

Article 13. Participation of society

1. Each State Party shall take appropriate measures, within its means and in accordance with fundamental principles of its domestic law, to promote the active participation of individuals and groups, outside the public sector, such as civil society, non-governmental organizations and community-based organizations, in the prevention of and the fight against corruption and to raise public awareness regarding the existence, causes and gravity of and the threat posed by corruption. This participation should be strengthened by such measures as:

- (a) Enhancing the transparency of and promoting the contribution of the public to decision-making processes;
- (b) Ensuring that the public has effective access to information;
- (c) Undertaking public information activities that contribute to non-tolerance of corruption, as well as public education programmes, including school and university curricula;

CIVIL SOCIETY REPORT

on the implementation of

Chapter II (Prevention) & Chapter V (Asset Recovery) of the

UNITED NATIONS CONVENTION AGAINST CORRUPTION

IN ZAMBIA

by Transparency International Zambia

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The findings in this report are those of the authors but do not necessarily reflect the views of the UNCAC Coalition and the donors who have made this report possible.

Every effort has been made to verify the accuracy of the information contained in this report. All information was believed to be correct as of August 2023.

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Transparency International Zambia (TI-Z) is a local chapter of the global movement – Transparency International. TI-Z is dedicated to the fight against corruption and the promotion of good governance in Zambia. TI-Z is a non-profit making non-governmental organization with a registered office in Lusaka and has been in existence since June 2000. In its current strategic plan, covering the period 2023-2027, TI-Z seeks to combat corruption in Zambia by activating citizen action, enhancing public and business integrity, protecting public resources, and increase transparency in environmental sustainability and climate financing.

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Abbreviations

ACC	Anti-Corruption Commission
AMLIU	Anti-Money Laundering Investigations Unit
ARINSA	Asset Recovery Inter-Agency Network for Southern Africa
ATI	Access to Information
CTRs	Currency Transaction Reports
CSO	Civil Society Organization
CPI	Corruption Perception Index
CoSP	Conference of the States Parties
Danida	Ministry of Foreign Affairs of Denmark
DEC	Drug Enforcement Commission
DNFBPs	Designated Non-Financial Businesses and Professions
DPP	Director of Public Prosecutions
ECZ	Electoral Commission of Zambia
ESAAMLG	Eastern and Southern Africa Anti-Money Laundering Group
e-GP	Electronic Government Procurement
FIC	Financial Intelligence Centre
FIUs	Financial Intelligence Units
ICs	Integrity Committees
INTERPOL	International Criminal Police Organization
IRM	Implementation Review Mechanism
IFMIS	Integrated Financial Management Information Systems
LEA	Law Enforcement Agency
MDAs	Ministries Departments and Agencies
MLA	Mutual Legal Assistance
NACP	National Anti-Corruption Policy
NSC	National Steering Committee
Norad	Norwegian Agency for Development Cooperation
OAG	Office of the Auditor General
PAC	Public Accounts Committee
PF	Patriotic Front
PFM	Public Finance Management
PIPs	Politically Influential Persons
Sida	Swedish International Cooperation Development Agency
STRs	Suspicious Transaction Reports
TI-Z	Transparency International Zambia
UNCAC	United Nations Convention against Corruption
UNODC	United Nations Office on Drugs and Crime
UNPD	United Party for National Development
ZIPS	Zambia Institute of Purchasing and Supply
ZPPA	Zambia Public Procurement Authority

List of Persons Consulted

Name	Job title	Affiliation	Date of interview
Mr. Milton Mavwali	Senior Monitoring and Evaluation Officer	Anti-Corruption Commission	18 th June 2023
Ms. Loyiwe Mbuzi Sikazwe	Senior Monitoring and Evaluation Officer	Anti-Corruption Commission	19 th June 2023
Kelvin Siwale	Senior Corruption Prevention Officer	Anti-Corruption Commission	17 th July 2023
Mr. Joseph Akapelwa	Head of Legal	Drug Enforcement Commission	7 th July 2023
Verginia Tembo	Senior Legal and Prosecutions Officer	Anti-Corruption Commission	11 th July 2023
Whitney Mulobella	Coordinator, Communication, Advocacy and Networking	Non-Government Gender Organizations' Coordinating Council	11 th July 2023
Sally Fales Bwalya	Senior Legal Aid Counsel	Legal Aid Board	11 th July 2023
Agnita Petulo	Parliamentary Counsel	Ministry of Justice	11 th July 2023
Yamikani Ngoma	Research Officer	Zambia Law Development Commission	11 th July 2023
Bwalya Siulanda	Chief Investigations Officer	Office of the Public Protector	11 th July 2023
Kumwenda Kelvin	Legal Officer	Zambia Police	11 th July 2023
Louis Bwalya	Governance Specialist	Ministry of Justice	17 th August 2023

