in the offence.

AML/CFT Law of 2017

ARTICLE 56: FREEZING AND SEIZING OF FUNDS BY THE ATTORNEY GENERAL

1. The Attorney General or his deputy may issue an order to take provisional measures including freezing or seizure of funds suspected to be related to money laundering, its predicate offences, or terrorism financing, and any property of similar value to such proceeds, without prejudice to the rights of bona fide third parties. If the funds are located at a financial institution, the Central Bank shall notify the latter of such an order. Concerned parties may complain before the Court within 30 days of the date of its implementation. The decision of the court regarding such grievance shall be final.
2. Seized funds remain the property of the person who owned the funds when the seizing order was signed, and shall be managed by the Seized and Confiscated Funds Management Office.

ARTICLE 59: CONFISCATION

1. Without prejudice to the rights of bona fide third parties, in the event of a conviction for a predicate offence or the offences of money laundering or terrorism financing, the Court shall, in addition to the main penalties, order the confiscation of the following:
 - a. Proceeds of crime, funds intermingled with, derived from or exchanged for such proceeds, and
 - b. Funds which constitute the object of the offence or which provided the means for committing the offence.
2. The court shall issue a ruling for the confiscation of the equivalent in value to funds mentioned in the previous paragraph if the original funds subject to confiscation are inaccessible or were transferred, at a value commensurate with the value of such funds, to a third party that has no knowledge of the source of these funds, or if the funds cannot be confiscated.
3. If the crime is proved but no conviction is made against the perpetrator because his identity is unknown or due to prescription or any other reason, the Office of the Attorney General shall refer the papers of the case to the competent court to issue a confiscation order. The court shall issue a confiscation order if there is sufficient evidence that the funds are one of the funds to be confiscated as provided for in paragraph 1 of this article.

ARTICLE 60: NULLITY OF DISPOSITION OF CONFISCATED FUNDS

Without prejudice to the rights of bona fide third parties, the competent court has the right to declare null and void any contract, agreement or disposition if it is established that the purpose thereof is to prevent the confiscation of funds in accordance with the previous article.

(b) Observations on the implementation of the article

166. The PC (arts. 163 and 164) and the AML/CFE Law (arts. 56, 59 and 60) provide for the protection of the rights of bona fide third parties.

(c) Technical assistance needs

167. Libya indicated that the following form of technical assistance, if any, will help improve the implementation of the provision under review:
 - Assistance in capacity-building and developing mechanisms to improve the management of frozen, seized and confiscated assets.

Article 32 Protection of witnesses, experts and victims

Paragraph 1

1. Each State Party shall take appropriate measures in accordance with its domestic legal system and within its means to provide effective protection from potential retaliation or intimidation for witnesses and experts who give testimony concerning offences established in

accordance with this Convention and, as appropriate, for their relatives and other persons close to them.

(a) Summary of information relevant to reviewing the implementation of the article

168. Libya indicated that it has implemented the provision under review and referred to the following texts:

Law No. (11) of 2014 on the establishment of the National Anti-Corruption Commission

Article (22)

The NACC shall take the necessary measures to protect witnesses, experts, and informants against any attack they may be exposed to due to their testimony, expert opinion, or reporting.

Law no. (20) of 2013 on the establishment of the Administrative Control Authority

Article (29)

The Administrative Control Authority shall take the necessary actions and measures to protect informants of crimes, witnesses, and experts from any attack because of what they have done to communicate, testify, or share expertise.

Penal Code

Article 274, Influencing the Course of a Case - The penalties prescribed by the previous article shall apply to anyone from whom any acts or publications, written or printed, are issued that are such as to influence the judges entrusted with the adjudication of cases brought before any judicial body in the country or before any judicial authority, prosecutor or other officials entrusted with investigation, or are such as to influence witnesses called to give testimony in such cases or investigations, or concerning matters that are such as to prevent a person from revealing first-hand information in the matter, or influence public opinion in favour of or against a party in the case or investigation.

If the purpose of the act is to cause the said influence, the penalty shall be detention for a period not exceeding one year and a fine of no less than LYD 20 and not exceeding LYD 100, or either of the said two penalties.

Criminal Procedure Code

Article 246, Court Questions and Supervision of all Questions Addressed - In any case, the court shall be entitled to address any question to the witnesses if it deems them necessary to reveal the truth or authorise the litigants to do so.

The court shall forbid any irrelevant or unacceptable questions to the witness. It shall also protect the witness from any explicit or implicit statement or any hint that might confuse or intimidate him.

It shall as well have the right not to hear the testimonies of witnesses concerning facts it deems sufficiently clear.

(b) Observations on the implementation of the article

169. With the exception of the provisions of article 22 of the NACC Law and article 29 of the ACA Law, which require both bodies to take the necessary measures to protect witnesses, experts and informants, there is no law in Libya to protect witnesses, experts and informants and Libya does not appear to have taken measures to protect these persons.

170. Libya has not adopted any measures to provide effective protection for witnesses or experts who give testimony concerning offences established in accordance with the Convention.

171. To implement the provision under review, Libya should adopt measures to provide effective protection for witnesses and experts who give testimony concerning offences

established in accordance with the Convention as well as for their relatives and other persons close to them.

Article 32 Protection of witnesses, experts and victims

Subparagraph 2 (a)

2. The measures envisaged in paragraph 1 of this article may include, inter alia, without prejudice to the rights of the defendant, including the right to due process:

(a) Establishing procedures for the physical protection of such persons, such as, to the extent necessary and feasible, relocating them and permitting, where appropriate, non-disclosure or limitations on the disclosure of information concerning the identity and whereabouts of such persons;

(a) Summary of information relevant to reviewing the implementation of the article

172. Libya referred to its previous answer.

(b) Observations on the implementation of the article

173. Libya has not adopted any measures to provide effective protection for witnesses or experts who give testimony concerning offences established in accordance with the Convention.

174. To implement the provision under review, Libya should adopt measures to provide effective protection for witnesses and experts who give testimony concerning offences established in accordance with the Convention as well as for their relatives and other persons close to them.

Article 32 Protection of witnesses, experts and victims

Subparagraph 2 (b)

2. The measures envisaged in paragraph 1 of this article may include, inter alia, without prejudice to the rights of the defendant, including the right to due process:

(b) Providing evidentiary rules to permit witnesses and experts to give testimony in a manner that ensures the safety of such persons, such as permitting testimony to be given through the use of communications technology such as video or other adequate means.

(a) Summary of information relevant to reviewing the implementation of the article

175. Libya indicated that it has not implemented the provision under review.

(b) Observations on the implementation of the article

176. Libya does not permit testimony to be given through the use of communications technology.

177. The reviewers encourage Libya to review its legislation to permit testimony to be given through the use of communications technology.

Article 32 Protection of witnesses, experts and victims

Paragraph 3

3. States Parties shall consider entering into agreements or arrangements with other States for the relocation of persons referred to in paragraph 1 of this article.

(a) Summary of information relevant to reviewing the implementation of the article

178. Libya indicated that it did not enter into such agreements, though nothing in the Libyan legal system prevents that.

(b) Observations on the implementation of the article

179. Libya did not enter into any agreements with respect to the relocation of persons.
180. To implement the provision under review, Libya should consider entering into agreements for the relocation of persons.

Article 32 Protection of witnesses, experts and victims

Paragraph 4

4. The provisions of this article shall also apply to victims insofar as they are witnesses.

(a) Summary of information relevant to reviewing the implementation of the article

181. Libya referred to its answer under paragraph 1 of this article.

(b) Observations on the implementation of the article

182. Libya has not adopted any measures to provide effective protection for witnesses or experts who give testimony concerning offences established in accordance with the Convention.
183. To implement the provision under review, Libya should adopt measures to provide effective protection for witnesses and experts who give testimony concerning offences established in accordance with the Convention as well as for their relatives and other persons close to them. These measures should cover victims insofar as they are witnesses.

Article 32 Protection of witnesses, experts and victims

Paragraph 5

5. Each State Party shall, subject to its domestic law, enable the views and concerns of victims to be presented and considered at appropriate stages of criminal proceedings against offenders in a manner not prejudicial to the rights of the defence.

(a) Summary of information relevant to reviewing the implementation of the article

184. Libya indicated that it has not implemented the provision under review.

(b) Observations on the implementation of the article

185. Libya's legislation does not enable the views and concerns of victims to be presented and considered at appropriate stages of criminal proceedings against offenders.

186. To implement the provision under review, Libya should enable the views and concerns of victims to be presented and considered at appropriate stages of criminal proceedings against offenders.

(c) Technical assistance needs

187. Libya indicated that the following form of technical assistance, if any, will help improve the implementation of the provision under review:

- The need for a model legislation on the protection of witnesses and reporting persons.

Article 33 Protection of reporting persons

Each State Party shall consider incorporating into its domestic legal system appropriate measures to provide protection against any unjustified treatment for any person who reports in good faith and on reasonable grounds to the competent authorities any facts concerning offences established in accordance with this Convention.

(a) Summary of information relevant to reviewing the implementation of the article

188. Libya indicated that it has partially implemented the provision under review and referred to the following texts:

Law No. (11) of 2014 on the establishment of the National Anti-Corruption Commission

Article (22)

The NACC shall take the necessary measures to protect witnesses, experts, and informants against any attack they may be exposed to due to their testimony, expert opinion, or reporting.

Law no. (20) of 2013 on the establishment of the Administrative Control Authority

Article (29)

The Administrative Control Authority shall take the necessary actions and measures to protect informants of crimes, witnesses, and experts from any attack because of what they have done to communicate, testify, or share expertise.

(b) Observations on the implementation of the article

189. Libya has not foreseen the legal protection of reporting persons.

190. To implement the provision under review, Libya should consider adopting the necessary measures to provide protection against any unjustified treatment for reporting persons.

(c) Technical assistance needs

191. Libya indicated that the following form of technical assistance, if any, will help improve the implementation of the provision under review:
- The need for a model legislation on the protection of witnesses and reporting persons.

Article 34 Consequences of acts of corruption

With due regard to the rights of third parties acquired in good faith, each State Party shall take measures, in accordance with the fundamental principles of its domestic law, to address consequences of corruption. In this context, States Parties may consider corruption a relevant factor in legal proceedings to annul or rescind a contract, withdraw a concession or other similar instrument or take any other remedial action.

(a) Summary of information relevant to reviewing the implementation of the article

192. Libya indicated that it has implemented the provision under review and referred to the following texts:

Civil Code

Article (125) Contract Declared Void on Grounds of Fraudulent Misrepresentation

1. A contract may be declared void on the grounds of fraudulent misrepresentation when the artifices practiced by one of the parties, or by his representative, are of such gravity that, but for them, the other party would not have concluded the contract.
2. Intentional silence on the part of one of the parties as to a fact or as to the accompanying circumstances constitutes fraudulent misrepresentation if it can be shown that the contract would not have been concluded by the other party had he had knowledge thereof.

Article (126) Fraudulent Misrepresentation by a Third Party

A party who is the victim of fraudulent misrepresentation by a third party can only demand the avoidance of the contract if it is established that the other contracting party was aware of, or would have been aware of, the fraudulent misrepresentation.

Article (135) Contract contrary to public policy or morality

A contract is void if its object is contrary to public policy or morality.

Article (136) Assumption of obligation of unlawful consideration

The contract is void if an obligation is assumed for an unlawful consideration.

Article (220) Discharge of debtor from liability

1. The debtor may by agreement accept liability for unforeseen events and for cases of force majeure.
2. The debtor may by agreement be discharged from all liability for his failure to perform the contractual obligation, with the exception of liability arising from his fraud or gross negligence. The debtor may, nevertheless, stipulate that he shall not be liable for fraud or gross negligence committed by persons whom he employs for the performance of the obligation.
3. Any clause discharging a person from responsibility for unlawful acts is void.

AML/CFT Law of 2017

ARTICLE 60: NULLITY OF DISPOSITION OF CONFISCATED FUNDS

Without prejudice to the rights of bona fide third parties, the competent court has the right to declare null and void any contract, agreement or disposition if it is established that the purpose thereof is to prevent the confiscation of funds in accordance with the previous article.

Law no. (3) of 1986 on “from where have you obtained this”

Article 6

The court shall order the return of the assets that prove to be an illicit gain and the amounts which return was ordered are due to the public treasury and shall be collected using the administrative means prescribed for the collection of public funds.

Law no. (10) of 1994 on Purging

Article 11

3. Death shall not prevent the recovery of assets derived from illicit gains, even after its succession to the heirs, if so is established by a court decision issued by the People's Court.

Article 12

The Public Prosecution Office may implead the spouse and his/her children or any other person in the civil part of the case if it deems that he/she has benefited from an illicit gain, in order to issue a judgment that shall be enforceable against them and on their assets including those acquired from illicit gain. The Office may implead any person who participated with the accused in the illicit gain or colluded with the accused to conceal the proceeds thereof, and sentence them jointly.

(b) Observations on the implementation of the article

193. Corruption is a factor for invalidating a contract, based on Article 136 of the Civil Code. Any contract, agreement or disposition found to be intended to prevent the confiscation of funds may also be rescinded (article 60 of AML/CFT Law).

Article 35 Compensation for damage

Each State Party shall take such measures as may be necessary, in accordance with principles of its domestic law, to ensure that entities or persons who have suffered damage as a result of an act of corruption have the right to initiate legal proceedings against those responsible for that damage in order to obtain compensation.

(a) Summary of information relevant to reviewing the implementation of the article

194. Libya indicated that the Libyan legislation imposes a civil obligation on the person who causes a prejudice in the form of reparations the injured party when so requested. This provision is general and may include parties affected by corruption cases. Libya referred to the following text:

Criminal Procedure Code

Article 17, Prosecution by Civil Right – Any person who claims damage from the crime shall present himself as a civil-right plaintiff in the complaint he files before the Public Prosecution or a judicial officer. In the latter case, the said judicial officer shall transfer the complaint to the Public Prosecution with the minutes he prepares.

Upon referring the case to the investigating judge, the Public Prosecution shall refer the said case with it.

Article 193, Filing Civil Case - Civil cases of whatever value may be filed to compensate the damage resulting from the crime before criminal courts for consideration alongside the criminal case.

Article 224, Civil Plaintiff - Whoever incurs damages from the crime may claim civil rights before the court ruling upon the criminal action in whatever status the action is, until the decision to close pleadings is issued pursuant to Article (248). This shall not be accepted before the Court of Appeal.

A civil action shall be initiated by informing the accused via a record or request during the hearing where the action is ruled upon, if the accused is present. Otherwise, the action shall be deferred and the plaintiff ordered to notify the accused about his requests.

If he is already accepted in the investigation in this capacity, the referral of the criminal case to the court shall include the civil case.

The civil plaintiff's interference shall not entail a delay in ruling on the criminal action. Otherwise, the court shall not accept his intervention.

Penal Code

Article 163, Required Confiscation - Confiscation of the following items shall always be required:

1. Items obtained or acquired by the offence for which a conviction or judicial pardon has been issued, unless the owner thereof personally had no part in the offence.
2. Items that the manufacture, use, carrying, possession, or disposition thereof is deemed an offence in itself, even if no conviction is handed down.

Civil Code

Article (166) General Rule

Every fault which causes injury to another imposes an obligation to make reparation upon the person by whom it is committed.

Article (174) Method of payment of damages

1. The Judge shall decide the method of payment of damages in accordance with the circumstances. The damages may be paid by instalments, or in the form of a regular periodical payment, in either of which cases the debtor may be ordered to provide security.
2. Damage, will consist of a money payment. Upon the demand of the victim, however, the judge may, in accordance with the circumstances, order that the damage be made good by the restoration of the original position, or by the performance of a prestation that has a connection with the unlawful act.

(b) Observations on the implementation of the article

195. Libya has implemented the provision under review. The CPC establishes the right of the affected party to claim civil compensation for damage caused by the accused (arts. 17, 193 and 224).

Article 36 Specialized authorities

Each State Party shall, in accordance with the fundamental principles of its legal system, ensure the existence of a body or bodies or persons specialized in combating corruption through law enforcement. Such body or bodies or persons shall be granted the necessary independence, in accordance with the fundamental principles of the legal system of the State Party, to be able to carry out their functions effectively and without any undue influence. Such persons or staff of such body or bodies should have the appropriate training and resources to carry out their tasks.

(a) Summary of information relevant to reviewing the implementation of the article

196. Libya indicated that it has implemented the provision under review and referred to the following texts:

Law No. (11) of 2014 on the establishment of the National Anti-Corruption Commission
Article (1)

A general commission called “the National Anti-Corruption Commission” (NACC) shall be established in accordance with the provisions of this law. The NACC shall possess independent legal personality and financial liability and it shall report to the legislature.

Article (3) Competences

The NACC shall assume its competences as follows:

1. Prepare proposals regarding the amendment of anti-corruption legislation that the NACC determines the need to amend, and refer the same to the NACC Council for examination.
2. Review and evaluate the anti-corruption reports issued by local, regional, international organisations, examine the status of the Libyan government therein, and propose the appropriate procedures in their regard.
3. Receive, examine, and keep financial disclosures, and request any data or clarification related thereto from concerned persons or competent entities.
4. Contribute to adding names to the receivership lists in accordance with the provisions of Law No. (36) of 2012 amended by Law No. (47) of 2012 on the management of the funds and properties of certain persons.
5. Coordinate with the Central Bank of Libya and the relevant entities to reclaim the funds resulting from corruption inside and outside the country.
6. Represent Libya before international and regional anti-corruption organisations and conferences.
7. Investigate and detect crimes of corruption, in particular:
 - a. Crimes stipulated by Law No. (2) of 2005 on combating money laundering.
 - b. Crimes against public funds and public trust stipulated by the Penal Code.
 - c. Economic crimes stipulated by Law No. (2) of 1979 and the amendments thereof.
 - d. Crimes of misuse of position or occupation, mediation, and favouritism.
 - e. Crimes stipulated by Law No. (3) of 1986 on illicit gains;
 - f. Crimes stipulated by Law No. (10) of 1994 on purging.
 - g. Any other act set forth by the United Nations Convention against Corruption (UNCAC).

Article (8)

The NACC shall be chaired by a person renowned for his competency, honesty, integrity, and expertise in the field of transparency and anti-corruption. The appointment, relief from office, and acceptance of resignation of such person shall be effected by a decision of the legislature. He shall be treated as a minister in terms of salary and benefits.

Article (9)

The term of mandate of the NACC chairman, deputy, and board of directors shall be for a period of three years, renewable one time.

Article (10)

The NACC chairman shall not be dismissed. His mandate shall only be terminated in the following cases:

1. Resignation
2. Attaining of retirement age
3. Proven inability to perform duties due to medical reasons.
4. Consensual assignment to another position or duty.
5. Issuance of a disciplinary decision of dismissal.

Article (15)

The NACC chairman shall manage the NACC’s affairs and handle the administrative and technical oversight of its work and employees. In this respect, he shall have the power of a minister as stipulated by the laws and regulations applicable to workers. He shall have the power vested in the Minister of Finance with respect to the use of appropriations in the NACC budget. He shall, in particular:

1. Represent the NACC in its relations with third parties and before the judiciary.
2. Issue the necessary decisions to carry out the NACC’s functions and achieve its objectives.
3. Propose the NACC’s draft annual budget.
4. Form the committees necessary for the work of the NACC and determine their functions.
5. Prepare reports on the NACC’s activity and submit them to the legislature.
6. Sign contracts concluded by the NACC.
7. Any other tasks related to the work of the NACC.

The NACC chairman may delegate to his deputy some of his competences stipulated by this law.

Article (23)

The NACC shall have an independent budget integrated into the general budget of the State. The preparation thereof shall be subject to the rules and procedures governing the general budget of the State.

Law no. (20) of 2013 on the establishment of the Administrative Control Authority**Article (1)**

An authority called the "Administrative Control Authority" shall be established in accordance with the provisions of this Law. It shall possess legal personality and independent financial liability. It shall be subordinate to the legislature.

Article (3)

The Administrative Control Authority shall be presided over by a person renowned for competence, honesty, and integrity. He shall be appointed and relieved of his post and his resignation shall be accepted by virtue of a decision by the legislature. In terms of salary and benefits, he shall be treated like a minister.

Article (4)

The term of the chairman of Administrative Control Authority shall end for any of the following reasons:

1. Resignation
2. Attaining retirement age
3. Proven inability to perform duties due to medical reasons.
4. Consensual assignment to another position or duty.
5. Dismissal from service by virtue of a decision from the legislature.