I. Introduction

Transparency International's 2022 Corruption Perceptions Index (CPI) shows that most countries are failing to stop corruption. The global average CPI score remains unchanged for over a decade at just 43 out of 100 while more than two-thirds of countries score below 50, and 26 countries have fallen to their lowest scores yet. Despite concerted efforts and hard-won gains by some, 155 countries have made no significant progress against corruption or have declined since 2012.¹ At a stagnated regional average score of 32 out of 100, Sub-Saharan Africa continues to struggle with addressing the corruption problem. In 2022, 44 out of the 49 countries assessed scored below 50 while the significant declines in some countries outweighed the gains made by a few others.²

The United Nations Convention against Corruption (UNCAC) is the only legally binding universal anti-corruption instrument. The Convention's far-reaching approach and the mandatory character of many of its provisions make it a unique tool for developing a comprehensive response to a global problem. The Convention covers five main areas: preventive measures, criminalization and law enforcement, international cooperation, asset recovery, and technical assistance and information exchange. The Convention also covers many different forms of corruption, such as bribery, trading in influence, abuse of functions, and various acts of corruption in the private sector. A highlight of the Convention is the inclusion of a specific chapter on asset recovery, aimed at returning assets to their rightful owners.³

The United Nations adopted the UNCAC on 31st October 2003, by resolution 58/4, and it entered into force on 14th December 2005, in accordance with article 68(1) of the Convention. As at 21st November 2021, the UNCAC had 140 signatories and 189 parties, across the world, including all the African countries except Eritrea.⁴ Zambia signed the United Nations Convention against Corruption (UNCAC) on 11th December 2003 and ratified it on 7th December 2007.⁵

This parallel report reviews Zambia's implementation of selected articles of Chapter II (Preventive measures) and Chapter V (Asset recovery) of the UNCAC. The report is intended as a contribution to the UNCAC implementation review process currently underway covering these chapters. Zambia was selected by the UNCAC

¹ Transparency International (2023), Corruption Perception Index 2022, https://www.transparency.org/en/cpi/2022?gclid=EAlalQobChMlItrsglr_gAMVLDsGAB1AjqXoEAAYA_SAAEqLdj_D_BwE, accessed on 17th July 2023.

² Transparency International (2023), CPI 2022 FOR SUB-SAHARAN AFRICA: CORRUPTION COMPOUNDING MULTIPLE CRISES, <https://www.transparency.org/en/news/cpi-2022-sub-saharan-africa-corruption-compounding-multiple-crises>, accessed on 17th July 2023.

³ The United Nations Office on Drugs and Crime (2023), United Nations Convention against Corruption, <https://www.unodc.org/unodc/en/treaties/CAC/>, accessed on 18th July 2023.

⁴ The United Nations Office on Drugs and Crime (2023), Signature and Ratification Status, <https://www.unodc.org/unodc/en/corruption/ratification-status.html>, accessed on 18th July 2023.

⁵ United Nations Office on Drugs and Crimes, Zambia Country Profile, <https://www.unodc.org/unodc/en/corruption/country-profile/countryprofile.html#?CountryProfileDetails=%2Funodc%2Fcorruption%2Fcountry-profile%2Fprofiles%2Fzmb.html>, accessed on 14th June 2023.

Implementation Review Group in June 2018 by a drawing of lots for review in the fourth year of the second cycle.⁶

1.1 Scope. The UNCAC articles and topics that receive particular attention in this report are those covering preventive anti-corruption policies and practices (Article 5), preventive anti-corruption bodies (Article 6), political financing (Article 7.3), reporting mechanisms and whistleblower protection (Articles 8.4 and 13.2), public procurement (Article 9.1), the management of public finances (Article 9.2), and access to information and participation of society (Articles 10 and 13). Under Chapter V, the UNCAC articles and topics that receive particular attention in this report are those covering anti-money laundering (Articles 52 and 58), measures for direct recovery of property (Articles 53 and 56), international cooperation for the purpose of confiscation (Article 55) and the return and disposal of confiscated property (Article 57).