Article (9)

The chairman of the Administrative Control Authority shall manage the Authority's affairs and handle the administrative and technical oversight of its work and employees. In this respect, he shall have the power of a minister as stipulated by the laws and regulations applicable to workers. He shall have the power vested in the Minister of Finance with respect to the use of appropriations in the Authority's budget. He shall, in particular:

1. Propose plans, programs, and methods for the exercise of supervisory work and follow up on their implementation.
2. Form committees that undertake exercising their assigned tasks stipulated in this law.
3. Issue decisions regarding the granting of membership status and the status of judicial officers to the employees of the Authority and other members of the committees in charge of the tasks assigned to the Authority.
4. Propose the Authority's draft annual budget.
5. Issue regulations and decisions organising the work of the Authority, the affairs of its members and staff, financial and administrative affairs, procurement, and contracting.
6. Represent the Authority in its relations with third parties and before the judiciary.
7. The chairman of the Authority may delegate some of these competences to his deputy and his deputy shall replace him in his absence.

Article (24)

The Authority aims to achieve an effective administrative control over the executive bodies in the state and monitor their works to confirm the extent to which they achieve their responsibilities and perform their duties in their areas of competence and implement the laws and regulations. It also aims to ensure that in the performance of their works, employees strive to serve citizens. The Authority further works to detect and investigate crimes and offences related to the performance of public functions duties and the dignity thereof, and to take the necessary measures to hold violators accountable.

In order to achieve these purposes, the Authority shall exercise the competencies stipulated in this law for ministries, authorities, local administration units, Libyan embassies and consulates overseas, public and private bodies and institutions of public interest, and private sector companies and agencies that exercise works for the aforementioned authorities, as well as the parties to which the State contributes or supervises.

Article (25)

Without prejudice to the right of the administrative body to follow up, supervise, examine complaints, and investigate, the Authority shall exercise its competencies in these matters as specified below:

1. Conduct the necessary investigations and periodically inspect all entities subject to its control to ensure that the performance of tasks assigned to them is in accordance with the legislation in force and that their employees are performing their jobs without mediation, favoritism, or abuse of their positions.
2. Follow up on the performance of these bodies, combat administrative lawlessness, and conduct necessary investigations to detect any administrative unfair practice contrary to laws and regulations against any of the workers.
3. Detect administrative crimes and violations committed by the workers of bodies that fall under the control of the Authority during the exercise of their work or because of it, and take the necessary measures to control such crimes and violations.
4. Detect crimes and violations committed by individuals who are not mentioned in the preceding paragraph, in the event they target the performance of job duties or public service or harm the public interest, and take the necessary measures to control such crimes and violations.
5. Conduct the necessary investigations to reveal the causes of deficiencies at work in various fields performed by the state, uncover the defects of the applicable regulations that would obstruct the proper functioning of state facilities, and propose solutions to avoid defects.
6. Research and study the complaints and reports submitted by individuals, civil society organizations, or any party in the country to the Authority and act upon them in the light of the results of the research and study.
7. Study and discuss the complaints, investigations, media polls, views, and proposals relating to the functioning of the entities subject to the control of the Authority as published in newspapers and various media outlets.
8. Study laws, regulations, decisions, and systems in force to ensure their adequacy for the purposes for which they were legislated, propose amendments leading to avoid their shortcomings, investigate the causes of deficiencies, inaction, or deviation in application, and propose ways to correct and avoid them.
9. Provide an opinion about the candidates for senior posts at the request of the competent authorities.

Article (26)

The following bodies shall be subordinate to the control of the Administrative Control Authority:

1. The Cabinet, ministries, and all administrative units financed from the general budget.
2. The public bodies and institutions, authorities, independent bodies, and administrative units subordinate to the Cabinet and ministries.
3. Disciplinary agencies and entities.
4. Land, air, and sea ports of entry.
5. Public companies.
6. Companies in which the State or a public body, institution, or company contributes not less than 25% of its capital, whether inside or outside Libya.
7. Production companies, units, and services acquired if they did not yet pay their obligations for the acquisition.
8. The liquidation committees of public companies.
9. Private bodies, institutions, and associations of public interest that the State supports or contributes to their budget.
10. Libyan embassies and consulates abroad and the like.
11. Any other entity subject to the control of the Authority by virtue of a decision by the legislature or at the request of the government.

Law No. (19) for the year 2013 on the Reorganization of the Audit Bureau

Article 1

The Audit Bureau is an independent authority affiliated with the legislature.

Article (2)

The Audit Bureau shall serve the following purposes:

1. Exert effective oversight on finance and verifying the convenience of manual and electronic internal control systems, the safety of financial transactions, accounting entries, and financial reports in accordance with the legislation in force;
2. Reveal deficiencies and shortcomings in the laws and regulations in force;
3. Reveal financial irregularities in the authorities subject to the control of the Audit Bureau;
4. Evaluate the performance of the authorities subject to the control of the Audit Bureau and ensure sure that they are employing resources economically, efficiently and effectively.

Article (5)

The Chairman of the Audit Bureau shall be a person renowned for efficiency and integrity. The Legislature shall appoint him, relieve him of his duties, and accept his resignation, and he shall have the same salary and benefits as a Minister.

Article (7)

The Chairman's term shall expire upon:

1. Resignation;
2. Reaching the age of retirement;
3. Proven incapacity to perform job requirements due to ill health;
4. Assignment to another task or job, with his consent;
5. The issuance of a decision by the Legislature relieving him of his duties.

AML/CFT Law of 2017

ARTICLE 5: ESTABLISHMENT OF THE UNIT

1. An independent unit with a legal personality called the "Libyan Financial Information Unit" shall be created under the provisions of this Law. It shall have the legal personality and submits periodic reports on its activities to the National Committee for Combating Money Laundering and Terrorism Financing.
2. The Unit shall assume the role of a national center in charge of receiving and analyzing suspicious transactions reports and any other information related to money laundering, predicate offences and terrorism financing. It shall also disseminate the results of its analysis to the competent entities.
3. The Unit shall be headed by a director appointed by a decision of the Committee based on the recommendation of its chairman for a renewable mandate of five years. The director may not be dismissed except by a decision of the Committee issued by a two-thirds majority of its members.
4. The director shall be assisted by an adequate number of employees and contractors, who shall be appointed by a decision of the director of the Unit.
5. The Unit prepares its annual budget and submits it to the Commission for approval and the budget of the Unit is funded as part of the Central Bank budget.
6. A decision shall be issued to organize the work of the Unit by the Committee on the recommendation of the director of the Unit.

(b) Observations on the implementation of the article

197. Libya has established an independent specialized commission to prevent and combat corruption, pursuant to Law No. 11 of 2014 on the establishment of the National Anti-Corruption Commission (NACC). In addition, there are several government agencies involved in several aspects of the fight against corruption, each one in its respective areas of competence. These agencies include: The Office of the Attorney, the Administrative Control Authority (ACA), the Audit Bureau and the Libyan Financial Information Unit (FIU). The legislation provides for the independence of these agencies.
198. It was also indicated during the joint meeting that Libya is considering the establishment of a specialized anti-corruption court and prosecution.
199. Libya has not provided sufficient information to ensure that the structure of various law enforcement and criminal justice institutions, is functioning effectively, and that these institutions are provided with adequate training and resources and are practically granted the necessary independence in line with the Convention.

200. To implement the provision under review, Libya should ensure that the various anti-corruption institutions are provided with adequate training and resources and ensure their independence in line with the Convention.

(c) Technical assistance needs

201. Libya indicated that the following form of technical assistance, if any, will help improve the implementation of the provision under review:
- The need for good practices in the establishment of a specialized anti-corruption court and prosecution;
 - Specialized training for the National Anti-Corruption Commission.

Article 37 Cooperation with law enforcement authorities

Paragraph 1

1. Each State Party shall take appropriate measures to encourage persons who participate or who have participated in the commission of an offence established in accordance with this Convention to supply information useful to competent authorities for investigative and evidentiary purposes and to provide factual, specific help to competent authorities that may contribute to depriving offenders of the proceeds of crime and to recovering such proceeds.

(a) Summary of information relevant to reviewing the implementation of the article

202. Libya indicated that it has implemented the provision under review and referred to the following texts:

Penal Code

Article 228 bis – The briber or intermediary shall be exempted from the penalty if he notifies the authorities of the offence before it occurs and before any proceeding is initiated. If the notification takes place after proceedings are initiated, it must lead to the conviction of the offenders.

Law No. (2) of 1979 on economic crimes

Article 24 - The briber or intermediary shall be exempted from the punishment if he informs the authorities of the crime before any action is taken in this regard.

AML/CFT Law of 2017

ARTICLE 52: EXEMPTION FROM OR SUSPENSION OF A PENALTY

Without prejudice to the provisions of article 59, the court may:

1. Exempt or lessen the penalties of imprisonment and fine set forth in this Law if the perpetrator of the money laundering or terrorism financing offence takes the initiative to report to competent entities the offence and the other persons involved before the competent entities become aware of the offence.
2. Decide to suspend the penalty if the reporting comes after the competent entities became aware of the offence and the persons involved, if such report assisted in arresting the other perpetrators or seizing the instrumentalities and proceeds of the crime.

Law no. (10) for the year 1994 on Purging

Article 20

Any person who in any way conceals money obtained from an unlawful gain or is convicted of its refund in accordance with the provisions of this law, shall be punished in accordance with the provisions of the law of robbery and theft. The accused may be exempted from punishment but not from the refund, if he assists

during the search or investigation in revealing the truth about that money or other funds obtained from illicit gain.

203. Libya indicated that no statistics relating to the implementation of this Article are available.

(b) Observations on the implementation of the article

204. The cases in which persons involved in the commission of corruption offences are encouraged to report them are limited to the exemption from the penalty for bribery, money laundering and concealment or mitigating the penalty in the case of money laundering. Persons cooperating with justice can benefit from an exemption from punishment if they report the offence before an action is taken from the authorities (art. 24 of the Law on Economic crimes in relation to the briber and the intermediary in bribery offences). Such persons can also benefit from an exemption or a mitigation from punishment if they report the offence before it comes to the knowledge of the authorities (art. 52 of the AML/CFT Law). In money-laundering cases, if the offence has been reported after it has come to the knowledge of the authorities, and that has led to the seizure of the instrumentalities and the criminal proceeds or the arrest of the other perpetrators, the court can suspend the sentence (art. 52 of the AML/CFT Law).
205. To implement the provision under review, Libya should adopt appropriate measures to encourage the cooperation of persons who participate or who have participated in the commission of offences established in accordance with the Convention, beyond bribery money laundering and concealment, in accordance with article 37, para. 1.

Article 37 Cooperation with law enforcement authorities

Paragraph 2

2. Each State Party shall consider providing for the possibility, in appropriate cases, of mitigating punishment of an accused person who provides substantial cooperation in the investigation or prosecution of an offence established in accordance with this Convention.

(a) Summary of information relevant to reviewing the implementation of the article

206. Libya referred the previous answer.

(b) Observations on the implementation of the article

207. There is no provision in the Libyan legislation that explicitly provides for the possibility of mitigating punishment of an accused person who provides substantial cooperation in the investigation or prosecution of an offence established in accordance with the Convention, except in money laundering cases (art. 52 of the AML/CFT Law).
208. To implement the provision under review, Libya should consider providing for the possibility of mitigating punishment of an accused person who provides substantial cooperation in the investigation or prosecution of an offence established in accordance with the Convention, beyond money laundering.

Article 37 Cooperation with law enforcement authorities

Paragraph 3

3. Each State Party shall consider providing for the possibility, in accordance with fundamental principles of its domestic law, of granting immunity from prosecution to a person who provides substantial cooperation in the investigation or prosecution of an offence established in accordance with this Convention.

(a) Summary of information relevant to reviewing the implementation of the article

209. Libyan legislation does not grant immunity from prosecution to persons who help in the investigation of an offence criminalized under this Convention. Under Libyan legislation, the defendant is only exempted from punishment in the cases specified by law, as in article 24 of the Law on economic crimes.

(b) Observations on the implementation of the article

210. There is no provision in the Libyan legislation that grants immunity from prosecution to a person who provides cooperation in the investigation or prosecution of an offence established in accordance with this Convention.
211. To implement the provision under review, Libya should consider providing for the possibility of granting immunity from prosecution to a person who provides substantial cooperation in the investigation or prosecution of an offence established in accordance with the Convention.

Article 37 Cooperation with law enforcement authorities

Paragraph 4

4. Protection of such persons shall be, mutatis mutandis, as provided for in article 32 of this Convention.

(a) Summary of information relevant to reviewing the implementation of the article

212. Libya referred to the following texts:

Law No. (11) of 2014 on the establishment of the National Anti-Corruption Commission

Article (22)

The NACC shall take the necessary measures to protect witnesses, experts, and informants against any attack they may be exposed to due to their testimony, expert opinion, or reporting.

Law no. (20) of 2013 on the establishment of the Administrative Control Authority

Article (29)

The Administrative Control Authority shall take the necessary actions and measures to protect informants of crimes, witnesses, and experts from any attack because of what they have done to communicate, testify, or share expertise.

(b) Observations on the implementation of the article

213. With the exception of the provisions of article 22 of the NACC Law and article 29 of the ACA Law, which require both bodies to take the necessary measures to protect witnesses, experts and informants, there is no law in Libya to protect witnesses, experts and informants and Libya does not appear to have taken measures to protect these persons.
214. Libya has not adopted any measures to provide effective protection to crime perpetrators who cooperate with justice.
215. To implement the provision under review, Libya should adopt measures to provide effective protection to perpetrators who cooperate with justice and to their relatives and people close to them.

Article 37 Cooperation with law enforcement authorities

Paragraph 5

5. Where a person referred to in paragraph 1 of this article located in one State Party can provide substantial cooperation to the competent authorities of another State Party, the States Parties concerned may consider entering into agreements or arrangements, in accordance with their domestic law, concerning the potential provision by the other State Party of the treatment set forth in paragraphs 2 and 3 of this article.

(a) Summary of information relevant to reviewing the implementation of the article

216. Libyan legislation does not prevent the conclusion of such agreements according to legal and constitutional regulations in force in this regard.
217. Libya referred to the following text:

AML/CFT Law of 2017

ARTICLE 62: OBLIGATION OF INTERNATIONAL COOPERATION

Competent entities shall provide assistance to their counterparts in other countries for the purposes of extradition and mutual legal assistance in investigations and criminal procedures related to money laundering and terrorism financing in accordance with rules set out by the Criminal Procedure Code and bilateral or multilateral agreements to which Libya is a party, or in accordance with the principle of reciprocity, provided this does not conflict with the fundamental principles of the Libyan legal system.

(b) Observations on the implementation of the article

218. Libya can enter into ad hoc agreements to provide for the possibility to exempt from punishment persons cooperating with justice located abroad, within the applicable legal conditions.

Article 38 Cooperation between national authorities

Each State Party shall take such measures as may be necessary to encourage, in accordance with its domestic law, cooperation between, on the one hand, its public authorities, as well as its

public officials, and, on the other hand, its authorities responsible for investigating and prosecuting criminal offences. Such cooperation may include:

(a) Informing the latter authorities, on their own initiative, where there are reasonable grounds to believe that any of the offences established in accordance with articles 15, 21 and 23 of this Convention has been committed; or

(b) Providing, upon request, to the latter authorities all necessary information.

(a) Summary of information relevant to reviewing the implementation of the article

219. Libya indicated that it has implemented the provision under review and referred to the following texts:

Criminal Procedure Code

Article 16, Notification Duties of Public Employees and the Like – Any public employee or person assigned to carry out a public service who is aware of a crime for which the Public Prosecution may file a case without a complaint or request, during or because the performance of his job, shall immediately inform the Public Prosecution or the nearest judicial officer about it.

Any person who assisted, by virtue of his medical profession, in cases that indicate the occurrence of a crime, shall submit a report thereon to the Public Prosecution or a judicial officer within twenty-four hours of providing the assistance. If he fears delay, he shall submit his report immediately. The report shall include the name of the person or persons who have requested his help, the place and time of the assistance, the name and descriptions of the victim and his necessary data, and other information that enables knowing the incident's circumstances, causes, means, and results.

Article 19, Collection of Evidence – While collecting evidence, judicial officers shall hear the statements of the persons who have information on criminal facts and perpetrators and ask the defendant about them. They may seek the assistance of physicians and other professionals and request their opinion orally or in writing.

They may not make witnesses or experts take the oath unless it is feared that it will not be possible later to hear the testimony under oath.

Penal Code

Article 258, Failure to Report Information - If, during or because of the exercise of his duties, a public official becomes aware of the occurrence of an offence, in whose regard it is necessary to initiate proceedings without waiting for a complaint from the injured party, or neglects or delays to inform the competent authorities, he shall be punished by detention for a period not exceeding one year or by a fine of between LYD 10 and 50.

The penalty shall be imprisonment not exceeding two years if the act pertains to a felony the penalty for which is death, life imprisonment, or imprisonment whose maximum duration is no less than 10 years.

The penalty shall be detention if the act is committed by a judicial officer, regardless of how he becomes aware of the offence.

The same penalty shall apply to judicial officers or other officials responsible for the receipt of complaints or for service of process if they neglect or delay in referring the matter to the competent authority.

Anyone who commits the act by due to the necessity to save himself or one of his relatives from grave harm to his liberty or honour shall not be subject to punishment.

Law No. (11) of 2014 on the establishment of the National Anti-Corruption Commission

Article (5)

The NACC employees who enjoy the capacity of judicial officers may examine the files of suspects. They may also obtain information from official and non-official departments. In the performance of their duties, they may resort to any expert or specialist they deem necessary and they shall have the right to examine all documents, even confidential documents, and summon any person they deem necessary to hear his statement.

Article (20)

For the performance of the duties entrusted to the NACC in accordance with the provisions of this law, the NACC may resort to any member of the police or other law enforcement services that it deems appropriate. It may also resort to experts on matters related to its duties from outside its personnel, by virtue of a decision issued by the NACC chairman.

Article (21)

If, during the exercise of its competences set forth by this law, the NACC detects a criminal offence, be it related to crimes of corruption or to ordinary crimes, it shall refer such crime to the Attorney General for investigation and necessary action.

If the NACC detects any financial or administrative violations, it shall refer the papers to the Administration Control Authority to take action in accordance with its competences.

Article (24)

Any person who possesses serious information or documents regarding a crime of corruption shall report the same to the NACC.

Law no. (20) of 2013 on the establishment of the Administrative Control Authority

Article (27)

In order to exercise its competences, the Administrative Control Authority shall employ the necessary means to investigate, detect, and control violations, crimes, and shortcomings at work. For this purpose, the Authority may conduct individual oversight if there is a serious justification requiring it, provided this measure is taken by virtue of a written authorization from the Authority chairman.

Article (28)

The Administrative Control Authority may ask for police assistance to conduct the investigations and oversight referred to in the previous article. In all cases, a report indicating the incident and the outcome of the investigation, surveillance, or control conducted by the Authority shall be issued by security services.

Article (30)

The Administrative Control Authority may, at any time, undertake a spot inspection of the entities subject to its control. The Authority member shall have the right to review all documents relating to those entities, even if they are confidential. It shall also have the right to keep the accounts, documents, records, and other papers and summon whoever it deems fit in order to hear his statement.

Article (42)

In the event the investigation reveals the occurrence of a criminal offence or the facts being investigated administratively constitute criminal offences, the Authority shall refer the documents to the competent Public Prosecution within a period not exceeding one month to take legal action in their regard.

Article (51)

The entities subject to the oversight of the Administrative Control Authority shall notify the latter of the violations that take place within them as they are uncovered. It shall also notify the Authority of the results of investigations into these violations. The Administrative Control Authority shall take the legal measures in their regard.

Article (52)

Entities subject to the oversight of the Administrative Control Authority shall study the observations and inquiries directed to them and respond to them on time. Any employee in the entities subject to the oversight of the Authority who have concealed information requested by the members of the Authority to undertake their works or refrain from submitting it or informing them of it, shall be punishable disciplinarily, as well as anyone who refrains with no acceptable excuse from implementing a summons to hear his accounts or who delays in responding to the remarks or correspondence of the Authority in general or fails to respond to them without an acceptable excuse.