1.2 Structure. The report begins with an executive summary, including the condensed findings, conclusions and recommendations about the review process, the availability of information, as well as the implementation and enforcement of selected UNCAC articles. The following part covers the findings of the review process in Zambia as well as access to information issues in more detail. Subsequently, the implementation of the Convention is reviewed and examples of good practices and deficiencies are provided. Then, recent developments are discussed and lastly, recommendations for priority actions to improve the implementation of the UNCAC are given.

1.3 Methodology. The report was prepared by Transparency International Zambia with technical and financial support from the UNCAC Coalition and The Swedish International Cooperation Development Agency (Sida). The group made efforts to obtain information for the reports from government offices and to engage in dialogue with government officials.

The report was prepared using guidelines and a report template designed by the UNCAC Coalition and Transparency International for use by civil society organizations (CSOs). These tools reflected but simplified the United Nations Office on Drugs and Crime (UNODC)'s checklist and called for relatively short assessments as compared to the detailed official self-assessment checklist. The report template included a set of questions about the review process and, in the section on implementation, asked for examples of good practice and areas in need of improvement in articles of UNCAC Chapter II on prevention and Chapter V on asset recovery.

⁶ United Nations Office on Drugs and Crime (September 2018), Country pairings for the first and second cycles of the Implementation Review Mechanism, <http://www.unodc.org/documents/treaties/UNCAC/WorkingGroups/ImplementationReviewGroup/3-5September2018/V1805691e.pdf>, accessed on 14th June 2023.

II. Executive Summary

Transparency International Zambia (TI-Z) has developed this Parallel Report as an independent evaluation of the Zambian Government's performance in the implementation of anti-corruption measures under the United Nations Convention Against Corruption (UNCAC). Parallel reporting is a widely accepted strategy that enables civil society to take an active role in holding governments accountable to their legally mandated obligations. With respect to United Nations Conventions, such parallel reporting helps to ensure that UN treaty bodies are aware of, discuss, and make recommendations to States in relation to important human rights issues overlooked or omitted in the official State report.⁷ We therefore hope that this parallel report, though not part of the official process, will be taken into account in assessing Zambia's performance. The report will also contribute to current evidence on the status of implementation of anti-corruption measures in Zambia and thus providing a credible reference point for holding the government accountable.

Specifically, this parallel report reviews Zambia's implementation of selected articles of Chapter II (Preventive measures) and Chapter V (Asset recovery) of the UNCAC, as a contribution to the official UNCAC implementation review process currently underway in Zambia. In developing this report, Transparency International Zambia (TI-Z) consulted widely with all relevant stakeholders and performed a comprehensive review of literature to collaborate the findings from the consultative process.

2.1 Description of the Official Review Process

Information on the official review process in Zambia was published through a Ministerial statement to Parliament in 2018, by the then Minister of Justice Hon. Given Lubinda.⁸ Following this ministerial statement, the Minister of Justice drafted a Cabinet Memorandum, for approval, and circulation to all government bodies and ministries. Although the official review process commenced in 2019, the outbreak of the COVID-19 pandemic derailed the process, as the official visit, which was scheduled for 2019, was not undertaken. Further, there has not been any formal communication from the UNODC concerning the state visit following the containment of the pandemic.

At the time of writing, there has not been any country visit by the selected state party reviewers. Consequently, the Zambian government has not invited civil society, the private sector and academia to provide input into the process. In February 2022, the Minister of Justice held discussions with the UNODC and requested them to expedite the review process in order to generate the report and action plan for possible launch in Zambia. However, Zambia is still awaiting feedback from the relevant office of the UNODC.⁹

⁷ International Network for Economic, Social & Cultural Rights (2023), Overview of Parallel Reporting, <https://www.escr-net.org/parallel-reporting/guide/overview#:~:text=In%20essence%2C%20parallel%20reporting%20helps,in%20the%20Official%20State%20report>, accessed on 12th July 2023.

⁸ Government of Zambia (2018), Ministerial Statement: The Conference of the Parties to the UNCAC, https://www.parliament.gov.zm/sites/default/files/images/publication_docs/MINISTERIAL%20STATEMENT%20BY%20THE%20MINISTER%20OF%20JUSTICE.pdf.

⁹ Ministry of Justice (2023), Submission following request for information.

The following table provides a summary of the information obtained from the Ministry of Justice on the Official UNCAC review of Zambia.

Question	Response
Has the government published any information concerning the review process?	Yes
Has the Official review process on Chapter II and V commenced in Zambia?	Yes
Has the Zambian government consulted CSOs, Academia and other Stakeholders as part of this official review process?	No
Has the assessment checklist been published online or provided to CSOs?	No
Has the Country visit been undertaken?	No
Was civil society invited to provide input to the official reviewers	No

2.2 Availability of Information

At present, Zambia has no access to information law.¹⁰ Consequently, all requests for information sent to relevant government departments and institutions were not legally binding on the State. Nonetheless, it was notable that during the parallel review process, the Anti-Corruption Commission (ACC) and the Ministry of Justice promptly attended to the requests for information. However, other government entities did not provide the required information even after submitting formal letters and specification of the information required. Further, some of the staff allocated to attend to the interviews, as part of the review process, were non-responsive to emails and phone calls. This indifference was the main obstacle to obtaining information.

2.3 Implementation in Law and in Practice

Article 5 – Preventive Anti-Corruption Policies and Practices

Zambia has no updated Anti-Corruption Policy. The most recent National Anti-Corruption Policy (NACP) in Zambia was implemented from 2009 to 2015.¹¹ A 2015 evaluation of the Policy established that despite having an effective coordination mechanism, comprised of the National Steering Committee (NSC), Technical Committees and Ministries Departments and Agencies (MDAs), the lack of a financing mechanism and Monitoring and Evaluation Framework limited the effective implementation of the Policy.¹² During the period 2016 to 2021, the Zambian government initiated the process for the development of a new Anti-Corruption Policy. However, after the change of regime in 2021, the United Party for National Development (UPND)-led administration recalled the policy for fresh consultations and

¹⁰ In July 2023, the Zambian government approved the Access to Information Bill, in principle, for presentation to Parliament, <https://diggers.news/local/2023/07/30/cabinet-approves-introduction-of-ati-bill-in-parley/>.

¹¹ Republic of Zambia (2009), National Anti-Corruption Policy, https://www.academia.edu/37753195/NATIONAL_ANTI_CORRUPTION_POLICY_REPUBLIC_OF_ZAMBIA_REPUBLIC_OF_ZAMBIA, accessed 15th June 2023.

¹² Milapo, Nalukui (2016), Evaluation of the National Anti-Corruption Policy: 2011- 2015. 10.13140/RG.2.1.2582.7445, https://www.researchgate.net/publication/303860116_Evaluaton_of_the_National_Anti-Corruption_Policy_2011-2015, accessed on 20th June 2023.

alignment to their new vision. At this point, the Ministry of Justice took the lead in the development of the new policy. Following a multi-stakeholder consultative process, the Ministry of Justice finalized the policy pending approval by Cabinet.

Article 6 – Preventive Anti-Corruption Body or Bodies

Under Section 6 of the Anti-Corruption Act No. 3 of 2012,¹³ the mandate of the Anti-Corruption Commission (ACC) is to; (i) investigate and prosecute cases of suspected corruption (ii) conduct public sensitization on the dangers of corruption and foster public support in the fight against corruption, and (iii) put in place mechanisms for preventing the corruption scourge in Zambia.¹⁴ The ACC has however been limited in executing its mandate due to some legal and institutional challenges. These include the requirement to seek consent from the Director of Public Prosecutions (DPP),¹⁵ the inability to charge constitutional office holders and state officers, such as the President, Vice-President, Speaker, Deputy Speaker, Member of Parliament and Ministers, for offences under the Act,¹⁶ limited geographical presence and limited financial autonomy.¹⁷

Article 7.3 – Political Financing

Article 60 (4) of the Constitution of Zambia (Amendment) Act No. 2 of 2016¹⁸ provides for the establishment of the political parties fund, auditing of political parties accessing the fund, declaration of sources of funding and spending limits during an election.¹⁹ However, there is no law in place to actualize this constitutional provision. The Political Parties Bill (2017)²⁰ is the most recent attempt at regulating political financing in Zambia. However, the government has not enacted this Bill due to a general lack of consensus among stakeholders. For instance, stakeholders do not agree on the

¹³ Anti-Corruption Act No 3 of 2012,

<https://www.parliament.gov.zm/sites/default/files/documents/acts/Anti%20Corruption%20Act%2C%202012.PDF>.

¹⁴ Anti-Corruption Commission, Mandate, <https://www.acc.gov.zm/mandate/>, accessed on 20th June 2023.

¹⁵ Section 6(1) (b) of the Anti-Corruption Act No. of 2012 provides that the ACC has the mandate to “initiate, receive and investigate complaints of alleged or suspected corrupt practices, and, subject to the directions of the Director of Public Prosecutions, prosecute-(i) offences under this Act”, <https://www.parliament.gov.zm/sites/default/files/documents/acts/Anti%20Corruption%20Act%2C%202012.PDF>.