AML/CFT Law of 2017

ARTICLE 6: UNIT ACCESS TO INFORMATION

1. The Unit may obtain any information it deems necessary to carry out its functions from financial institutions, non-financial businesses and professions and non-profit organizations.

2. The Unit shall have the authority to obtain from any party or person subject to the reporting obligation set forth under article 27 any additional information it deems necessary to carry out its functions. The requested information shall be provided within the time limit and form specified by the Unit.
3. The Unit shall have the right to request from competent entities and any other entity any financial, administrative, tax or law enforcement information it deems necessary to carry out its functions. Competent and other entities shall submit the requested information within the time limit and in the form determined by the Unit.
4. When the Unit determines that any financial institutions or non-financial businesses or professions have failed to comply with the obligations specified in this Law, the Unit shall notify the competent supervisory entity.

ARTICLE 12: DUTIES OF THE SUPERVISORY ENTITIES

Supervisory entities shall regulate, supervise, and monitor the compliance of financial institutions and non-financial businesses and professions with the requirements set forth in this Law, and any relevant implementing regulations, decisions, circulars and instructions. Supervisory entities shall in particular:

1. Issue supervisory decisions, circulars and instructions on combating of money laundering and terrorism financing in coordination with the Unit;
2. Take necessary measures to establish appropriate and adequate standards to prevent criminals and their accomplices from acquiring large or controlling shares in financial institutions subject to their supervision, or from becoming beneficial owners and members of the board of directors, or from holding senior management positions. Similar measures shall be taken with respect to non-financial businesses and professions;
3. Regulate, supervise and monitor compliance by financial institutions and non-financial businesses and professions under their supervision with AML/CFT measures on the basis of a risk-based approach. That approach must include an assessment and understanding of the money laundering and terrorism financing risks of supervised entities, in addition to sectoral risks and national risks. Supervisory entities shall, therefore, conduct onsite or offsite inspections, and they shall have the right to examine any necessary documents, information or records needed to perform their duties.
4. Undertake periodic reviews of the risks of financial institutions and non-financial businesses subject to their supervision and of any significant changes in the management or operations of these institutions and entities.
5. Cooperate with other competent entities, exchange information with them, and provide assistance in evidence collection, judicial investigations and prosecutions relating to the offences of money laundering, terrorism financing and related offences.
6. Ensure swift and effective cooperation with counterpart authorities in other countries, including exchange of information.
7. Cooperate with the Unit in developing reporting standards for suspicious transactions in conformity with relevant international standards.
8. Ensure that financial institutions under their supervision and their branches inside and outside the country adopt and implement measures in compliance with the provisions of this Law, and any relevant implementing regulations, decisions, circulars and instructions issued by supervisory entities. This obligation shall also apply to the subsidiaries and foreign branches of financial institutions where similar measures in the host country or branch are less stringent, provided this obligation does not conflict with the laws and regulations of the host country. Supervisory entities shall require financial institutions subject to their supervision to meet their reporting obligations, and shall take additional provisional measures when those institutions fail to apply appropriate measures to combat money laundering and terrorism financing in accordance with the laws and regulations of the host country. Supervisory entities shall also take supervisory measures against a financial institution that fail to meet its obligations in this regard, such as closing the company or branch concerned in the host country.
9. **Inform the Financial Information Unit immediately of any information related to suspicious transactions, money laundering or terrorism financing.**
10. Keep statistics on incidents related to money laundering or terrorism financing and the measures and procedures taken in this regard pursuant to this law.
11. Determine the type and extent of the measures that shall be taken by financial institutions and non-financial businesses and professions subject to their supervisions under article 16 to address the risks of money laundering and terrorism financing.

(b) Observations on the implementation of the article

220. Article 258 of the PC and article 16 of the CPC require any public official or person assigned to carry out a public service who is aware of a crime, during or because the performance of his or her job, to report it. Article (24) of the NACC Law stipulates that anyone who has serious information or documents about a corruption offence must report it to the Commission (without providing for a penalty in case of non-reporting). This article is a general rule that also applies to public officials. Article 5 of the same law gives the NACC the power to obtain information from public and non-public entities. Article 51 of the Law on the Establishment of the ACA stipulates that entities subject to the control of the ACA shall inform it of the violations committed within them, following their discovery. Article (52) of the same law obliges these entities to study the observations and inquiries addressed to them and respond to them in a timely manner. Article 12 of the AML/CFT Law requires supervisory authorities to immediately notify the FIU of any information related to suspicious transactions or money laundering.
221. Although the different laws in Libya provide for a possibility of a close cooperation and coordination between the different national competent authorities, it was clear to the reviewers that such cooperation is hindered by many factors, primarily due to the current situation in the country.
222. To implement the provision under review, Libya should take the necessary measures to enhance the cooperation and coordination between the different national competent authorities.

Article 39 Cooperation between national authorities and the private sector

Paragraph 1

1. Each State Party shall take such measures as may be necessary to encourage, in accordance with its domestic law, cooperation between national investigating and prosecuting authorities and entities of the private sector, in particular financial institutions, relating to matters involving the commission of offences established in accordance with this Convention.

(a) Summary of information relevant to reviewing the implementation of the article

223. Libya referred to the following texts:

Criminal Procedure Code

Article 19, Collection of Evidence - While collecting evidence, judicial officers shall hear the statements of the persons who have information on criminal facts and perpetrators and ask the defendant about them. They may seek the assistance of physicians and other professionals and request their opinion orally or in writing.

They may not make witnesses or experts take the oath unless it is feared that it will not be possible later to hear the testimony under oath.

AML/CFT Law of 2017

ARTICLE 6: UNIT ACCESS TO INFORMATION

1. The Unit may obtain any information it deems necessary to carry out its functions from financial institutions, non-financial businesses and professions and non-profit organizations.
2. The Unit shall have the authority to obtain from any party or person subject to the reporting obligation set forth under article 27 any additional information it deems necessary to carry out its functions. The requested information shall be provided within the time limit and form specified by the Unit.

3. The Unit shall have the right to request from competent entities and any other entity any financial, administrative, tax or law enforcement information it deems necessary to carry out its functions. Competent and other entities shall submit the requested information within the time limit and in the form determined by the Unit.
4. When the Unit determines that any financial institutions or non-financial businesses or professions have failed to comply with the obligations specified in this Law, the Unit shall notify the competent supervisory entity.

ARTICLE 27: REPORTING INFORMATION TO THE UNIT

1. Financial institutions and non-financial businesses and professions shall report to the Unit without delay any transaction or attempted transaction, regardless of the value thereof, if they suspect or have reasonable grounds to suspect that such transaction involves proceeds of crimes or funds related to money laundering or terrorism financing.
2. Attorneys and other legal professions and independent accountants may not report a transaction under the previous paragraph if the information related to the suspicious transaction was obtained in circumstances where they are subject to professional secrecy.
3. There shall be no penal or civil action or disciplinary or administrative measures taken against a financial institution and non-financial business and profession or its directors or employees for breach of any restriction on reporting information imposed by a contract or law if it is established that they have submitted a report or provided any other information to the Unit in good faith.

ARTICLE 30: PROVISION OF INFORMATION

Financial institutions and non-financial businesses and professions shall provide, each within its purview, information and documents to the competent entities upon request. Professional secrecy shall not constitute a ground to not comply with this obligation.

ARTICLE 53: ACCESS TO INFORMATION AND DATA

The Attorney General, or any general attorney whom he authorizes, may order the review or obtainment of any information or data related to accounts, deposits, funds, or other transactions of financial institutions, non-financial businesses and professions, or non-profit organizations in order to uncover facts related to the offences set forth in this Law.

(b) Observations on the implementation of the article

224. The AML/CFT Law establishes the obligation of a number of private sector entities, including banks, money-dealers, insurance companies, audit firms and lawyers, to report to the FIU any suspicious transactions and to provide any information, data and documents that the FIU or Public Prosecution may request.
225. To implement the provision under review, Libya should adopt measures to encourage cooperation between national investigating and prosecuting authorities and entities of the private sector, beyond the anti-money laundering obligations.

Article 39 Cooperation between national authorities and the private sector

Paragraph 2

2. Each State Party shall consider encouraging its nationals and other persons with a habitual residence in its territory to report to the national investigating and prosecuting authorities the commission of an offence established in accordance with this Convention.

(a) Summary of information relevant to reviewing the implementation of the article

226. Libya indicated that it has implemented the provision under review and referred to the following texts:

Criminal Procedure Code

Article 15, Notifying the Public Prosecution – Any person aware of a crime, for which the Public Prosecution may file a case without a complaint or request, shall inform the Public Prosecution or a judicial officer of the same.

Article 19, Collection of Evidence - While collecting evidence, judicial officers shall hear the statements of the persons who have information on criminal facts and perpetrators and ask the defendant about them. They may seek the assistance of physicians and other professionals and request their opinion orally or in writing.

They may not make witnesses or experts take the oath unless it is feared that it will not be possible later to hear the testimony under oath.

Law No. (11) of 2014 on the establishment of the National Anti-Corruption Commission

Article (5)

The NACC employees who enjoy the capacity of judicial officers may examine the files of suspects. They may also obtain information from official and non-official departments. In the performance of their duties, they may resort to any expert or specialist they deem necessary and they shall have the right to examine all documents, even confidential documents, and summon any person they deem necessary to hear his statement.

Article (24)

Any person who possesses serious information or documents regarding a crime of corruption shall report the same to the NACC.

Law No. (1) of 2005 Concerning Banks, as amended by Law No. 46 of 2012

Article (61)

The Central Bank of Libya may, at any time, review the books and documents of the entities subject to its control, the accounts open at the banks, and the related electronic systems and files. Review should take place at the headquarters of each of them, and carried out by the inspectors of the bank who are assigned for this purpose. The inspectors shall be provided with all the data and facilities necessary for the performance of their task. Inspectors shall not disclose to third parties or disclose to them any records, papers or information relating to the inspection, except in cases authorized by law or when necessary for judicial investigation.

Article (94)

Banks shall keep confidential the accounts of their customers, their balances and all their banking operations, and should not allow access to nor disclose or provide related information to others except with the written permission of the account holder or a competent judicial authority.

(b) Observations on the implementation of the article

227. Article 15 of the CPC creates a moral obligation on those who become aware of an offence to report it, although there are no corresponding sanctions for failure to report. Article 24 of the Law on the establishment of the NACC contains a similar moral obligation for the reporting of corruption offences. Both of these provisions are not limited to public officials but apply to the public at large.
228. The reviewers encourage Libya to adopt further measures to encourage its nationals and other persons with a habitual residence in its territory to report corruption.

Article 40 Bank secrecy

Each State Party shall ensure that, in the case of domestic criminal investigations of offences established in accordance with this Convention, there are appropriate mechanisms available within its domestic legal system to overcome obstacles that may arise out of the application of bank secrecy laws.

(a) Summary of information relevant to reviewing the implementation of the article

229. Libya indicated that it has implemented the provision under review and referred to the following texts:

Criminal Procedure Code

Article 43, Seizing Crime-Related Items – Judicial officers may seize documents, weapons, instruments, and any object that may have been used to commit the crime, resulted from the commission thereof, or against which the crime was committed, as well as any object useful to reveal the truth. Such items shall be shown to the accused and he shall be asked for comments thereon. A record shall be drawn up to this effect and it shall be signed by the accused or it shall state that the latter refused to sign.

Article 83, Seizure of Items and Orders to Present them - The investigating magistrate may order the possessor of a certain object to present it if he deems it necessary to seize or check it. The provisions of Article (257) shall apply to violators of such orders, except in cases where the law authorises abstention from testimony.

AML/CFT Law of 2017

ARTICLE 53: ACCESS TO INFORMATION AND DATA

The Attorney General, or any general attorney whom he authorizes, may order the review or obtainment of any information or data related to accounts, deposits, funds, or other transactions of financial institutions, non-financial businesses and professions, or non-profit organizations in order to uncover facts related to the offences set forth in this Law.

Law No. (11) of 2014 on the establishment of the National Anti-Corruption Commission

Article (5)

The NACC employees who enjoy the capacity of judicial officers may examine the files of suspects. They may also obtain information from official and non-official departments. In the performance of their duties, they may resort to any expert or specialist they deem necessary and they shall have the right to examine all documents, even confidential documents, and summon any person they deem necessary to hear his statement.

(b) Observations on the implementation of the article

230. Bank secrecy is not an obstacle to effective criminal investigations (arts. 61 and 94 of the Law No. (1) of 2005 Concerning Banks, as amended by Law No. 46 of 2012). Bank records can be requested and seized under the general provisions of the CPC (in particular articles 43 and 83), in addition to the provisions of article (53) of the AML/CFT Law and article (5) of the NACC Law.

Article 41 Criminal record

Each State Party may adopt such legislative or other measures as may be necessary to take into consideration, under such terms as and for the purpose that it deems appropriate, any previous conviction in another State of an alleged offender for the purpose of using such

information in criminal proceedings relating to an offence established in accordance with this Convention.

(a) Summary of information relevant to reviewing the implementation of the article

231. Libya indicated that it has not implemented the provision under review and referred to the following texts:

Penal Code

Article 96 – Any person is considered a recidivist who:

1. After being convicted of a crime, is later proved to have committed a crime or misdemeanour.
2. After being sentenced to detention for one year or more, is proved to have committed a misdemeanour before five years have passed from the date of expiration of the penalty, or from the date of its extinction by passage of time.
3. After being sentenced for a crime or misdemeanour to detention for a period of less than one year or to a fine, is proved to have committed an offence similar to the first offence before five years have passed from the date of the said sentence.
4. Repealed.

Crimes are considered in the criminal code if they share the same basic characteristics, whether with respect to the nature of the component acts or with respect to the motives that led to the crime, even if they do not violate a single law in particular.

Article 97 - In the cases of recidivism stipulated in the previous article, the penalty for the recidivist shall be increased by not more than one third.

If recidivism recurs, the penalty must be increased by not less than a quarter and not more than half. In all cases, the duration of imprisonment may not exceed 20 years.

(b) Observations on the implementation of the article

232. Libyan legislation does not provide for the possibility of taking into account previous conviction in another State of an alleged offender for the purpose of using such information in criminal proceedings.

Article 42 Jurisdiction

Paragraph 1

1. Each State Party shall adopt such measures as may be necessary to establish its jurisdiction over the offences established in accordance with this Convention when:

(a) The offence is committed in the territory of that State Party; or

(b) The offence is committed on board a vessel that is flying the flag of that State Party or an aircraft that is registered under the laws of that State Party at the time that the offence is committed.

(a) Summary of information relevant to reviewing the implementation of the article

233. Libya indicated that it has implemented the provision under review since the Penal Code provides for territorial jurisdiction in article 4, which is also the principle applicable to all rules contained in laws dealing with offences within the scope of the application of the Convention.

Penal Code

Article 4, Application of the Criminal Law - The provisions of this Code shall apply to every Libyan and foreigner who commits an offence stipulated therein within Libyan territory. Airplanes and ships belonging to Libya shall be considered to be within Libyan territory wherever they are located, except insofar as they may be subject to foreign law in accordance with the provisions of international law.

Law No. (6) of 2005 on Civil Aviation

Article 196, Jurisdiction - Libyan courts shall have jurisdiction over the offences committed in violation of the provisions of this law or its implementing decisions, rules, and regulations if such offences were committed within the territorial jurisdiction of the Jamahiriya or on board an aircraft registered therewith while flying over high seas or areas which are not subject the jurisdiction of any other State.

(b) Observations on the implementation of the article

234. Libya has established its jurisdiction over offences committed in its territory (art. 4 of the PC) and offences committed on board a vessel that is flying its flag or an aircraft that is registered under its laws (art. 4 of the PC and art. 196 of the Civil Aviation Law).

Article 42 Jurisdiction

Subparagraph 2 (a)

2. Subject to article 4 of this Convention, a State Party may also establish its jurisdiction over any such offence when:

(a) The offence is committed against a national of that State Party; or

(a) Summary of information relevant to reviewing the implementation of the article

235. Libya indicated that this case falls within its jurisdiction only in exceptional cases outside the framework of application of the Convention, as provided in Article 427 of the Penal Code related to the offences of dealing and trafficking in slaves which states that “the provisions of this Chapter shall also apply if the offence is committed outside Libya against a Libyan.”

(b) Observations on the implementation of the article

236. Libya does not adopt the passive personal jurisdiction.
237. The reviewers encourage Libya to consider establishing its jurisdiction over corruption offences committed against Libyan citizens.

Article 42 Jurisdiction

Subparagraph 2 (b)

2. Subject to article 4 of this Convention, a State Party may also establish its jurisdiction over any such offence when:

(b) The offence is committed by a national of that State Party or a stateless person who has his or her habitual residence in its territory; or

(a) Summary of information relevant to reviewing the implementation of the article

238. Libya indicated that this case falls within its jurisdiction and referred to the following texts:

Penal Code

Article 6, Crimes and Misdemeanours Committed by Libyans outside Libya - Any Libyan who commits outside Libya an act that is a crime or misdemeanour under this Code, with the exception of those offences mentioned in the preceding Article, shall be punished in accordance with the provisions of this Code if he returns to Libya and the offence was punishable by the law of the country in which it was committed.

African Union Convention on the Prevention and Combating of Corruption (2003)

Article 13 Jurisdiction

1. Each State Party has jurisdiction over acts of corruption and related offences when:
 - (a) the breach is committed wholly or partially inside its territory;
 - (b) the offence is committed by one of its nationals outside its territory or by a person who resides in its territory; and**
 - (c) the alleged criminal is present in its territory and it does not extradite such person to another country.
 - (d) when the offence, although committed outside its jurisdiction, affects, in the view of the State concerned, its vital interests or the deleterious or harmful consequences or effects of such offences impact on the State Party.
2. This Convention does not exclude any criminal jurisdiction exercised by a State Party in accordance with its domestic law.
3. Notwithstanding the provision of paragraph I of this Article, a person shall not be tried twice for the same offence.

(b) Observations on the implementation of the article

239. Libya adopts the active personal jurisdiction pursuant to article 6 of the PC which provides that the Libyan legislation is applicable to any Libyan who commits abroad a felony or misdemeanour punishable by virtue of the Libyan legislation. Although this provision does not cover stateless persons who have their habitual residence in Libya, this case is subject to Libya's jurisdiction pursuant to article 13 of the African Union Convention on the Prevention and Combating of Corruption and in application of the principle of supremacy of the international treaties over domestic legislation adopted by Libya.

Article 42 Jurisdiction

Subparagraph 2 (c)

2. Subject to article 4 of this Convention, a State Party may also establish its jurisdiction over any such offence when:

(c) The offence is one of those established in accordance with article 23, paragraph 1 (b) (ii), of this Convention and is committed outside its territory with a view to the commission of an offence established in accordance with article 23, paragraph 1 (a) (i) or (ii) or (b) (i), of this Convention within its territory; or

(a) Summary of information relevant to reviewing the implementation of the article

240. Libya indicated that this case falls within its jurisdiction and referred to the following texts:

Penal Code

Article 5, Offences Committed Abroad - The provisions of this Code shall apply to the following persons:

1. Anyone who commits an act outside Libya that makes him either a principal or an accessory to an offence committed in Libya wholly or in part;

2. Anyone commits the following offences outside Libya:

- a) An offence that undermines the security of the State, as provided for by Part (1) and (2) of Book (2) of this Code;
- b) Forgery, as provided for by Articles (334) and (335) of this Code;
- c) Counterfeiting of currency in legal circulation in Libya, as provided for by Article (326) of this Code;
- d) Slavery, as provided for by Article (427) of this Code.

(b) Observations on the implementation of the article

241. Libya establishes its jurisdiction regarding the case mentioned in the provision under review pursuant to article 5 of the PC.

Article 42 Jurisdiction

Subparagraph 2 (d)

2. Subject to article 4 of this Convention, a State Party may also establish its jurisdiction over any such offence when:

(d) The offence is committed against the State Party.

(a) Summary of information relevant to reviewing the implementation of the article

242. Libya indicated that this case falls within its jurisdiction and referred to the following text:

African Union Convention on the Prevention and Combating of Corruption (2003)

Article 13 Jurisdiction

1. Each State Party has jurisdiction over acts of corruption and related offences when:

- (a) the breach is committed wholly or partially inside its territory;
 - (b) the offence is committed by one of its nationals outside its territory or by a person who resides in its territory; and
 - (c) the alleged criminal is present in its territory and it does not extradite such person to another country.
- (d) when the offence, although committed outside its jurisdiction, affects, in the view of the State concerned, its vital interests or the deleterious or harmful consequences or effects of such offences impact on the State Party.**

2. This Convention does not exclude any criminal jurisdiction exercised by a State Party in accordance with its domestic law.