¹⁶ Section 21 of the Anti-Corruption Act No. 3 of 2012 only applies to a Public Officer while the Constitution defines a public officers as “a person holding or acting in a public office, but does not include a State officer, Councillor, a Constitutional office holder, a judge and a judicial officer.”

¹⁷ International Monetary Fund (10th January 2023), Zambia: Technical Assistance Report-Diagnostic Report on Governance and Corruption, <https://www.elibrary.imf.org/view/journals/002/2023/003/article-A001-en.xml>, accessed on 20th June 2023.

¹⁸ Constitution of Zambia (Amendment) Act No. 2 of 2016, [https://www.parliament.gov.zm/sites/default/files/documents/amendment_act/Constitution%20of%20Zambia%20%20\(Amendment\).%202016-Act%20No.%202_0.pdf](https://www.parliament.gov.zm/sites/default/files/documents/amendment_act/Constitution%20of%20Zambia%20%20(Amendment).%202016-Act%20No.%202_0.pdf).

¹⁹ Article 60 (4) “The following shall be prescribed with regard to political parties:(a) the establishment and management of a Political Parties’ Fund to provide financial support to political parties with seats in the National Assembly; (b) the accounts of political parties which are funded under the Political Parties’ Fund and the submission of audited accounts by political parties; (c) the sources of funds for political parties; (d) the maximum amount of money to be used for campaigns during elections; and (e) matters incidental to matters specified in this clause.”

²⁰ Political Parties Bill 2017,

<https://www.parliament.gov.zm/sites/default/files/documents/articles/THE%20POLITICAL%20PARTIES%20BILL,%202017%20Consultative%20Process%20Document-1.pdf>, accessed on 20th June 2023.

selection criteria for funding through the Political Parties Fund, as many political parties have no representation in parliament, and the government is weary of the financial burden of funding political parties. Furthermore, there are mixed-feelings among stakeholders concerning the purpose of the bill, as some suspect that it may stifle the free operation of political opposition parties.²¹

Articles 8.4 and 13.2 – Reporting Mechanisms and Whistleblower Protection

Zambia has a substantive law, the Public Interest Disclosure (Protection of Whistleblower) Act No. 4 of 2010,²² on corruption reporting and the protection of whistleblowers. However, the law contains some unfavorable provisions such as the possible prosecution of whistleblowers for reports deemed malicious or frivolous. Furthermore, after a decade of poor implementation, it is now apparent that the Act is losing touch with the reality on the ground. For example, it is unclear, what role, if any, the Integrity Committees (ICs) should play in the public interest disclosure system and the protection of whistleblowers since the proliferation of ICs came after the enactment of this law. In the absence of sufficient protection, highly placed whistleblowers such as public officials in government have turned to Civil Society Organizations (CSOs) and the media to report cases of corruption.

Article 9.1 – Public Procurement

Zambia has a comprehensive legal framework for public procurement. This includes Articles 210 (1) of the Constitution of Zambia (Amendment) Act No. 2 of 2016,²³ The Public Procurement Act No. 8 of 2020²⁴, and the Public Procurement Regulations of 2022.²⁵ The Public Procurement Act No. 8 of 2020 replaced the Procurement Act No. 12 of 2008²⁶ in order to enhance provisions for transparency of procurement for public projects funded through private lenders and reference market price indices developed for benchmarking procurement for standard goods and services.²⁷ Despite this legal and institutional framework, there are a number of implementation challenges. These include ineffective checks on rent seeking by Politically Influential Persons (PIPs); limited vetting of suppliers, resulting in awards of contracts to entities with no capacity to deliver; and limited beneficial ownership transparency. There is also collusion

²¹ Civicus (10th October 2017), The Political Parties Bill is 'poison for Zambia's ailing democracy', <https://www.civicus.org/index.php/media-resources/news/interviews/2973-the-political-parties-bill-is-poison-for-zambia-s-ailing-democracy>, accessed on 20th June 2023.

²² Public Interest Disclosure (Protection of Whistleblower) Act No. 4 of 2010, <https://www.parliament.gov.zm/sites/default/files/documents/acts/Public%20Interest%20Disclosure%20Act%20No.%204%202010.PDF>, accessed on 21st June 2023.