3. Notwithstanding the provision of paragraph I of this Article, a person shall not be tried twice for the same offence.

(b) Observations on the implementation of the article

243. This case falls within the Libyan jurisdiction, pursuant to article 13 of the African Union Convention on the Prevention and Combating of Corruption and in application of the principle of supremacy of the international treaties over domestic legislation adopted by Libya.

Article 42 Jurisdiction

Paragraph 3

3. For the purposes of article 44 of this Convention, each State Party shall take such measures as may be necessary to establish its jurisdiction over the offences established in accordance with this Convention when the alleged offender is present in its territory and it does not extradite such person solely on the ground that he or she is one of its nationals.

(a) Summary of information relevant to reviewing the implementation of the article

244. Libya indicated that this case falls within its jurisdiction and referred to the following texts:

Penal Code

Article 6, Crimes and Misdemeanours Committed by Libyans outside Libya - Any Libyan who commits outside Libya an act that is a crime or misdemeanour under this Code, with the exception of those offences mentioned in the preceding Article, shall be punished in accordance with the provisions of this Code if he returns to Libya and the offence was punishable by the law of the country in which it was committed.

Criminal Procedure Code

Article (493) bis (A), Terms and Conditions for Handover to Other Countries

Accused and convicted persons may be extradited when the following conditions are met:

d. The subject of the extradition request is not a Libyan National.

AML/CFT Law of 2017

ARTICLE 80: INSTITUTING LEGAL PROCEEDING AGAINST A PERSON WHOSE EXTRADITION IS REFUSED

If the extradition request is refused because the person sought for extradition is Libyan, the case shall be referred to the competent entities to take measures to institute legal proceeding against the person concerned object of the extradition request.

(b) Observations on the implementation of the article

245. Libya establishes its jurisdiction regarding the case mentioned in the provision under review based on the active personal jurisdiction (art. 6 of the PC). Moreover, article 80 of the AML/CFT Law specifically provides for the principle of extradite or trial if extradition is not possible because the person sought for extradition is Libyan.

Article 42 Jurisdiction

Paragraph 4

4. Each State Party may also take such measures as may be necessary to establish its jurisdiction over the offences established in accordance with this Convention when the alleged offender is present in its territory and it does not extradite him or her.

(a) Summary of information relevant to reviewing the implementation of the article

246. Libya indicated that this case falls within its jurisdiction and referred to the following text:

African Union Convention on the Prevention and Combating of Corruption (2003)

Article 13 Jurisdiction

1. Each State Party has jurisdiction over acts of corruption and related offences when:
 - (a) the breach is committed wholly or partially inside its territory;
 - (b) the offence is committed by one of its nationals outside its territory or by a person who resides in its territory; and
 - (c) the alleged criminal is present in its territory and it does not extradite such person to another country.**
 - (d) when the offence, although committed outside its jurisdiction, affects, in the view of the State concerned, its vital interests or the deleterious or harmful consequences or effects of such offences impact on the State Party.
2. This Convention does not exclude any criminal jurisdiction exercised by a State Party in accordance with its domestic law.
3. Notwithstanding the provision of paragraph I of this Article, a person shall not be tried twice for the same offence.

(b) Observations on the implementation of the article

247. This case falls within the Libyan jurisdiction, pursuant to article 13 of the African Union Convention on the Prevention and Combating of Corruption and in application of the principle of supremacy of the international treaties over domestic legislation adopted by Libya.

Article 42 Jurisdiction

Paragraph 5

5. If a State Party exercising its jurisdiction under paragraph 1 or 2 of this article has been notified, or has otherwise learned, that any other States Parties are conducting an investigation, prosecution or judicial proceeding in respect of the same conduct, the competent authorities of those States Parties shall, as appropriate, consult one another with a view to coordinating their actions.

(a) Summary of information relevant to reviewing the implementation of the article

248. Libya indicated that no provision in the Libyan law prevents the competent authorities in Libya to conduct consultations. Besides, Libya adopts the principle of supremacy of the international treaties over domestic legislation. And since Libya ratified the United Nations Convention against Corruption, it is considered as a legal basis for the implementation of paragraph 5 of Article 42 thereof. Moreover, Libya acceded to a

number of bilateral and regional agreements that facilitate the application of this provision.

(b) Observations on the implementation of the article

249. It seems that nothing prevents Libyan authorities from, as appropriate, consulting with foreign authorities with a view to coordinating their actions.

Article 42 Jurisdiction

Paragraph 6

6. Without prejudice to norms of general international law, this Convention shall not exclude the exercise of any criminal jurisdiction established by a State Party in accordance with its domestic law.

(a) Summary of information relevant to reviewing the implementation of the article

250. Libya indicated that nothing prevents the extension of its criminal jurisdiction to include acts beyond the provisions of the Convention.

(b) Observations on the implementation of the article

251. This Convention does not exclude the exercise of any criminal jurisdiction established by Libya in accordance with its domestic law.

Chapter IV. International cooperation

252. Libya has a framework in place to combat corruption through international cooperation. However, it was difficult to assess in detail Libya's practice regarding international cooperation in corruption cases, due to the absence of relevant data.
253. It is recommended that Libya adapt its information system to allow it to collect data and provide more detailed statistics on international cooperation.

Article 44 Extradition

Paragraphs 1 and 2

1. This article shall apply to the offences established in accordance with this Convention where the person who is the subject of the request for extradition is present in the territory of the requested State Party, provided that the offence for which extradition is sought is punishable under the domestic law of both the requesting State Party and the requested State Party.

2. Notwithstanding the provisions of paragraph 1 of this article, a State Party whose law so permits may grant the extradition of a person for any of the offences covered by this Convention that are not punishable under its own domestic law.

(a) Summary of information relevant to reviewing the implementation of the article

254. Libya indicated that it has implemented the provision under review and referred to the following texts:

Criminal Procedure Code

Section IX

On the Extradition of Criminals

Article 493, Applicable Law - Libyan Law shall govern the extradition of criminals from/to other countries, except where governed by international conventions and norms.

Article 493 bis (a), Terms and Conditions for Handover to Other Countries - Accused and convicted persons may be extradited when the following conditions are met:

- a. The act upon which the extradition request is based is criminalized by Libyan law and the law of the country requesting the extradition.**
- b. The crime or penalty has not lapsed under Libyan law and the law of the country requesting the extradition.
- c. The laws of both countries allow for a criminal case to be brought.
- d. The subject of the extradition request is not a Libyan National.
- e. The crime is not a political crime or a crime connected to a political crime.

A crime shall be considered to be political if it relates to the political interests of the country or the political rights of an individual, or if it is a normal crime carried out with a political motivation.

AML/CFT Law of 2017

ARTICLE 62: OBLIGATION OF INTERNATIONAL COOPERATION

Competent entities shall provide assistance to their counterparts in other countries for the purposes of extradition and mutual legal assistance in investigations and criminal procedures related to money laundering and terrorism financing in accordance with rules set out by the Criminal Procedure Code and bilateral or multilateral agreements to which Libya is a party, or in accordance with the principle of reciprocity, provided this does not conflict with the fundamental principles of the Libyan legal system.

ARTICLE 77: POSSIBILITY OF EXTRADITION IN MONEY LAUNDERING AND TERRORISM FINANCING OFFENCES

For the purposes of this Law, perpetrators of money laundering offences, terrorism financing offences, and related offences may be extradited. Such offences shall not be deemed political, related to political crimes or crimes with political motivations even if they are linked to a political offence or were politically motivated.

255. Libya indicated that there could be an exception to this provision under a bilateral or multilateral agreement and that it had concluded several bilateral and regional agreements in this regard.

Riyadh Arab Agreement for Judicial Cooperation of 1983

Article 40 Obligation to extradite.

Extradition shall be obligatory with respect to the following persons:

(b) Individuals charged with acts not punishable by the laws of the requested party requested or where the stipulated penalty for such acts in the laws of the requesting party has no equivalent in the laws of the requested party. The same penalty shall apply if the individuals prosecuted are nationals of the requesting party of another contracting party.

(d) Individuals convicted in presence or in absentia by the courts of the requesting party who are not punishable by the laws of the requested party or who are subject to a penalty for which there is no equivalent in its laws, if such individuals are nationals of the requesting party or of another contracting party applying the same penalty.

Extradition Treaty of 2009 between the State of Libya and Jordan

Article 4:

Extradition shall be mandatory in the following cases:

1. If the person whose extradition is requested is indicted for a felony or a misdemeanor punishable in the legislation of either party with a custodial penalty for a period of one year or another more severe penalty.

(b) Observations on the implementation of the article

256. The extradition regime in Libya has several bases, including Libyan legislation, in particular the Code of Criminal Procedure, extradition treaties and the principle of reciprocity and international custom.
257. Libya generally applies the dual criminality principle for an offence to be extraditable (article 493 *bis* (a) of the CPC). However, some of Libya's international agreements do not require dual criminality as a condition for extradition in a number of cases (i.e. the Riyadh Agreement on Judicial Cooperation and for the agreement with Jordan). On the basis of dual criminality, some of the offences provided for in the Convention are not subject to extradition because they have not been criminalized in Libya.

Article 44 Extradition

Paragraph 3

3. If the request for extradition includes several separate offences, at least one of which is extraditable under this article and some of which are not extraditable by reason of their period of imprisonment but are related to offences established in accordance with this Convention, the requested State Party may apply this article also in respect of those offences.

(a) Summary of information relevant to reviewing the implementation of the article

258. Libya indicated that Libyan legislation does not provide for the minimum penalty requirement for offences to be extraditable.
259. Libya also noted that despite the lack of any express provision in the constitutional declaration to consider ratified international conventions as directly applicable, subordinate to the constitution and superior to laws and regulations, the Libyan Supreme Court ruled on this matter by adopting the principle contained in Constitutional Appeal No. 57/1 in a hearing dated 23/12/2013: "The international conventions by which the Libyan State is bound shall be immediately enforceable upon completion of the ratification procedures by the State's legislative authority and they shall have precedence over domestic legislation. If there is a conflict between their provisions and the provisions of the domestic legislation, the provisions of the convention shall take priority. Consequently, workers in Libya have the right to benefit from rights enshrined in these conventions merely by virtue of the ratification thereof by the Libyan State without any need to modify any conflicting domestic legislation".
260. In accordance with the provisions of Law No. (6) of 1982 on the reorganization of the Supreme Court, article 31 provides that "the legal principles determined by the Supreme Court in its decisions shall be binding on all courts and all other parties in Libya."

(b) Observations on the implementation of the article

261. Libyan legislation does not provide for the minimum penalty requirement for offences to be extraditable.

Article 44 Extradition

Paragraph 4

4. Each of the offences to which this article applies shall be deemed to be included as an extraditable offence in any extradition treaty existing between States Parties. States Parties undertake to include such offences as extraditable offences in every extradition treaty to be concluded between them. A State Party whose law so permits, in case it uses this Convention as the basis for extradition, shall not consider any of the offences established in accordance with this Convention to be a political offence.

(a) Summary of information relevant to reviewing the implementation of the article

262. Libya indicated that, after its ratification of the United Nations Convention against Corruption, Libya became bound by the obligation set forth in this paragraph to include extraditable offences covered by Article 44 of the Convention in any extradition treaty it concludes.

AML/CFT Law of 2017

ARTICLE 77: POSSIBILITY OF EXTRADITION IN MONEY LAUNDERING AND TERRORISM FINANCING OFFENCES

For the purposes of this Law, perpetrators of money laundering offences, terrorism financing offences, and related offences may be extradited. Such offences shall not be deemed political, related to political crimes or crimes with political motivations even if they are linked to a political offence or were politically motivated.

(b) Observations on the implementation of the article

263. Libya has undertaken to include offences stipulated in the Convention in any subsequent treaties on the extradition of offenders.
264. It was confirmed during the joint meeting that Libyan authorities can consider the United Nations Convention against Corruption as a basis for extradition.
265. Libyan laws do not allow to consider any of the corruption offences to be a political offence.
266. To implement the provision under review, Libya should ensure that offences which still have to be criminalized (see challenges related to the implementation of Ch. III) are considered extraditable offences.

Article 44 Extradition

Paragraphs 5 to 6

5. If a State Party that makes extradition conditional on the existence of a treaty receives a request for extradition from another State Party with which it has no extradition treaty, it may consider this Convention the legal basis for extradition in respect of any offence to which this article applies.

6. A State Party that makes extradition conditional on the existence of a treaty shall:

(a) At the time of deposit of its instrument of ratification, acceptance or approval of or accession to this Convention, inform the Secretary-General of the United Nations whether it will take this Convention as the legal basis for cooperation on extradition with other States Parties to this Convention; and

(b) If it does not take this Convention as the legal basis for cooperation on extradition, seek, where appropriate, to conclude treaties on extradition with other States Parties to this Convention in order to implement this article.

(a) Summary of information relevant to reviewing the implementation of the article

267. Libya indicated that its authorities can consider the United Nations Convention against Corruption as a basis for extradition. It also indicated that it does not make extradition conditional on the existence of a treaty. It has already been noted that the extradition system in Libya relies on several bases, including treaties and the principles of reciprocity.

(b) Observations on the implementation of the article

268. Libya does not make extradition conditional on the existence of a treaty, as the Libyan legal system has other legal basis for extradition in addition to treaties. Indeed, extradition is possible under the principle of reciprocity. Extradition is executed on the basis of Libyan legislation (especially the Code of Criminal Procedure). Libya also considers this Convention as a basis for extradition.

(c) Successes and good practices

269. Libya seems to be adopting a flexible approach to extradition, whether by using the Convention as a legal basis or by not making extradition conditional on the existence of a treaty.

Article 44 Extradition

Paragraph 7

7. States Parties that do not make extradition conditional on the existence of a treaty shall recognize offences to which this article applies as extraditable offences between themselves.

(a) Summary of information relevant to reviewing the implementation of the article

270. Libya indicated that, since its ratification of the United Nations Convention against Corruption, the provisions of this Convention have precedence over domestic legislation. Therefore, the offences covered by this article are extraditable between Libya and the States parties to the Convention.

(b) Observations on the implementation of the article

271. Libya considers the offences to which this article applies as extraditable offences between Libya and the States parties to the Convention.

Article 44 Extradition

Paragraph 8

8. Extradition shall be subject to the conditions provided for by the domestic law of the requested State Party or by applicable extradition treaties, including, inter alia, conditions in relation to the minimum penalty requirement for extradition and the grounds upon which the requested State Party may refuse extradition.

(a) Summary of information relevant to reviewing the implementation of the article

272. Libya indicated that it has implemented the provision under review and that requests for extradition submitted to Libya are subject to the conditions prescribed in the Libyan legal system and the conditions set forth in the applicable extradition treaties, including those relating to the minimum penalty requirements for extradition and the grounds for refusal of extradition.

273. Libya referred to the following texts:

Criminal Procedure Code

Section IX

On the Extradition of Criminals

Article 493, Applicable Law - Libyan Law shall govern the extradition of criminals from/to other countries, except where governed by international conventions and norms.

Article 493 bis (a), Terms and Conditions for Handover to Other Countries - Accused and convicted persons may be extradited when the following conditions are met:

- a. The act upon which the extradition request is based is criminalized by Libyan law and the law of the country requesting the extradition.
- b. The crime or penalty has not lapsed under Libyan law and the law of the country requesting the extradition.
- c. The laws of both countries allow for a criminal case to be brought.
- d. The subject of the extradition request is not a Libyan National.
- e. The crime is not a political crime or a crime connected to a political crime.

A crime shall be considered to be political if it relates to the political interests of the country or the political rights of an individual, or if it is a normal crime carried out with a political motivation.

Article 494, Conditions to Propose and Authorize - Extradition may not be proposed or authorized if the person subject of the extradition request is being heard before the Libyan judiciary system for another crime preceding the extradition request, or if a criminal verdict has been issued on such case. The Minister of Justice may impose other conditions as the Minister deems appropriate.

AML/CFT Law of 2017

ARTICLE 78: CASES IN WHICH EXTRADITION IS NOT PERMISSIBLE

In addition to what is provided for in the Code of Criminal Procedure, extradition may not be granted in the following cases:

1. If there are substantial grounds to believe that the extradition request was submitted for the purpose of prosecuting or punishing a person on the account of his gender, ethnic origin, religion, nationality or political opinions or that the execution of the request would prejudice the person's state for any of these reasons;
2. If there are substantial grounds to believe that the person in question was or will be subjected to torture or to cruel, inhuman or degrading treatment, or if the person is not and will not be provided with minimum guarantees in criminal procedures in conformity with international standards.

ARTICLE 79: CASES WHERE EXTRADITION MAY BE REFUSED

The extradition of a criminal may be refused in the following cases:

1. If there are ongoing judicial investigations in Libya against the person to be extradited in connection with the offence for which the extradition is requested;
2. If the offence for which the extradition is requested was committed outside the territory of both countries, and the Libyan law does not provide for jurisdiction in crimes committed outside its territory for the same offence;
3. If the person to be extradited would be prosecuted in the requesting country by an irregular court, exceptional court or by a special court or body;
4. If the circumstances of the case indicate that extradition of the person in question will be incompatible with humanitarian considerations because of his age, health, or other personal circumstances;
5. If the request for extradition is made in execution of a court verdict issued in absentia against the convicted person who, for reasons beyond his control, did not have sufficient time or the opportunity to make arrangements to defend himself prior to the trial or, and did not or will not have any chance of having his case re-examined in presentia; or
6. If the Libyan judicial entities have begun exercising their jurisdiction regarding the offence.

Agreement on Legal and Judicial Cooperation of the Arab Maghreb Union

Article 51:

No Contracting Party shall extradite its own nationals. Within the limits of its jurisdiction, a Contracting Party shall undertake to indict any person who commits in any of the other Contracting Parties offences punishable by a one-year custodial sentence or a more severe penalty in either of the Contracting Parties.

Bilateral Treaty on Judicial Cooperation between Libya and Niger (2008)

Article 42:

Extradition shall be approved in the following cases:

- (a) For an act or acts that constitute, in accordance with the legislation of the Parties, offences punishable by a custodial penalty of not less than one year.

(b) Decisions issued in application of the legislation of the requesting Party for the offences set out in paragraph (a) of this article, provided that the penalty imposed is not less than one year.

Treaty on Judicial Cooperation in Civil and Penal Matters between Libya and the Arab Republic of Egypt

Article 54:

Neither Party may extradite its own nationals. Within the limits of its jurisdiction, a Party shall undertake to indict any person who commits in the other Party offences punishable under the law of both Parties by a custodial sentence of at least one year. In this respect, it may have recourse to the investigations conducted by the requesting country.

Extradition Treaty between Libya and the Republic of Turkey

Article 3:

Cases of extradition requests:

- a. The act is punishable by imprisonment for a period of not less than one year and is established as an offence under the law of both Parties.
- b. The person whose extradition is requested is sentenced to imprisonment for a period of not less than six months for an act punishable under the law of both parties.

Extradition Treaty between Libya and Jordan (2009)

Article 4:

Extradition shall be mandatory in the following cases:

1. If the person whose extradition is requested is indicted for a felony or a misdemeanor punishable in the legislation of either Party with a custodial penalty for a period of one year or another more severe penalty.
2. If the offence was committed within the territory of the requesting Party or outside of the territory of both Parties, and the same act is punishable by the laws of both Parties when committed outside their territory.
3. If the person whose extradition is requested is convicted by the courts of the requesting party to a custodial penalty for a period of six months or a more severe sentence.

(b) Observations on the implementation of the article

274. Extradition requests submitted to Libya are subject to the conditions prescribed in the Libyan legal system and the conditions set forth in the applicable extradition treaties, including those relating to the minimum penalty requirements for extradition and the grounds for refusal of extradition.

Article 44 Extradition

Paragraph 9

9. States Parties shall, subject to their domestic law, endeavour to expedite extradition procedures and to simplify evidentiary requirements relating thereto in respect of any offence to which this article applies.

(a) Summary of information relevant to reviewing the implementation of the article

275. Libya indicated that it has implemented the provision under review and referred to the following texts:

Criminal Procedure Code

Article 493 bis (c), Competent Authority - In matters prescribed in Article (493) bis (A), the Minister of Justice may propose and authorize the extradition of an accused or a person who has been convicted abroad.

The Cabinet has the right to determine priorities in the processing of cases that shall be presented to the Cabinet by the Minister of Justice in the event of more than one case.

Article 495, Interference by the Judiciary - An accused or a person who is convicted abroad may not be extradited except by a decision by the Criminal Court that has jurisdiction over the extradited person's place of residence.

Extradition may take place without the matter being presented to the aforementioned court in the following cases:

1. **The extradition concerns only one country, and the person subject of the extradition request does not object;**
2. The request shall only be for the transit of an accused or a person who is convicted abroad outside Libyan territory from a country that authorized the extradition of this person to another country and if the extradition decision is issued after the interference of the judicial authority of the relevant country.

(b) Observations on the implementation of the article

276. The extradition procedure involves both a judicial and an administrative procedure.
277. Requests for extradition should be submitted through diplomatic channels for transmission to the Ministry of Justice. The Minister of Justice may propose and authorize the extradition of an accused or a person who has been convicted abroad. The Cabinet, based on what the Minister of Justice presents, has the right to decide priority of extradition in the event of more than one extradition request. Extradition is not permitted without a decision by the Criminal Court. However, extradition may be granted without the matter being brought before the court if extradition concerns only one country, and the person sought for extradition requests that or does not object.
278. In the absence of any relevant detailed statistics, the reviewers were unable to determine the effectiveness, ease and speed of extradition procedures in Libya with regard to the Convention's offences.
279. In order to further improve extradition procedures, Libya should endeavour to expedite such procedures and simplify evidentiary requirements relating thereto.

Article 44 Extradition

Paragraph 10

10. Subject to the provisions of its domestic law and its extradition treaties, the requested State Party may, upon being satisfied that the circumstances so warrant and are urgent and at the request of the requesting State Party, take a person whose extradition is sought and who is present in its territory into custody or take other appropriate measures to ensure his or her presence at extradition proceedings.

(a) Summary of information relevant to reviewing the implementation of the article

280. Libya indicated that it has implemented the provision under review and referred to the following texts:

Criminal Procedure Code

Article 497, Arresting the Accused - If a foreign country requests the extradition of a person, and the Minister of Justice approves, the Prosecutor-General shall, based on the Minister of Justice's request, issue an arrest warrant for the person whether he is accused or convicted abroad.

The arrested person shall be presented within 24 hours to the Public Prosecution that has jurisdiction over the area where the person was arrested, the prosecution member shall check his identity, order him to be held, and immediately inform the Prosecutor-General.

(b) Observations on the implementation of the article

281. Libya may detain the person sought for extradition, pursuant to the CPC provisions.

Article 44 Extradition

Paragraph 11

11. A State Party in whose territory an alleged offender is found, if it does not extradite such person in respect of an offence to which this article applies solely on the ground that he or she is one of its nationals, shall, at the request of the State Party seeking extradition, be obliged to submit the case without undue delay to its competent authorities for the purpose of prosecution. Those authorities shall take their decision and conduct their proceedings in the same manner as in the case of any other offence of a grave nature under the domestic law of that State Party. The States Parties concerned shall cooperate with each other, in particular on procedural and evidentiary aspects, to ensure the efficiency of such prosecution.

(a) Summary of information relevant to reviewing the implementation of the article

282. Libya indicated that its legal system adopted the principle of extradition or prosecution if extradition is not possible in case the person whose extradition is sought is of Libyan nationality, so that the perpetrator does not escape punishment. The Penal Code provides for the possibility of trial of a Libyan citizen by the Libyan criminal justice system for an offence committed abroad if he returns to Libya.

Penal Code

Article 6, Crimes and Misdemeanours Committed by Libyans outside Libya - Any Libyan who commits outside Libya an act that is a crime or misdemeanour under this Code, with the exception of those offences mentioned in the preceding Article, shall be punished in accordance with the provisions of this Code if he returns to Libya and the offence was punishable by the law of the country in which it was committed.

Criminal Procedure Code

Article 493 bis (a), Terms and Conditions for Handover to Other Countries - Accused and convicted persons may be extradited when the following conditions are met:
d. The subject of the extradition request is not a Libyan National.

AML/CFT Law of 2017

ARTICLE 80: INSTITUTING LEGAL PROCEEDING AGAINST A PERSON WHOSE EXTRADITION IS REFUSED

If the extradition request is refused because the person sought for extradition is Libyan, the case shall be referred to the competent entities to take measures to institute legal proceeding against the person concerned object of the extradition request.

(b) Observations on the implementation of the article

283. Libya does not extradite its nationals (art. 493 *bis* (a) of the CPC). However, there is an express provision in Libyan legislation that enshrines the principle of trial in the case of non-extradition of a Libyan national (art. 80 of the AML/CFT Law).

Article 44 Extradition

Paragraph 12

12. Whenever a State Party is permitted under its domestic law to extradite or otherwise surrender one of its nationals only upon the condition that the person will be returned to that State Party to serve the sentence imposed as a result of the trial or proceedings for which the extradition or surrender of the person was sought and that State Party and the State Party seeking the extradition of the person agree with this option and other terms that they may deem appropriate, such conditional extradition or surrender shall be sufficient to discharge the obligation set forth in paragraph 11 of this article.

(a) Summary of information relevant to reviewing the implementation of the article

284. Libya indicated that there is no exception to the principle of non-extradition of its citizens.

(b) Observations on the implementation of the article

285. Libya does not extradite its nationals (art. 493 *bis* (a) of the CPC). Libyan legislation does not include exceptions to this principle that permit the extradition of a citizen even if it is conditional.

Article 44 Extradition

Paragraph 13

13. If extradition, sought for purposes of enforcing a sentence, is refused because the person sought is a national of the requested State Party, the requested State Party shall, if its domestic law so permits and in conformity with the requirements of such law, upon application of the requesting State Party, consider the enforcement of the sentence imposed under the domestic law of the requesting State Party or the remainder thereof.

(a) Summary of information relevant to reviewing the implementation of the article

286. Libya indicated that in its legal system, no criminal sanction is enforced if it is not imposed under Libyan law. Notwithstanding this principle, a criminal sanction not imposed under Libyan law may be enforced if there is a bilateral or multilateral treaty providing for it. Confiscation orders may however be enforced on the basis of the AML/CFT Law (art. 65).

(b) Observations on the implementation of the article

287. Libyan legislation does not appear to provide for the possibility of enforcing penal provisions issued by foreign courts (except for confiscation). If a request for extradition of a citizen is rejected, judicial proceedings must be taken, whether by investigation or trial.

Article 44 Extradition

Paragraph 14

14. Any person regarding whom proceedings are being carried out in connection with any of the offences to which this article applies shall be guaranteed fair treatment at all stages of the proceedings, including enjoyment of all the rights and guarantees provided by the domestic law of the State Party in the territory of which that person is present.

(a) Summary of information relevant to reviewing the implementation of the article

288. Libya indicated that it has implemented the provision under review and referred to the following texts:

Criminal Procedure Code

Article 502, Procedures – The Public Prosecution shall, within five days from the completion and closing of the investigation, submit a written memorandum to the Criminal Court registrar with all relevant supporting documents.

If the person wanted to extradition is convicted by a foreign court, the Prosecution shall submit a copy of the said verdict with its memorandum.

The person wanted for extradition or his lawyer may present, in the next following days, a defence memorandum with all supporting documents they hold.

Article 503, Transfer to Court - The Counsellor shall transfer the case to the Criminal Court within two weeks from the closing of the investigation, with a report containing a full summary of the investigation and the pleas of both sides, if any.

Article 504, Court Session – The Criminal Court shall hold *in camera* a session to study the extradition request, in the presence of the Public Prosecution, the person wanted for extradition, and his lawyer.

The counsellor shall read the report mentioned in the previous article, and the Court shall issue its ruling upon hearing the Public Prosecution and the Defence.

Article 505, Court Ruling – The Court shall issue its decision on whether to propose or authorize extradition, taking into consideration applicable law as well as conventions that are signed with the country requesting the

extradition and the country requested to extradite, and in accordance with international norms as they pertain to the seriousness of evidence.

If the person wanted for extradition has been convicted, evidence of the charge will be deemed to have been met even if the verdict can be subject to cassation in the country where the verdict has been issued.

Article 506, Substantiation of the Court Ruling - The Court Ruling shall be always substantiated, otherwise it will be deemed to be void. A negative decision not to propose or authorize extradition shall always be followed by an immediate release of the person wanted for extradition even if the Court ruling fails to mention it.

The interim constitutional declaration of 2011 and its amendments

Article (10)

The State shall guarantee the right of asylum by virtue of the law. The extradition of political refugees shall be prohibited.

Article (33)

Right of resorting to judiciary shall be preserved and guaranteed for all people. Each and every citizen shall have the right to resort to his natural judge. The State shall guarantee to bring the judiciary authorities near the litigants and shall guarantee the swift determination on lawsuits.
Laws shall not provide for the prohibition of judiciary authority to control any administrative decree.

(b) Observations on the implementation of the article

289. The interim constitutional declaration of 2011 guarantees the right to litigation for all persons regardless of their nationality, and the CPC provides for procedures that allow the person sought for extradition to defend him or herself.

Article 44 Extradition

Paragraph 15

15. Nothing in this Convention shall be interpreted as imposing an obligation to extradite if the requested State Party has substantial grounds for believing that the request has been made for the purpose of prosecuting or punishing a person on account of that person's sex, race, religion, nationality, ethnic origin or political opinions or that compliance with the request would cause prejudice to that person's position for any one of these reasons.

(a) Summary of information relevant to reviewing the implementation of the article

290. Libya indicated that it has implemented the provision under review and referred to the following texts:

AML/CFT Law of 2017

ARTICLE 78: CASES IN WHICH EXTRADITION IS NOT PERMISSIBLE

In addition to what is provided for in the Code of Criminal Procedure, extradition may not be granted in the following cases:

1. If there are substantial grounds to believe that the extradition request was submitted for the purpose of prosecuting or punishing a person on the account of his gender, ethnic origin, religion, nationality or political opinions or that the execution of the request would prejudice the person's state for any of these reasons;
2. If there are substantial grounds to believe that the person in question was or will be subjected to torture or to cruel, inhuman or degrading treatment, or if the person is not and will not be provided with minimum guarantees in criminal procedures in conformity with international standards.

Riyadh Arab Agreement for Judicial Cooperation of 1983

Article 41 Crimes not subject to extradition.

No extradition may be carried out in the following cases:

- (a) If the crime for which extradition is requested is considered by the laws of the requested party as a crime of a political nature.

Agreement on Legal and Judicial Cooperation of the Arab Maghreb Union

Article 49:

Extradition is not permitted if the offence for which extradition is requested is considered by the requested party to be a crime of a political nature or a crime related thereto.

Attempts on the life of kings, leaders, presidents and [heirs to the throne] of States Parties shall not be considered as a crime of a political nature.

Judicial cooperation agreement between Libya and Niger for 2009

Article 43:

Extradition shall not be permitted in the following cases:

If the requested party considers that the offence for which the request was submitted is a political crime or a crime related to politics, even though the attempt on the life of a leader or the head of either State or a member of their family is not considered a political crime.

Judicial cooperation agreement between Libya and Egypt

Article 52:

Extradition shall be prohibited in the following cases:

(g) If the requested country has serious cause to believe that the extradition request, although based on a public law crime, is made either in order to prosecute or punish the person for considerations related to race, religion, nationality, or political opinion, or if the availability of any of these considerations would compromise the situation of such person.

Extradition Agreement between Libya and Turkey

Article 4:

1. Cases where extradition requests are rejected:
 - a. If the action constitutes a political or military crime or is related thereto.

Extradition Treaty between Libya and Jordan (2009)

Article 2:

Extradition shall not be permitted in the following cases:

2. If the crime is political.

(b) Observations on the implementation of the article

291. Libya complies with the provision under review in accordance with the provisions of article (78) of the AML/CFT Law.

Article 44 Extradition

Paragraph 16

16. States Parties may not refuse a request for extradition on the sole ground that the offence is also considered to involve fiscal matters.

(a) Summary of information relevant to reviewing the implementation of the article

292. Libya indicated that it has implemented the provision under review. Neither the Libyan legislation nor the bilateral agreements on extradition between Libya and other States provide for the possibility of rejecting extradition requests on the sole ground that the offence is considered to involve fiscal matters.
293. Libya also complies with the provisions of this Convention concerning extradition in accordance with the provisions of the Criminal Procedure Code and, in general, in accordance with the principle of the Supreme Court with respect to ratified conventions and treaties.

(b) Observations on the implementation of the article

294. Libya complies with the provision under review, since its legislation does not provide for the possibility of refusing requests for extradition on the sole ground that the offence is also considered to involve fiscal matters.

Article 44 Extradition

Paragraph 17

17. Before refusing extradition, the requested State Party shall, where appropriate, consult with the requesting State Party to provide it with ample opportunity to present its opinions and to provide information relevant to its allegation.

(a) Summary of information relevant to reviewing the implementation of the article

295. Libya indicated that it complies with the provisions of this Convention concerning extradition in accordance with the provisions of the Criminal Procedure Code and, in general, in accordance with the principle of the Supreme Court with respect to ratified conventions and treaties.

(b) Observations on the implementation of the article

296. Libya complies with the provision under review, in application of the principle of supremacy of the international treaties over domestic legislation adopted by Libya. The authorities also indicated during the joint meeting that, as a matter of practice, the requesting State is consulted before the request is refused.

Article 44 Extradition

Paragraph 18

18. States Parties shall seek to conclude bilateral and multilateral agreements or arrangements to carry out or to enhance the effectiveness of extradition.

(a) Summary of information relevant to reviewing the implementation of the article

297. Libya indicated that it has concluded a series of bilateral extradition agreements and is party to a number of relevant multilateral treaties, including:

- Riyadh Arab Agreement for Judicial Cooperation;
- Agreement on Legal and Judicial Cooperation between Arab Maghreb Union Countries;
- Judicial Cooperation Treaty between the State of Libya and Niger;
- Judicial Cooperation Treaty between the State of Libya and Britain;
- Judicial cooperation Treaty between Libya and Egypt;
- Extradition Treaty between the State of Libya and Turkey;
- Extradition Treaty between the State of Libya and Jordan;
- Bilateral Treaty on Extradition, Judicial Decisions and Letters Rogatory between Libya and Tunisia;
- Bilateral Treaty on Extradition, Judicial Decisions and Letters Rogatory between Libya and Morocco;
- Extradition Treaty between Libya and Pakistan.

(b) Observations on the implementation of the article

298. Libya has concluded a series of bilateral extradition agreements and is party to a number of relevant multilateral treaties.

Article 45 Transfer of sentenced persons

States Parties may consider entering into bilateral or multilateral agreements or arrangements on the transfer to their territory of persons sentenced to imprisonment or other forms of deprivation of liberty for offences established in accordance with this Convention in order that they may complete their sentences there.

(a) Summary of information relevant to reviewing the implementation of the article

299. Libya indicated that it has concluded regional, international and bilateral agreements and arrangements on the transfer of sentenced persons, including:

- Riyadh Arab Agreement for Judicial Cooperation;
- Agreement on Legal and Judicial Cooperation between Arab Maghreb Union Countries;
- Judicial Cooperation Treaty between the State of Libya and Niger;
- Judicial Cooperation Treaty between the State of Libya and Britain;
- Judicial cooperation Treaty between Libya and Egypt;
- Extradition Treaty between the State of Libya and Turkey;
- Extradition Treaty between the State of Libya and Jordan;
- Bilateral Treaty on Extradition, Judicial Decisions and Letters Rogatory between Libya and Tunisia;
- Bilateral Treaty on Extradition, Judicial Decisions and Letters Rogatory between Libya and Morocco;
- Extradition Treaty between Libya and Pakistan.

(b) Observations on the implementation of the article

300. Libya is party to several agreements and arrangements on the transfer of sentenced persons including the Agreement on Legal and Judicial Cooperation between Arab Maghreb Union Countries and the Riyadh Arab Agreement for Judicial Cooperation.

Article 46 Mutual legal assistance

Paragraphs 1 and 2

1. States Parties shall afford one another the widest measure of mutual legal assistance in investigations, prosecutions and judicial proceedings in relation to the offences covered by this Convention.

2. Mutual legal assistance shall be afforded to the fullest extent possible under relevant laws, treaties, agreements and arrangements of the requested State Party with respect to investigations, prosecutions and judicial proceedings in relation to the offences for which a legal person may be held liable in accordance with article 26 of this Convention in the requesting State Party.

(a) Summary of information relevant to reviewing the implementation of the article

301. Libya indicated that there is no separate law on mutual legal assistance (MLA) in Libya, but this matter is regulated by the provisions of the AML/CFT Law of 2017 (arts. 62 to 77), in addition to the bilateral and multilateral treaties in force and the principle of reciprocity. Libya has concluded a series of regional and bilateral MLA treaties including:

- Riyadh Arab Agreement for Judicial Cooperation;
- Agreement on Legal and Judicial Cooperation between Arab Maghreb Union Countries;
- Judicial Cooperation Treaty between the State of Libya and Niger;
- Judicial Cooperation Treaty between the State of Libya and Britain;
- Judicial cooperation Treaty between Libya and Egypt;
- Bilateral Treaty on Extradition, Judicial Decisions and Letters Rogatory between Libya and Tunisia;
- Bilateral Treaty on Extradition, Judicial Decisions and Letters Rogatory between Libya and Morocco.

302. Libya also referred to the following texts:

AML/CFT Law of 2017

ARTICLE 62: OBLIGATION OF INTERNATIONAL COOPERATION

Competent entities shall provide assistance to their counterparts in other countries for the purposes of extradition and mutual legal assistance in investigations and criminal procedures related to money laundering and terrorism financing in accordance with rules set out by the Criminal Procedure Code and bilateral or multilateral agreements to which Libya is a party, or in accordance with the principle of reciprocity, provided this does not conflict with the fundamental principles of the Libyan legal system.

ARTICLE 63: DUAL CRIMINALITY REQUIREMENT

A request for extradition or legal assistance submitted according to the provisions of this Law shall not be executed unless the act object of the request is criminalized under the laws of Libya and the requesting state, regardless of the description given to the act in the laws of both states. If the requested measure does not require coercive procedures, assistance may be provided even if the dual criminality requirement under this article is not met.

ARTICLE 64: RECEIVING REQUESTS FOR COOPERATION

Requests for mutual legal assistance submitted by foreign competent entities in relation to money laundering and terrorist-financing cases shall be referred to the Attorney General. All requests and attachments thereto shall be translated into Arabic.

ARTICLE 65: REQUIRED INFORMATION IN REQUESTS FOR COOPERATION

1. Requests for extradition of criminals and legal assistance shall include the following:
 - a. Name and title of the foreign party in charge of the investigation or prosecution,
 - b. The purpose of the request and any relevant observations,
 - c. The facts supporting the request,
 - d. The identity of the person concerned, particularly his name, date of birth, social status, nationality, address, location and profession,
 - e. The information needed to identify and track the persons concerned, the instrumentalities and proceeds,
 - f. The legal text that criminalizes the act, the law applicable to the offence and the sanction that may be imposed on the perpetrator, and
 - g. Details of the type of the requested assistance and any other specific procedures that the requesting country wishes to apply.

2. In addition to the aforesaid, requests shall also include the following details in certain specific cases:
 - a. In case of a request to take provisional measures, details of the required measures,
 - b. In case of a request to seek a confiscation order, a statement of the relevant facts and arguments so that the judicial authority can issue a confiscation order pursuant to the law.
3. In the case of a request to execute an order for a provisional measure or confiscation:
 - a. A certified copy of the order and a statement of the grounds on the basis of which the order was made, unless they are contained in the order itself,
 - b. An attestation that the required order is enforceable and not subject to ordinary means of appeal,
 - c. Information as to the extent to which the enforcement of the order is requested and the amount for which recovery is sought in these funds,
 - d. Any information regarding the rights of a third party to the instrumentalities, proceeds, funds or other related items where possible and necessary.
 - e. In the case of a request for extradition where the person has been convicted of an offence, the original copy or a certified copy of the judicial order or any other document indicating the conviction and the sanction imposed and stating that the order is enforceable and the remainder of the sentence.

ARTICLE 66: REQUEST FOR ADDITIONAL INFORMATION

The Attorney General or the relevant competent entity may request additional information from the foreign competent entity if such information is necessary to execute the request or facilitate its execution.

ARTICLE 67 CONFIDENTIALITY OF THE REQUEST

The request must remain confidential if it is so stipulated in the request. The requesting party shall be immediately notified in case of failure to comply with such requirement,

ARTICLE 68: DELAYING REFERRAL OF THE REQUEST

The Attorney General may delay the referral of the request to the competent entities responsible for execution if the requested measure or order could lead to significant conflict with a pending investigation or lawsuit, in which case he must inform the requesting party immediately.

SECTION 2 – MUTUAL LEGAL ASSISTANCE

ARTICLE 69: FORMS OF ASSISTANCE

Forms of mutual legal assistance include the following in particular:

1. Obtaining evidence from or statements of persons,
2. Assisting in having the detained persons, voluntary witnesses or other parties to appear before the judicial authorities of the requesting country in order to give evidence or assist in investigations,
3. Delivering judicial documents,
4. Executing search operations, and freezing and seizure measures,
5. Inspecting objects and locations,
6. Providing information, physical evidence and expert reports,
7. Submitting the original or certified copies of documents and records, including government, banking or financial records, or the records of companies and businesses,
8. Determining or tracking the proceeds of the crime or the funds, instrumentalities or other items for evidentiary or confiscation purposes,
9. Confiscating funds,
10. Executing freezing or seizure measures and other provisional measures,
11. Executing other investigative measures, or
12. Any other form of mutual legal assistance that does not contradict the laws of Libya.

ARTICLE 70: REFUSAL OF A REQUEST

1. A request for mutual legal assistance may be refused in the following cases:
 - a. If the request was not issued by a competent entity in accordance with the law of the requesting country, or the request was not sent in accordance with the laws of Libya, or if the content of the request substantially violate the provisions of Article 69 of this Law,

- b. If the execution of the request could adversely affect the Libya's sovereignty, security, public order or fundamental interests,
- c. If the offence to which the request pertains is the object of a pending penal action or for which final judgment was issued,
- d. If there are substantial grounds for believing that the measure or order to be issued targets the person concerned only because of his ethnic origin, religion, nationality, gender, political opinion,
- e. If the act referred to in the request is not criminalized under Libyan law, in which case assistance may be provided if it does not involve coercive measures,
- f. If it is not possible to issue or execute the requested measures due to the statute of limitations that are applicable to the offence of money laundering or terrorist financing under the laws of Libya or the country requesting assistance,
- g. If the order to be executed is unenforceable under the laws of Libya, or
- h. If the decision was issued in the country requesting the assistance under circumstances that do not ensure sufficient safeguards with respect to the rights of the accused.

2. A request for mutual legal assistance may not be refused on the grounds of binding confidentiality provisions for financial institutions or because the offence involves fiscal matters.

ARTICLE 71: NOTIFICATION OF A REFUSED REQUEST

In case of refusal to execute the request, the Attorney General or competent entity in the state shall immediately inform the foreign competent entity of such refusal and its grounds.

ARTICLE 72: APPLICABILITY OF LIBYAN LAW TO INVESTIGATION REQUESTS

The execution of requests for mutual legal assistance related to conducting investigations shall be subject to rules of procedures stipulated in the Libyan law. The foreign competent entity may assign a representative to attend the investigation.

ARTICLE 73: PROVISIONAL MEASURES SUBJECT TO LIBYAN LAWS

1. Requests to take provisional measures shall be executed in accordance with the provisions set forth in the Libyan laws. If the requested measure is not mentioned in the Libyan laws, the measure deemed the most appropriate shall be taken in accordance with the law.
2. The previous paragraph shall apply to orders on the lifting of provisional measures. Prior to issuing an order to lift such measures, the country requesting the assistance shall be informed.

ARTICLE 74: REQUESTS RELATING TO CONFISCATION

If a legal assistance request is related to the execution of a confiscation order based on a conviction issued by a court of the requesting country, the Office of the Attorney General shall execute the order in accordance with the rules established under bilateral or multilateral agreements ratified by Libya or the principle of reciprocity.

If the request is not based on a conviction by a court, the Office of the Attorney General shall refer it to the competent court for a decision on its execution. The confiscation order shall apply to funds covered by the provisions of this Law and located in Libya

ARTICLE 75: DISPOSITION OF CONFISCATED FUNDS

Without prejudice to the rights of bona fide third parties, the Libyan competent entities shall have the authority to dispose of the confiscated funds and property at the request of foreign entities, unless otherwise provided for in an agreement with the requesting country.

ARTICLE 76: INTERNATIONAL AGREEMENTS OR ARRANGEMENTS

The Libyan competent entities may conclude agreements or bilateral or multilateral arrangements related to matters that are object of investigations or procedures in one or more countries in order to form joint investigative teams or conduct joint investigations. In the absence of such agreements or arrangements, joint investigations may be conducted on a case-by-case basis.

(b) Observations on the implementation of the article

303. There is no separate law on mutual legal assistance (MLA) in Libya, but this matter is regulated by the provisions of the AML/CFT Law of 2017 (arts. 62 to 76), in addition to the bilateral and multilateral treaties in force and the principle of reciprocity. Libya has concluded a series of regional and bilateral MLA treaties. The Convention can also be applied directly to comply with a number of relevant obligations.
304. Request for mutual legal assistance submitted by foreign competent entities in relation to money laundering and terrorist-financing is transmitted to the Attorney General, who, if he or she accepts it, shall forward it to the competent authorities for execution.
305. The Libyan authorities indicated during the joint meeting that such procedures were generally followed, and not only in cases involving money-laundering.
306. Libya could provide assistance regardless of the existence of a treaty. The authorities had also indicated that provisions on mutual legal assistance did not distinguish between offences for which a legal person could be held liable and other offences in respect of the possibility of assistance.

Article 46 Mutual legal assistance

Subparagraphs 3 (a) to (i)

3. Mutual legal assistance to be afforded in accordance with this article may be requested for any of the following purposes:

- (a) Taking evidence or statements from persons;*
- (b) Effecting service of judicial documents;*
- (c) Executing searches and seizures, and freezing;*
- (d) Examining objects and sites;*
- (e) Providing information, evidentiary items and expert evaluations;*
- (f) Providing originals or certified copies of relevant documents and records, including government, bank, financial, corporate or business records;*
- (g) Identifying or tracing proceeds of crime, property, instrumentalities or other things for evidentiary purposes;*
- (h) Facilitating the voluntary appearance of persons in the requesting State Party;*
- (i) Any other type of assistance that is not contrary to the domestic law of the requested State Party;*

(a) Summary of information relevant to reviewing the implementation of the article

307. Libya indicated that it is in compliance with the provisions of this Convention, in accordance with the principle of the Supreme Court regarding ratified conventions and treaties, foremost the United Nations Convention against Corruption and regional and bilateral conventions relating to judicial cooperation, letters rogatory, judicial decisions and extradition.
308. Libya also referred to the following texts:

AML/CFT Law of 2017

ARTICLE 65: REQUIRED INFORMATION IN REQUESTS FOR COOPERATION

1. Requests for extradition of criminals and legal assistance shall include the following:
 - a. Name and title of the foreign party in charge of the investigation or prosecution,
 - b. The purpose of the request and any relevant observations,
 - c. The facts supporting the request,
 - d. The identity of the person concerned, particularly his name, date of birth, social status, nationality, address, location and profession,
 - e. The information needed to identify and track the persons concerned, the instrumentalities and proceeds,
 - f. The legal text that criminalizes the act, the law applicable to the offence and the sanction that may be imposed on the perpetrator, and
 - g. Details of the type of the requested assistance and any other specific procedures that the requesting country wishes to apply.
2. In addition to the aforesaid, requests shall also include the following details in certain specific cases:
 - a. In case of a request to take provisional measures, details of the required measures,
 - b. In case of a request to seek a confiscation order, a statement of the relevant facts and arguments so that the judicial authority can issue a confiscation order pursuant to the law.
3. In the case of a request to execute an order for a provisional measure or confiscation:
 - a. A certified copy of the order and a statement of the grounds on the basis of which the order was made, unless they are contained in the order itself,
 - b. An attestation that the required order is enforceable and not subject to ordinary means of appeal,
 - c. Information as to the extent to which the enforcement of the order is requested and the amount for which recovery is sought in these funds,
 - d. Any information regarding the rights of a third party to the instrumentalities, proceeds, funds or other related items where possible and necessary.
 - e. In the case of a request for extradition where the person has been convicted of an offence, the original copy or a certified copy of the judicial order or any other document indicating the conviction and the sanction imposed and stating that the order is enforceable and the remainder of the sentence.

ARTICLE 69: FORMS OF ASSISTANCE

Forms of mutual legal assistance include the following in particular:

1. Obtaining evidence from or statements of persons,
2. Assisting in having the detained persons, voluntary witnesses or other parties to appear before the judicial authorities of the requesting country in order to give evidence or assist in investigations,
3. Delivering judicial documents,
4. Executing search operations, and freezing and seizure measures,
5. Inspecting objects and locations,
6. Providing information, physical evidence and expert reports,
7. Submitting the original or certified copies of documents and records, including government, banking or financial records, or the records of companies and businesses,
8. Determining or tracking the proceeds of the crime or the funds, instrumentalities or other items for evidentiary or confiscation purposes,
9. Confiscating funds,
10. Executing freezing or seizure measures and other provisional measures,
11. Executing other investigative measures, or
12. Any other form of mutual legal assistance that does not contradict the laws of Libya.

(b) Observations on the implementation of the article

309. Libya can provide the types of assistance provided for in the provision under review where the same range of measures and procedures that are available in domestic criminal proceedings are also available for MLA.

Article 46 Mutual legal assistance

Subparagraphs 3 (j) and (k)

3. Mutual legal assistance to be afforded in accordance with this article may be requested for any of the following purposes:

(j) Identifying, freezing and tracing proceeds of crime in accordance with the provisions of chapter V of this Convention;

(k) The recovery of assets, in accordance with the provisions of chapter V of this Convention.

(a) Summary of information relevant to reviewing the implementation of the article

310. Libya referred to its previous answer.

(b) Observations on the implementation of the article

311. Libya can provide the types of assistance provided for in the provision under review where the same range of measures and procedures that are available in domestic criminal proceedings are also available for MLA.

Article 46 Mutual legal assistance

Paragraphs 4 and 5

4. Without prejudice to domestic law, the competent authorities of a State Party may, without prior request, transmit information relating to criminal matters to a competent authority in another State Party where they believe that such information could assist the authority in undertaking or successfully concluding inquiries and criminal proceedings or could result in a request formulated by the latter State Party pursuant to this Convention.

5. The transmission of information pursuant to paragraph 4 of this article shall be without prejudice to inquiries and criminal proceedings in the State of the competent authorities providing the information. The competent authorities receiving the information shall comply with a request that said information remain confidential, even temporarily, or with restrictions on its use. However, this shall not prevent the receiving State Party from disclosing in its proceedings information that is exculpatory to an accused person. In such a case, the receiving State Party shall notify the transmitting State Party prior to the disclosure and, if so requested, consult with the transmitting State Party. If, in an exceptional case, advance notice is not possible, the receiving State Party shall inform the transmitting State Party of the disclosure without delay.

(a) Summary of information relevant to reviewing the implementation of the article

312. Libya indicated that it is in compliance with the provisions of this Convention, in accordance with the principle of the Supreme Court regarding ratified conventions and treaties, foremost the United Nations Convention against Corruption and regional and bilateral conventions relating to judicial cooperation, letters rogatory, judicial decisions and extradition.

313. Libya also referred to the following texts:

AML/CFT Law of 2017

ARTICLE 7: EXCHANGE OF INFORMATION

1. The Unit may exchange data and information spontaneously or upon request with any foreign counterpart on the basis of reciprocity.
2. The Unit may sign memoranda of understanding with competent entities and foreign counterparts for the exchange of information.
3. The data and information provided may only be used for the purposes of combating money laundering or terrorism financing and related offences. Such data and information shall not be disclosed to a third party or used for investigation or prosecution purposes without the approval of the unit providing the information.

Agreement on Legal and Judicial Cooperation between Arab Maghreb Union Countries

Article 54:

The request for extradition shall be submitted in writing by the Ministry of Justice or Justice Secretariat of the requesting Party directly to the Ministry of Justice or Justice Secretariat of the requested Party. The request for extradition must be accompanied by the following documents:

- (a) If the request is for a person under investigation, it shall be accompanied by an arrest warrant from the competent judicial authority with a summary of the facts of the offence for which he/she is being investigated, and a certified copy of the legal provisions applicable to that offence and an official copy of the investigation documents, if any.
- (b) If the request is for a person who has been sentenced and the judgement is enforceable, it shall be accompanied by a copy of the original of such judgement.

Article 57:

If the requested Party finds that it needs additional information to ascertain whether the conditions set forth in this section are all met and that it is possible to remedy such shortfall, it shall notify the Ministry of Justice or the Justice Secretariat of the requested party to provide such information to the Ministry of Justice or Justice Secretariat of the requesting party before rejecting the request. The requesting Party may, set a deadline for obtaining such information.

Convention on the Joint Protection of Confidential Information between Libya and the Government of the Russian Federation

Security Cooperation Treaty between Members States of the Community of Sahel-Saharan States (CEN-SAD)

Article 7:

Member States shall undertake to strengthen the links between the competent criminal investigation services of each of the Member States of the Community to report, as appropriate, the information available to them concerning any criminal acts committed or being prepared in the territory of a Member State or outside it.

Article 8:

Every Member State in the Community shall undertake to take the necessary measures to preserve the confidentiality of the information, data and materials exchanged between them, whenever they have been classified as confidential by the State that has delivered them. Such information, data and materials may not be circulated without the consent of the State that has delivered them.

(b) Observations on the implementation of the article

314. The Libyan authorities can spontaneously send information related to criminal matters to a competent authority of another State Party. Libya also complies with the provision under review in application of the principle of supremacy of the international treaties over domestic legislation adopted by Libya.

315. As a member of Interpol, Libya also engages in exchanges of information on international criminals and persons sought or prosecuted by other States.

Article 46 Mutual legal assistance

Paragraph 8

8. States Parties shall not decline to render mutual legal assistance pursuant to this article on the ground of bank secrecy.

(a) Summary of information relevant to reviewing the implementation of the article

316. Libya indicated that it is in compliance with the provisions of this Convention, in accordance with the principle of the Supreme Court regarding ratified conventions and treaties, foremost the United Nations Convention against Corruption and regional and bilateral conventions relating to judicial cooperation, letters rogatory, judicial decisions and extradition.
317. Libya also referred to the following texts:

AML/CFT Law of 2017

SECTION 5 – PROVISIONAL MEASURES AND CONFISCATION

ARTICLE 53: ACCESS TO INFORMATION AND DATA

The Attorney General, or any general attorney whom he authorizes, may order the review or obtainment of any information or data related to accounts, deposits, funds, or other transactions of financial institutions, non-financial businesses and professions, or non-profit organizations in order to uncover facts related to the offences set forth in this Law.

ARTICLE 70: REFUSAL OF A REQUEST

1. A request for mutual legal assistance may be refused in the following cases:
 - a. If the request was not issued by a competent entity in accordance with the law of the requesting country, or the request was not sent in accordance with the laws of Libya, or if the content of the request substantially violate the provisions of Article 69 of this Law,
 - b. If the execution of the request could adversely affect the Libya's sovereignty, security, public order or fundamental interests,
 - c. If the offence to which the request pertains is the object of a pending penal action or for which final judgment was issued,
 - d. If there are substantial grounds for believing that the measure or order to be issued targets the person concerned only because of his ethnic origin, religion, nationality, gender, political opinion,
 - e. If the act referred to in the request is not criminalized under Libyan law, in which case assistance may be provided if it does not involve coercive measures,
 - f. If it is not possible to issue or execute the requested measures due to the statute of limitations that are applicable to the offence of money laundering or terrorist financing under the laws of Libya or the country requesting assistance,
 - g. If the order to be executed is unenforceable under the laws of Libya, or
 - h. If the decision was issued in the country requesting the assistance under circumstances that do not ensure sufficient safeguards with respect to the rights of the accused.
2. A request for mutual legal assistance may not be refused on the grounds of binding confidentiality provisions for financial institutions or because the offence involves fiscal matters.

Law No. (11) of 2014 on the establishment of the National Anti-Corruption Commission

Article (5)

The NACC employees who enjoy the capacity of judicial officers may examine the files of suspects. They may also obtain information from official and non-official departments. In the performance of their duties,

they may resort to any expert or specialist they deem necessary and they shall have the right to examine all documents, even confidential documents, and summon any person they deem necessary to hear his statement.

Law No. (1) of 2005 Concerning Banks, as amended by Law No. 46 of 2012

Article (61)

The Central Bank of Libya may, at any time, review the books and documents of the entities subject to its control, the accounts open at the banks, and the related electronic systems and files. Review should take place at the headquarters of each of them, and carried out by the inspectors of the bank who are assigned for this purpose. The inspectors shall be provided with all the data and facilities necessary for the performance of their task. Inspectors shall not disclose to third parties or disclose to them any records, papers or information relating to the inspection, except in cases authorized by law or when necessary for judicial investigation.

Article (94)

Banks shall keep confidential the accounts of their customers, their balances and all their banking operations, and should not allow access to nor disclose or provide related information to others except with the written permission of the account holder or a competent judicial authority.

(b) Observations on the implementation of the article

318. A request for mutual legal assistance may not be rejected on the basis of bank secrecy provisions (article 70 of AML/CFT Law). Furthermore, Libyan legislation does not preclude disclosure of bank secrecy in the circumstances determined by law.

Article 46 Mutual legal assistance

Paragraph 9

(a) A requested State Party, in responding to a request for assistance pursuant to this article in the absence of dual criminality, shall take into account the purposes of this Convention, as set forth in article 1;

(b) States Parties may decline to render assistance pursuant to this article on the ground of absence of dual criminality. However, a requested State Party shall, where consistent with the basic concepts of its legal system, render assistance that does not involve coercive action. Such assistance may be refused when requests involve matters of a de minimis nature or matters for which the cooperation or assistance sought is available under other provisions of this Convention;

(c) Each State Party may consider adopting such measures as may be necessary to enable it to provide a wider scope of assistance pursuant to this article in the absence of dual criminality.

(a) Summary of information relevant to reviewing the implementation of the article

319. Libya indicated that it is in compliance with the provisions of this Convention, in accordance with the principle of the Supreme Court regarding ratified conventions and treaties, foremost the United Nations Convention against Corruption and regional and bilateral conventions relating to judicial cooperation, letters rogatory, judicial decisions and extradition.
320. Libya also referred to the following text:

AML/CFT Law of 2017

ARTICLE 63: DUAL CRIMINALITY REQUIREMENT

A request for extradition or legal assistance submitted according to the provisions of this Law shall not be executed unless the act object of the request is criminalized under the laws of Libya and the requesting state, regardless of the description given to the act in the laws of both states. If the requested measure does not require coercive procedures, assistance may be provided even if the dual criminality requirement under this article is not met.

(b) Observations on the implementation of the article and good practices

321. The AML/CFT Law provides for dual criminality as a condition for MLA only when such assistance involves coercive action.

Article 46 Mutual legal assistance

Paragraphs 10 to 12

10. A person who is being detained or is serving a sentence in the territory of one State Party whose presence in another State Party is requested for purposes of identification, testimony or otherwise providing assistance in obtaining evidence for investigations, prosecutions or judicial proceedings in relation to offences covered by this Convention may be transferred if the following conditions are met:

(a) The person freely gives his or her informed consent;

(b) The competent authorities of both States Parties agree, subject to such conditions as those States Parties may deem appropriate.

11. For the purposes of paragraph 10 of this article:

(a) The State Party to which the person is transferred shall have the authority and obligation to keep the person transferred in custody, unless otherwise requested or authorized by the State Party from which the person was transferred;

(b) The State Party to which the person is transferred shall without delay implement its obligation to return the person to the custody of the State Party from which the person was transferred as agreed beforehand, or as otherwise agreed, by the competent authorities of both States Parties;

(c) The State Party to which the person is transferred shall not require the State Party from which the person was transferred to initiate extradition proceedings for the return of the person;

(d) The person transferred shall receive credit for service of the sentence being served in the State from which he or she was transferred for time spent in the custody of the State Party to which he or she was transferred.

12. Unless the State Party from which a person is to be transferred in accordance with paragraphs 10 and 11 of this article so agrees, that person, whatever his or her nationality, shall not be prosecuted, detained, punished or subjected to any other restriction of his or her personal liberty in the territory of the State to which that person is transferred in respect of acts, omissions or convictions prior to his or her departure from the territory of the State from which he or she was transferred.

(a) Summary of information relevant to reviewing the implementation of the article

322. Libya indicated that it is in compliance with the provisions of this Convention, in accordance with the principle of the Supreme Court regarding ratified conventions and treaties, foremost the United Nations Convention against Corruption and regional and bilateral conventions relating to judicial cooperation, letters rogatory, judicial decisions and extradition.
323. Libya also referred to the following text:

Agreement of 2009 on Judicial Cooperation in Criminal Matters with the Republic of Niger

Article (6)

1. If the requesting party considers that the personal appearance of a witness or expert before its judicial authority is a very important matter, it shall indicate the same in the summons document request. The party receiving the request shall transfer the witness or expert, or the summons thereof in order for him to appear before these authorities.
2. The party receiving the request shall inform the requesting party of the response of the witness or expert in the case stipulated in Clause (1) of this article. The summons request must include notice of the approximate amount of compensation that is to be paid, as well as the travel and accommodation expenses.

Article (7)

1. Every imprisoned or detained person requested to appear as a witness for confrontation shall be temporarily transferred to the territory in which the statements of witnesses or experts are to be heard by the requesting party, provided that it return the latter in the specified period to the party from which he was transferred.
2. The transferred person must remain imprisoned or detained in the territory of the party to which he was moved, except if the transferring party requests the release thereof.
3. The transfer request may be refused in the following cases:
 - a. If the imprisoned or detained person refuses to be transferred.
 - b. If his presence is mandatory for a criminal case under review in the territory of the party requested to undertake the transfer.
 - c. If the transfer thereof would lead to an extension of his imprisonment or detention.
 - d. If there are other reasons that prevent the transfer thereof.

Article (10)

1. Any witness or expert, regardless of the nationality thereof and after being summoned to appear before the judicial authorities of the requesting party, may not be subject to prosecution or detainment, or subject to any custodial sentence, in the territory of this party for actions or a conviction that preceded his entry into the territory of the requesting party.
2. Any person, regardless of his nationality, that was summoned to appear before the judicial authorities of the requesting party in response to actions for which he is being prosecuted may not be prosecuted or detained, or subject to any custodial sentence, in the territory of the requesting party for actions or a conviction that preceded his entry into the territory of the requesting party that is not the subject of the summons.
3. The immunity stipulated in this article for witnesses or experts shall end after the passage of more than 15 consecutive days from the date judicial bodies of the requesting party no longer require his presence in their region, without him having left the country despite his ability to do so, or if he voluntarily returns thereto after his departure.

(b) Observations on the implementation of the article

324. Libya complies with this provision, despite the absence of a text regulating this matter, in application of the principle of supremacy of the international treaties over domestic legislation adopted by Libya.

Article 46 Mutual legal assistance

Paragraph 13

13. Each State Party shall designate a central authority that shall have the responsibility and power to receive requests for mutual legal assistance and either to execute them or to transmit them to the competent authorities for execution. Where a State Party has a special region or territory with a separate system of mutual legal assistance, it may designate a distinct central authority that shall have the same function for that region or territory. Central authorities shall ensure the speedy and proper execution or transmission of the requests received. Where the central authority transmits the request to a competent Authority for execution, it shall encourage the speedy and proper execution of the request by the competent authority. The Secretary-General of the United Nations shall be notified of the central authority designated for this purpose at the time each State Party deposits its instrument of ratification, acceptance or approval of or accession to this Convention. Requests for mutual legal assistance and any communication related thereto shall be transmitted to the central authorities designated by the States Parties. This requirement shall be without prejudice to the right of a State Party to require that such requests and communications be addressed to it through diplomatic channels and, in urgent circumstances, where the States Parties agree, through the International Criminal Police Organization, if possible.

(a) Summary of information relevant to reviewing the implementation of the article

325. Libya indicated that the Attorney General is the central authority for MLA.

(b) Observations on the implementation of the article

326. The Libyan legislation does not provide for clear procedures on how to send, receive, and execute MLA requests. The authorities indicated that the Attorney General is the central authority for MLA. However, the Secretary-General of the United Nations has not been notified in this regard.

327. To implement the provision under review, Libya should notify the Secretary-General of the United Nations of the central authority for MLA requests. Libya should also establish clear and efficient processes for the execution of MLA requests in a timely way and without undue delays and for communicating with foreign authorities.

328. It is recommended that Libya consider adopting a manual and procedures or guidelines on MLA that would outline in greater detail the steps to be followed by authorities in executing and making MLA requests, as well as any requirements and timeframes to be followed, for further clarity to Libyan authorities and also to requesting States.

Article 46 Mutual legal assistance

Paragraph 14

14. Requests shall be made in writing or, where possible, by any means capable of producing a written record, in a language acceptable to the requested State Party, under conditions allowing that State Party to establish authenticity. The Secretary-General of the United Nations shall be notified of the language or languages acceptable to each State Party at the time it deposits its instrument of ratification, acceptance or approval of or accession to this Convention. In urgent circumstances and where agreed by the States Parties, requests may be made orally but shall be confirmed in writing forthwith.

(a) Summary of information relevant to reviewing the implementation of the article

329. Libya indicated that it is in compliance with the provisions of this Convention, in accordance with the principle of the Supreme Court regarding ratified conventions and treaties, foremost the United Nations Convention against Corruption and regional and bilateral conventions relating to judicial cooperation, letters rogatory, judicial decisions and extradition.
330. Libya also referred to the following text:

AML/CFT Law of 2017

ARTICLE 64: RECEIVING REQUESTS FOR COOPERATION

Requests for mutual legal assistance submitted by foreign competent entities in relation to money laundering and terrorist-financing cases shall be referred to the Attorney General. All requests and attachments thereto shall be translated into Arabic.

(b) Observations on the implementation of the article

331. The Libyan legislation did not provide for clear procedures on how to send, receive, and execute MLA requests. The authorities indicated that such requests should be sent through diplomatic channels. It does not appear that, in urgent circumstances, requests can be made by direct contact between the competent judicial authorities, before receiving the request through diplomatic channels. The acceptable languages for Libya are Arabic. However, the Secretary-General of the United Nations has not been notified in this regard.
332. To implement the provision under review, Libya should notify the Secretary-General of the United Nations of the acceptable languages for MLA requests. Libya should also establish clear and efficient processes for the execution of MLA requests in a timely way and without undue delays and for communicating with foreign authorities.
333. It is recommended that Libya consider adopting a manual and procedures or guidelines on MLA that would outline in greater detail the steps to be followed by authorities in executing and making MLA requests, as well as any requirements and timeframes to be followed, for further clarity to Libyan authorities and also to requesting States.

Article 46 Mutual legal assistance

Paragraphs 15 and 16

15. A request for mutual legal assistance shall contain:

- (a) The identity of the authority making the request;*
- (b) The subject matter and nature of the investigation, prosecution or judicial proceeding to which the request relates and the name and functions of the authority conducting the investigation, prosecution or judicial proceeding;*
- (c) A summary of the relevant facts, except in relation to requests for the purpose of service of judicial documents;*
- (d) A description of the assistance sought and details of any particular procedure that the requesting State Party wishes to be followed;*
- (e) Where possible, the identity, location and nationality of any person concerned; and*
- (f) The purpose for which the evidence, information or action is sought.*

16. The requested State Party may request additional information when it appears necessary for the execution of the request in accordance with its domestic law or when it can facilitate such execution.

(a) Summary of information relevant to reviewing the implementation of the article

334. Libya indicated that it is in compliance with the provisions of this Convention, in accordance with the principle of the Supreme Court regarding ratified conventions and treaties, foremost the United Nations Convention against Corruption and regional and bilateral conventions relating to judicial cooperation, letters rogatory, judicial decisions and extradition.
335. Libya also referred to the following texts:

AML/CFT Law of 2017

ARTICLE 65: REQUIRED INFORMATION IN REQUESTS FOR COOPERATION

1. Requests for extradition of criminals and legal assistance shall include the following:
 - a. Name and title of the foreign party in charge of the investigation or prosecution,
 - b. The purpose of the request and any relevant observations,
 - c. The facts supporting the request,
 - d. The identity of the person concerned, particularly his name, date of birth, social status, nationality, address, location and profession,
 - e. The information needed to identify and track the persons concerned, the instrumentalities and proceeds,
 - f. The legal text that criminalizes the act, the law applicable to the offence and the sanction that may be imposed on the perpetrator, and
 - g. Details of the type of the requested assistance and any other specific procedures that the requesting country wishes to apply.
2. In addition to the aforesaid, requests shall also include the following details in certain specific cases:
 - a. In case of a request to take provisional measures, details of the required measures,
 - b. In case of a request to seek a confiscation order, a statement of the relevant facts and arguments so that the judicial authority can issue a confiscation order pursuant to the law.
3. In the case of a request to execute an order for a provisional measure or confiscation:
 - a. A certified copy of the order and a statement of the grounds on the basis of which the order was made, unless they are contained in the order itself,
 - b. An attestation that the required order is enforceable and not subject to ordinary means of appeal,
 - c. Information as to the extent to which the enforcement of the order is requested and the amount for which recovery is sought in these funds,
 - d. Any information regarding the rights of a third party to the instrumentalities, proceeds, funds or other related items where possible and necessary.
 - e. In the case of a request for extradition where the person has been convicted of an offence, the original copy or a certified copy of the judicial order or any other document indicating the conviction and the sanction imposed and stating that the order is enforceable and the remainder of the sentence.

ARTICLE 66: REQUEST FOR ADDITIONAL INFORMATION

The Attorney General or the relevant competent entity may request additional information from the foreign competent entity if such information is necessary to execute the request or facilitate its execution.

(b) Observations on the implementation of the article

336. Article (65) of AML/CFT Law determines the required information for an MLA request. Article 66 allows the Attorney General or the relevant competent entity to request additional information from the foreign competent entity. Libya also complies with the provision under review, in application of the principle of supremacy of the international treaties over domestic legislation adopted by Libya.

Article 46 Mutual legal assistance

Paragraph 17

17. A request shall be executed in accordance with the domestic law of the requested State Party and, to the extent not contrary to the domestic law of the requested State Party and where possible, in accordance with the procedures specified in the request.

(a) Summary of information relevant to reviewing the implementation of the article

337. Libya indicated that it is in compliance with the provisions of this Convention, in accordance with the principle of the Supreme Court regarding ratified conventions and treaties, foremost the United Nations Convention against Corruption and regional and bilateral conventions relating to judicial cooperation, letters rogatory, judicial decisions and extradition.

338. Libya also referred to the following texts:

AML/CFT Law of 2017

ARTICLE 62: OBLIGATION OF INTERNATIONAL COOPERATION

Competent entities shall provide assistance to their counterparts in other countries for the purposes of extradition and mutual legal assistance in investigations and criminal procedures related to money laundering and terrorism financing in accordance with rules set out by the Criminal Procedure Code and bilateral or multilateral agreements to which Libya is a party, or in accordance with the principle of reciprocity, provided this does not conflict with the fundamental principles of the Libyan legal system.

ARTICLE 72: APPLICABILITY OF LIBYAN LAW TO INVESTIGATION REQUESTS

The execution of requests for mutual legal assistance related to conducting investigations shall be subject to rules of procedures stipulated in the Libyan law. The foreign competent entity may assign a representative to attend the investigation.

(b) Observations on the implementation of the article

339. For Libya to be able to cooperate, MLA requests need to comply with Libyan law, and be on the basis of multilateral or bilateral agreements or reciprocity.

340. It is recommended that Libya consider adopting a manual and procedures or guidelines on MLA that would outline in greater detail the steps to be followed by authorities in executing and making MLA requests, as well as any requirements and timeframes to be followed, for further clarity to Libyan authorities and also to requesting States.

Article 46 Mutual legal assistance

Paragraph 18

18. Wherever possible and consistent with fundamental principles of domestic law, when an individual is in the territory of a State Party and has to be heard as a witness or expert by the judicial authorities of another State Party, the first State Party may, at the request of the other, permit the hearing to take place by video conference if it is not possible or desirable for the individual in question to appear in person in the territory of the requesting State Party. States

Parties may agree that the hearing shall be conducted by a judicial authority of the requesting State Party and attended by a judicial authority of the requested State Party.

(a) Summary of information relevant to reviewing the implementation of the article

341. Libya indicated that no legal provision prevents this matter and these requests are fulfilled in coordination between both parties.

(b) Observations on the implementation of the article

342. Libya is not precluded by its domestic legislation from conducting hearings of witnesses or experts by videoconference.

Article 46 Mutual legal assistance

Paragraphs 19 and 20

19. The requesting State Party shall not transmit or use information or evidence furnished by the requested State Party for investigations, prosecutions or judicial proceedings other than those stated in the request without the prior consent of the requested State Party. Nothing in this paragraph shall prevent the requesting State Party from disclosing in its proceedings information or evidence that is exculpatory to an accused person. In the latter case, the requesting State Party shall notify the requested State Party prior to the disclosure and, if so requested, consult with the requested State Party. If, in an exceptional case, advance notice is not possible, the requesting State Party shall inform the requested State Party of the disclosure without delay.

20. The requesting State Party may require that the requested State Party keep confidential the fact and substance of the request, except to the extent necessary to execute the request. If the requested State Party cannot comply with the requirement of confidentiality, it shall promptly inform the requesting State Party.

(a) Summary of information relevant to reviewing the implementation of the article

343. Libya indicated that it is in compliance with this provision, based on article 67 of the AML/CFT Law and the provisions of the United Nations Convention against Corruption and the related bilateral and multilateral agreements.

AML/CFT Law of 2017

ARTICLE 67 CONFIDENTIALITY OF THE REQUEST

The request must remain confidential if it is so stipulated in the request. The requesting party shall be immediately notified in case of failure to comply with such requirement.

(b) Observations on the implementation of the article

344. Libya is in compliance with the provision under review, based on article 67 of the AML/CFT Law and the application of the United Nations Convention against Corruption.

Article 46 Mutual legal assistance

Paragraph 21

21. *Mutual legal assistance may be refused:*

(a) If the request is not made in conformity with the provisions of this article;

(b) If the requested State Party considers that execution of the request is likely to prejudice its sovereignty, security, ordre public or other essential interests;

(c) If the authorities of the requested State Party would be prohibited by its domestic law from carrying out the action requested with regard to any similar offence, had it been subject to investigation, prosecution or judicial proceedings under their own jurisdiction;

(d) If it would be contrary to the legal system of the requested State Party relating to mutual legal assistance for the request to be granted.

(a) Summary of information relevant to reviewing the implementation of the article

345. Libya indicated that it is in compliance with this provision, based on article 70 of the AML/CFT Law and the provisions of the United Nations Convention against Corruption and the related bilateral and multilateral agreements.

AML/CFT Law of 2017

ARTICLE 70: REFUSAL OF A REQUEST

1. A request for mutual legal assistance may be refused in the following cases:
 - a. If the request was not issued by a competent entity in accordance with the law of the requesting country, or the request was not sent in accordance with the laws of Libya, or if the content of the request substantially violate the provisions of Article 69 of this Law,
 - b. If the execution of the request could adversely affect the Libya's sovereignty, security, public order or fundamental interests,
 - c. If the offence to which the request pertains is the object of a pending penal action or for which final judgment was issued,
 - d. If there are substantial grounds for believing that the measure or order to be issued targets the person concerned only because of his ethnic origin, religion, nationality, gender, political opinion,
 - e. If the act referred to in the request is not criminalized under Libyan law, in which case assistance may be provided if it does not involve coercive measures,
 - f. If it is not possible to issue or execute the requested measures due to the statute of limitations that are applicable to the offence of money laundering or terrorist financing under the laws of Libya or the country requesting assistance,
 - g. If the order to be executed is unenforceable under the laws of Libya, or
 - h. If the decision was issued in the country requesting the assistance under circumstances that do not ensure sufficient safeguards with respect to the rights of the accused.
2. A request for mutual legal assistance may not be refused on the grounds of binding confidentiality provisions for financial institutions or because the offence involves fiscal matters.

(b) Observations on the implementation of the article

346. Libya is in compliance with the provision under review, based on article 70 of the AML/CFT Law and the application of the United Nations Convention against Corruption.

Article 46 Mutual legal assistance

Paragraph 22

22. States Parties may not refuse a request for mutual legal assistance on the sole ground that the offence is also considered to involve fiscal matters.

(a) Summary of information relevant to reviewing the implementation of the article

347. Libya referred to its previous answer.

(b) Observations on the implementation of the article

348. Libya is in compliance with the provision under review, based on the application of the United Nations Convention against Corruption and on article 70 of the AML/CFT Law which states that a request for mutual legal assistance may not be refused because the offence involves fiscal matters.

Article 46 Mutual legal assistance

Paragraph 23

23. Reasons shall be given for any refusal of mutual legal assistance.

(a) Summary of information relevant to reviewing the implementation of the article

349. Libya indicated that it is in compliance with this provision, based on article 71 of the AML/CFT Law and the provisions of the United Nations Convention against Corruption and the related bilateral and multilateral agreements.

AML/CFT Law of 2017

ARTICLE 71: NOTIFICATION OF A REFUSED REQUEST

In case of refusal to execute the request, the Attorney General or competent entity in the state shall immediately inform the foreign competent entity of such refusal and its grounds.

(b) Observations on the implementation of the article

350. Libya is in compliance with the provision under review, based on the application of the United Nations Convention against Corruption and on article 71 of the AML/CFT Law which requires the Attorney General or competent entity in the State to immediately inform the foreign competent entity of the refusal decision and its grounds.

Article 46 Mutual legal assistance

Paragraph 24

24. The requested State Party shall execute the request for mutual legal assistance as soon as possible and shall take as full account as possible of any deadlines suggested by the requesting State Party and for which reasons are given, preferably in the request. The requesting State Party may make reasonable requests for information on the status and progress of measures taken by the requested State Party to satisfy its request. The requested State Party shall respond to reasonable requests by the requesting State Party on the status, and progress in its handling, of

the request. The requesting State Party shall promptly inform the requested State Party when the assistance sought is no longer required.

(a) Summary of information relevant to reviewing the implementation of the article

351. Libya indicated that it is in compliance with this provision, based on the provisions of the United Nations Convention against Corruption and the related bilateral and multilateral agreements.

(b) Observations on the implementation of the article

352. It was difficult to assess in detail Libya's practice of providing MLA in corruption cases, due to the absence of relevant data.

353. To implement the provision under review, Libya should ensure that requests for MLA are executed in a timely manner, taking into account any deadlines requested.

Article 46 Mutual legal assistance

Paragraph 25

25. Mutual legal assistance may be postponed by the requested State Party on the ground that it interferes with an ongoing investigation, prosecution or judicial proceeding.

(a) Summary of information relevant to reviewing the implementation of the article

354. Libya indicated that it is in compliance with this provision, based on article 68 of the AML/CFT Law and the provisions of the United Nations Convention against Corruption and the related bilateral and multilateral agreements.

AML/CFT Law of 2017

ARTICLE 68: DELAYING REFERRAL OF THE REQUEST

The Attorney General may delay the referral of the request to the competent entities responsible for execution if the requested measure or order could lead to significant conflict with a pending investigation or lawsuit, in which case he must inform the requesting party immediately.

(b) Observations on the implementation of the article

355. Libya is in compliance with the provision under review, based on the application of the United Nations Convention against Corruption and on article 68 of the AML/CFT Law which allows the Attorney General to delay the referral of the request to the competent entities responsible for execution if the requested measure or order could lead to significant conflict with a pending investigation or lawsuit.

Article 46 Mutual legal assistance

Paragraph 26

26. Before refusing a request pursuant to paragraph 21 of this article or postponing its execution pursuant to paragraph 25 of this article, the requested State Party shall consult with the

requesting State Party to consider whether assistance may be granted subject to such terms and conditions as it deems necessary. If the requesting State Party accepts assistance subject to those conditions, it shall comply with the conditions.

(a) Summary of information relevant to reviewing the implementation of the article

356. Libya indicated that it is in compliance with this provision, based on article 66 of the AML/CFT Law and the provisions of the United Nations Convention against Corruption and the related bilateral and multilateral agreements.

AML/CFT Law of 2017

ARTICLE 66: REQUEST FOR ADDITIONAL INFORMATION

The Attorney General or the relevant competent entity may request additional information from the foreign competent entity if such information is necessary to execute the request or facilitate its execution.

(b) Observations on the implementation of the article

357. Libya is in compliance with the provision under review based on the direct application of the provisions of the United Nations Convention against Corruption.

Article 46 Mutual legal assistance

Paragraph 27

27. Without prejudice to the application of paragraph 12 of this article, a witness, expert or other person who, at the request of the requesting State Party, consents to give evidence in a proceeding or to assist in an investigation, prosecution or judicial proceeding in the territory of the requesting State Party shall not be prosecuted, detained, punished or subjected to any other restriction of his or her personal liberty in that territory in respect of acts, omissions or convictions prior to his or her departure from the territory of the requested State Party. Such safe conduct shall cease when the witness, expert or other person having had, for a period of fifteen consecutive days or for any period agreed upon by the States Parties from the date on which he or she has been officially informed that his or her presence is no longer required by the judicial authorities, an opportunity of leaving, has nevertheless remained voluntarily in the territory of the requesting State Party or, having left it, has returned of his or her own free will.

(a) Summary of information relevant to reviewing the implementation of the article

358. Libya indicated that it is in compliance with this provision, based on the application of the provisions of the United Nations Convention against Corruption and the related bilateral and multilateral agreements.

359. Libya referred to the following text as an example:

Riyadh Arab Agreement for Judicial Cooperation

Article 22 Immunity of witnesses and experts.

Any witnesses or experts - regardless of their nationality - served notice to attend in the territory of any contracting party, and doing so voluntarily for this purpose before the judicial bodies of the requesting party, shall enjoy immunity of penal action against them, or arrest, or imprisonment on the basis of previous actions in their part, or in the execution of convictions made prior to their entry to the territory of the requesting party.

The body serving a witness or an expert with a subpoena ad testificandum must inform them in writing of such immunity before their first appearance.

The immunity of the witness or expert shall lapse after 30 days of the date on which the judicial bodies of the requesting party dispense with his presence in the said party's territory - provided that no reasons beyond the person's control arise to prevent his departure - or if he voluntarily returns to such territory after having departed.

(b) Observations on the implementation of the article

360. Libya is in compliance with the provision under review based on the direct application of the provisions of the United Nations Convention against Corruption and the related agreements (article 22 of Riyadh Arab Agreement for Judicial Cooperation).

Article 46 Mutual legal assistance

Paragraph 28

28. The ordinary costs of executing a request shall be borne by the requested State Party, unless otherwise agreed by the States Parties concerned. If expenses of a substantial or extraordinary nature are or will be required to fulfil the request, the States Parties shall consult to determine the terms and conditions under which the request will be executed, as well as the manner in which the costs shall be borne.

(a) Summary of information relevant to reviewing the implementation of the article

361. Libya indicated that it is in compliance with this provision, based on the application of the provisions of the United Nations Convention against Corruption and the related bilateral and multilateral agreements.
362. Libya referred to the following text as an example:

Riyadh Arab Agreement for Judicial Cooperation

Article 21 Fees or costs of carrying out a rogatory commission.

No right to charge any fees or costs shall ensue from implementing a rogatory commission except for the fees of experts, if justified, and the costs of witnesses, which shall be borne by the requesting party, and a statement of which shall be dispatched with the dossier.

The requested party shall be entitled to receive in accordance with its laws the charges set for papers presented in the course of carrying out the commission.

(b) Observations on the implementation of the article

363. Libya is in compliance with the provision under review based on the direct application of the provisions of the United Nations Convention against Corruption and the related agreements (article 21 of Riyadh Arab Agreement for Judicial Cooperation).

Article 46 Mutual legal assistance

Paragraph 29

29. The requested State Party:

(a) Shall provide to the requesting State Party copies of government records, documents or information in its possession that under its domestic law are available to the general public;

(b) May, at its discretion, provide to the requesting State Party in whole, in part or subject to such conditions as it deems appropriate, copies of any government records, documents or information in its possession that under its domestic law are not available to the general public.

(a) Summary of information relevant to reviewing the implementation of the article

364. Libya indicated that it is in compliance with this provision, based on the application of the provisions of the United Nations Convention against Corruption and the related bilateral and multilateral agreements.

365. Libya referred to the following text as an example:

Riyadh Arab Agreement for Judicial Cooperation

Article 5 Exchange of criminal records.

The Ministry of Justice in each contracting party shall dispatch to the Ministry of Justice in any other contracting party the latest data on final legal judgements pronounced against its citizens or persons born or residing within its territory and entered in the criminal records (legal register) in accordance with the local legislation of the sender contracting party.

In the case of a charge being made by a judiciary body or other bodies of inquiry or prosecution in any contracting party, such bodies may obtain directly from the competent authorities the criminal record of the person charged.

In the absence of a charge, the judiciary or administrative bodies of any of the contracting parties may obtain from the competent authorities the criminal record in the possession of the other contracting party, subject to the conditions and limits contained in the legislation of the said party.

(b) Observations on the implementation of the article

366. Libya is in compliance with the provision under review based on the direct application of the provisions of the United Nations Convention against Corruption and the related agreements (article 5 of Riyadh Arab Agreement for Judicial Cooperation).

Article 46 Mutual legal assistance

Paragraph 30

30. States Parties shall consider, as may be necessary, the possibility of concluding bilateral or multilateral agreements or arrangements that would serve the purposes of, give practical effect to or enhance the provisions of this article.

(a) Summary of information relevant to reviewing the implementation of the article

367. Libya indicated that it has implemented the provision under review and mentioned some of the bilateral, regional and international agreements concluded between Libya and other countries on mutual legal assistance, including:

- Riyadh Arab Agreement for Judicial Cooperation;
- Agreement on Legal and Judicial Cooperation between Arab Maghreb Union Countries;
- Judicial Cooperation Treaty between the State of Libya and Niger;

- Judicial Cooperation Treaty between the State of Libya and Britain;
- Judicial cooperation Treaty between Libya and Egypt;
- Bilateral Treaty on Extradition, Judicial Decisions and Letters Rogatory between Libya and Tunisia;
- Bilateral Treaty on Extradition, Judicial Decisions and Letters Rogatory between Libya and Morocco.

(b) Observations on the implementation of the article

368. Libya has concluded a series of regional and bilateral MLA treaties.

(c) Technical assistance needs

369. Libya indicated that the following form of technical assistance, if any, will help improve the implementation of the provision under review:
- The need for a model law and implementing procedures on MLA.

Article 47 Transfer of criminal proceedings

States Parties shall consider the possibility of transferring to one another proceedings for the prosecution of an offence established in accordance with this Convention in cases where such transfer is considered to be in the interests of the proper administration of justice, in particular in cases where several jurisdictions are involved, with a view to concentrating the prosecution.

(a) Summary of information relevant to reviewing the implementation of the article

370. Libya indicated that it has no legislation, agreements or arrangements governing the transfer of criminal proceedings.

(b) Observations on the implementation of the article

371. Libya has no legislation, agreements or arrangements governing the transfer of criminal proceedings.
372. To implement the provision under review, Libya should consider establishing a procedural framework for transferring proceedings for the prosecution of an offence established in accordance with this Convention, where such transfer is considered to be in the interests of the proper administration of justice.

Article 48 Law enforcement cooperation

Paragraph 1

1. States Parties shall cooperate closely with one another, consistent with their respective domestic legal and administrative systems, to enhance the effectiveness of law enforcement action to combat the offences covered by this Convention. States Parties shall, in particular, take effective measures:

(b) To cooperate with other States Parties in conducting inquiries with respect to offences covered by this Convention concerning:

(i) The identity, whereabouts and activities of persons suspected of involvement in such offences or the location of other persons concerned;

(ii) The movement of proceeds of crime or property derived from the commission of such offences;

(iii) The movement of property, equipment or other instrumentalities used or intended for use in the commission of such offences;

(c) To provide, where appropriate, necessary items or quantities of substances for analytical or investigative purposes;

(d) To exchange, where appropriate, information with other States Parties concerning specific means and methods used to commit offences covered by this Convention, including the use of false identities, forged, altered or false documents and other means of concealing activities;

(e) To facilitate effective coordination between their competent authorities, agencies and services and to promote the exchange of personnel and other experts, including, subject to bilateral agreements or arrangements between the States Parties concerned, the posting of liaison officers;

(f) To exchange information and coordinate administrative and other measures taken as appropriate for the purpose of early identification of the offences covered by this Convention.

(a) Summary of information relevant to reviewing the implementation of the article

373. Libya indicated that there are a number of direct communication channels between law enforcement authorities in Libya and their counterparts in other countries. Cooperation with other countries in relation to offences is carried out through the channels of international cooperation at the Ministry of Interior, the Office of the Attorney General, Interpol, the Department of International Cooperation in the Ministry of Justice, the Department of International Cooperation in the Ministry of Foreign Affairs, the Libyan Financial Information Unit and the National Anti-Corruption Commission.

374. Libya referred to the following texts:

AML/CFT Law of 2017

ARTICLE 7: EXCHANGE OF INFORMATION

1. The Unit may exchange data and information spontaneously or upon request with any foreign counterpart on the basis of reciprocity.
2. The Unit may sign memoranda of understanding with competent entities and foreign counterparts for the exchange of information.
3. The data and information provided may only be used for the purposes of combating money laundering or terrorism financing and related offences. Such data and information shall not be disclosed to a third party or used for investigation or prosecution purposes without the approval of the unit providing the information.

ARTICLE 62: OBLIGATION OF INTERNATIONAL COOPERATION

Competent entities shall provide assistance to their counterparts in other countries for the purposes of extradition and mutual legal assistance in investigations and criminal procedures related to money laundering and terrorism financing in accordance with rules set out by the Criminal Procedure Code and bilateral or multilateral agreements to which Libya is a party, or in accordance with the principle of reciprocity, provided this does not conflict with the fundamental principles of the Libyan legal system.

ARTICLE 76: INTERNATIONAL AGREEMENTS OR ARRANGEMENTS

The Libyan competent entities may conclude agreements or bilateral or multilateral arrangements related to matters that are object of investigations or procedures in one or more countries in order to form joint investigative teams or conduct joint investigations. In the absence of such agreements or arrangements, joint investigations may be conducted on a case-by-case basis.

Rivadh Arab Agreement for Judicial Cooperation of 1983

Article 1 Exchange of information.

Ministries of Justice of the contracting parties shall regularly exchange the texts of legislations in force, legal and judicial publications, pamphlets and studies, and journals containing legal statutes and judgements, as well as information pertaining to judicial regulations. They shall also take measures to reconcile legislative texts and coordinate legal systems in the contracting parties, as required by the special circumstances of each party.

(b) Observations on the implementation of the article

375. Libyan law enforcement authorities can cooperate at the international level through a number of mechanisms and networks, including INTERPOL. The Libyan Financial Information Unit can also cooperate with its foreign counterparts but has not yet joined the Egmont Group. The NACC is cooperating directly with a number of foreign counterparts despite the lack of a clear enabling provision in its Law.

376. Libya has a range of tools for communication and analysis at the international level. Standard communication channels are used, in addition to secure covert channels like INTERPOL's I24/7 database.

377. Libya has not been involved in exchanges of personnel.

The reviewers encourage Libya to adopt a clearer legal provision allowing the NACC to cooperate at the international level. The reviewers also encourage Libya to strengthen its cooperation in the area of law enforcement, including through the exchange of personnel.

Article 48 Law enforcement cooperation

Paragraph 2

2. With a view to giving effect to this Convention, States Parties shall consider entering into bilateral or multilateral agreements or arrangements on direct cooperation between their law enforcement agencies and, where such agreements or arrangements already exist, amending them. In the absence of such agreements or arrangements between the States Parties concerned, the States Parties may consider this Convention to be the basis for mutual law enforcement cooperation in respect of the offences covered by this Convention. Whenever appropriate, States Parties shall make full use of agreements or arrangements, including international or regional organizations, to enhance the cooperation between their law enforcement agencies.

(a) Summary of information relevant to reviewing the implementation of the article

378. Libya indicated that in addition to several bilateral agreements and memoranda of understanding, this Convention may be considered the basis for any mutual cooperation in law enforcement for the offences covered by this Convention.

379. Libya referred to the following texts:

Rivadh Arab Agreement for Judicial Cooperation

Article 6 Civil, commercial, administrative, penal and personal statute cases.

Judicial and non-judicial documents and papers pertaining to civil, commercial, administrative and personal statute cases which are to be published or which are to be transmitted to persons residing in one of the contracting parties shall be dispatched directly from the judicial body or officer concerned to the court of the district in which the person to be notified resides.

Judicial and non-judicial documents and papers pertaining to penal cases shall be dispatched directly through the Ministry of Justice of each contracting party, without prejudice to the provisions of special articles on the extradition of persons alleged to have committed a crime or convicted thereof.

A dispute over the nationality of the addressee shall be determined in accordance with the law of the contracting party in whose territory the publication or notification is to take place.

Publication or notification occurring in the territory of any contracting party in accordance with the provisions of the present convention shall be considered as having occurred in the territory of the contracting party requiring the publication or notification.

Cooperation agreement with the French Republic in the field of security and combating organized crime

Article 1

Assistance in the following areas:

1. Combating terrorism and organized crime.
2. Combating illegal immigration and forging associated documents.
3. Combating counterfeiting and imitation.
4. Security of ports and airports.
5. Technical and scientific police.
6. Civil protection, firefighting and maritime rescue.
7. Crisis management.
8. Combating illegal trade in narcotic drugs and psychotropic substances and their chemical compositions.
9. Security of air and sea transport.
10. VIP protection.
11. Mine clearance.
- 12. Combating offences of an economic and financial nature, especially money laundering.**
13. Combating human trafficking.
14. Combating trade in cultural property and stolen antiquities.
- 15. Combating frauds associated with new information and communication technologies.**
- 16. Combating crime on the Internet.**

Such cooperation could be extended to other areas of internal security by amending this Agreement by agreement between the parties.

Article 6

The primary objective of cooperation in the areas specified in Article 1 of this Agreement is to achieve the following:

1. General and Specialized Training: The two parties undertake to increase cooperation between educational institutions and institutes as well as specialized training in both countries, especially in the field of combating organized crime, terrorism, illegal immigration and scientific police.
2. Exchange of information and professional experts: This exchange includes:
 - Methods of crimes and means used by criminals and measures taken to address them.
 - Organizing periodic meetings between security services in both countries.
 - Each Party shall inform the other party of the conferences, forums and symposia organized in the fields of security.
3. Technical advice.
4. Exchange of specialized documents: The two parties shall exchange laws and decisions concerning the activities of the General People's Committee for Public Security in the Great Jamahiriya and the French Ministry of Interior, the results of research, books and magazines, as well as educational tools dealing with security-related areas.
5. Exchange of staff and experts when needed.

Security cooperation agreement between the member States of the Sahel and Sahara (2008)

(b) Observations on the implementation of the article

380. Libya considers the Convention as the basis for mutual law enforcement cooperation. Libya also signed a number of security cooperation agreements (such as the security cooperation agreement between the member States of the Sahel and Sahara and the Cooperation agreement with the French Republic in the field of security and combating organized crime). The Libyan Financial Information Unit has also signed a number of memoranda of understanding with its counterparts.

Article 48 Law enforcement cooperation

Paragraph 3

3. States Parties shall endeavour to cooperate within their means to respond to offences covered by this Convention committed through the use of modern technology.

(a) Summary of information relevant to reviewing the implementation of the article

381. Libya indicated that there is a draft law on electronic crimes and acts of piracy. Some bilateral agreements deal with this aspect as well, such as the Cooperation agreement with the French Republic in the field of security and combating organized crime (2009).

(b) Observations on the implementation of the article

382. Libya has a draft law on electronic crimes and acts of piracy, and some of its bilateral agreements covers the cooperation in the fight against such crimes (such as the Cooperation agreement with the French Republic in the field of security and combating organized crime).
383. During the joint meeting, it was indicated that the draft law was being considered at the Parliament level.

Article 49 Joint investigations

States Parties shall consider concluding bilateral or multilateral agreements or arrangements whereby, in relation to matters that are the subject of investigations, prosecutions or judicial proceedings in one or more States, the competent authorities concerned may establish joint investigative bodies. In the absence of such agreements or arrangements, joint investigations may be undertaken by agreement on a case-by-case basis. The States Parties involved shall ensure that the sovereignty of the State Party in whose territory such investigation is to take place is fully respected.

(a) Summary of information relevant to reviewing the implementation of the article

384. Libya referred to the following provisions:

AML/CFT Law of 2017

ARTICLE 76: INTERNATIONAL AGREEMENTS OR ARRANGEMENTS

The Libyan competent entities may conclude agreements or bilateral or multilateral arrangements related to matters that are object of investigations or procedures in one or more countries in order to form joint investigative teams or conduct joint investigations. In the absence of such agreements or arrangements, joint investigations may be conducted on a case-by-case basis.

(b) Observations on the implementation of the article

385. Article 76 of the AML/CFT Law expressly states that competent entities may conclude agreements or bilateral or multilateral arrangements in order to form joint investigative teams or conduct joint investigations. In the absence of such agreements or arrangements, joint investigations may be conducted on a case-by-case basis.

Article 50 Special investigative techniques

1. In order to combat corruption effectively, each State Party shall, to the extent permitted by the basic principles of its domestic legal system and in accordance with the conditions prescribed by its domestic law, take such measures as may be necessary, within its means, to allow for the appropriate use by its competent authorities of controlled delivery and, where it deems appropriate, other special investigative techniques, such as electronic or other forms of surveillance and undercover operations, within its territory, and to allow for the admissibility in court of evidence derived therefrom.

2. For the purpose of investigating the offences covered by this Convention, States Parties are encouraged to conclude, when necessary, appropriate bilateral or multilateral agreements or arrangements for using such special investigative techniques in the context of cooperation at the international level. Such agreements or arrangements shall be concluded and implemented in full compliance with the principle of sovereign equality of States and shall be carried out strictly in accordance with the terms of those agreements or arrangements.

3. In the absence of an agreement or arrangement as set forth in paragraph 2 of this article, decisions to use such special investigative techniques at the international level shall be made on a case-by-case basis and may, when necessary, take into consideration financial arrangements and understandings with respect to the exercise of jurisdiction by the States Parties concerned.

4. Decisions to use controlled delivery at the international level may, with the consent of the States Parties concerned, include methods such as intercepting and allowing the goods or funds to continue intact or be removed or replaced in whole or in part.

(a) Summary of information relevant to reviewing the implementation of the article

386. Libya indicated that it follows the measures set forth in the Criminal Procedure Code of 1953 and its amendments as a general law for the application of special investigative techniques. The provisions include the possibility of monitoring communications and recording calls, after obtaining the permission of the investigating judge.
387. As for concluding appropriate bilateral or multilateral agreements or arrangements for the use of special investigative techniques in the context of international cooperation, Libya indicated that nothing in the law prevents this.

Criminal Procedure Code

Article 79, Seizure of Correspondence and Letters - The investigating magistrate may seize in all post offices all correspondence, letters, newspapers, publications, and parcels and all cables in telegraph offices. He may also monitor telephone conversations whenever this serves to reveal the truth.

AML/CFT Law of 2017

ARTICLE 54: SEIZURE OF LETTERS PUBLICATIONS AND MONITORING AND RECORDING OF COMMUNICATIONS

1. The Attorney General, or any general attorney whom he authorizes, may order the seizure of all types of letters, printed materials, postal boxes and telegrams, the monitoring of all means of communication, and

the recording of any activities done in public or private places if this action facilitates the uncovering of facts related to any offence stipulated in this Law.

2. A seizure, monitoring or recording order must be justified, shall be valid for up to 90 days to be extended by an order issued by a competent court.

(b) Observations on the implementation of the article

388. For corruption offences, special investigative techniques under the CPC and the AML/CFT Law may be used, including communication control and wire-tapping. Furthermore, Libyan legislation does not prevent the conclusion of appropriate bilateral or multilateral agreements or arrangements for the use of special investigative techniques, including the use of controlled delivery methods and covert operations, in the context of international cooperation.