²³ Constitution of Zambia (Amendment) Act No. 2 of 2016, [https://www.parliament.gov.zm/sites/default/files/documents/amendment_act/Constitution%20of%20Zambia%20%20\(Amendment\).%202016-Act%20No.%202_0.pdf](https://www.parliament.gov.zm/sites/default/files/documents/amendment_act/Constitution%20of%20Zambia%20%20(Amendment).%202016-Act%20No.%202_0.pdf).

²⁴ Public Procurement Act No. 8 of 2020, <https://www.parliament.gov.zm/sites/default/files/documents/acts/The%20Public%20Procurement%20Act%20No.%208%202020.pdf>.

²⁵ Zambia Public Procurement Authority (2023), Public Procurement Legislation, <https://www.zppa.org.zm/public-procurement-act>, accessed on 5th July 2023.

²⁶ Procurement Act No. 12 of 2008, https://www.parliament.gov.zm/sites/default/files/documents/acts/Public_Procurement_Act_2008.PDF.

²⁷ International Monetary Fund (10th January 2023), Zambia: Technical Assistance Report-Diagnostic Report on Governance and Corruption, <https://www.elibrary.imf.org/view/journals/002/2023/003/article-A001-en.xml>, accessed on 20th June 2023.

between public officials and vendors in defrauding the government through the submission of false claims.⁹⁸

Article 9.2 – Management of Public Finances

Article 202 of the Constitution of Zambia (Amendment) Act No. 2 of 2016²⁸ provides for the presentation of the national budget to the National Assembly for approval. Following this presentation, the National Assembly has the powers to vary the allocation to specific functions and departments but not the total budget.²⁹ In practice, however, the National Assembly of Zambia does not exercise this power but focuses on debating the budget and voting to pass the annual Budget Appropriation Bill,³⁰ which gives powers to the executive to implement the national budget. The Constitution of Zambia (Amendment) Act No. 2 of 2016 also provides for other key aspects of the public finance management (PFM) process. These include the presentation and approval of a supplementary budget (Article 203), public participation in the budget planning process (Article 205), public debt and investment management (Articles 206 to 209), public procurement (Article 210), financial reporting (Article 211) and financial auditing (Article 212).

After the close of each financial year, the Office of Auditor General (OAG) conducts audits on government accounts as mandated by Article 250 (1) of the Constitution of Zambia (Amendment) Act No. 2 of 2016.³¹ As Zambia's Supreme Audit Institution, the OAG conducts annual audits of the accounts of state organs, state institutions, provincial administration and local authorities and institutions financed from public funds. The OAG also conduct financial and value for money audits, including forensic audits and any other type of audit, in respect of a project that involves the use of public funds. Following these audits, the Office submits reports to the President and Parliament. Additionally, the Auditor General has the power to recommend to the Director of Public Prosecutions or Law Enforcement Agencies (LEAs) any matter for investigation and/or prosecution.³² In practice, however, there has been limited responsiveness by the executive to the recommendations made by the OAG and the Public Accounts Committee (PAC) following publication of Audit reports.

Articles 10 and 13 – Access to Information and the Participation of Society

Zambia has no access to information law. A draft Access to Information (ATI) bill has been under development for the past 20 years. The government first introduced the ATI bill in 2002, for first reading in parliament, but later withdrew it for further

²⁸ Constitution of Zambia (Amendment) Act No. 2 of 2016, [https://www.parliament.gov.zm/sites/default/files/documents/amendment_act/Constitution%20of%20Zambia%20%20\(Amendment\).%202016-Act%20No.%202_0.pdf](https://www.parliament.gov.zm/sites/default/files/documents/amendment_act/Constitution%20of%20Zambia%20%20(Amendment).%202016-Act%20No.%202_0.pdf).

²⁹ Constitution of Zambia (Amendment) Act No. 2 of 2016, [https://www.parliament.gov.zm/sites/default/files/documents/amendment_act/Constitution%20of%20Zambia%20%20\(Amendment\).%202016-Act%20No.%202_0.pdf](https://www.parliament.gov.zm/sites/default/files/documents/amendment_act/Constitution%20of%20Zambia%20%20(Amendment).%202016-Act%20No.%202_0.pdf).

³⁰ Budget Appropriation Bill 2022, <https://www.parliament.gov.zm/sites/default/files/documents/acts/Act%20No.%2030%20The%20Appropriation%20Bill%20C%202022.pdf>.

³¹ Constitution of Zambia (Amendment) Act No. 2 of 2016, [https://www.parliament.gov.zm/sites/default/files/documents/amendment_act/Constitution%20of%20Zambia%20%20\(Amendment\).%202016-Act%20No.%202_0.pdf](https://www.parliament.gov.zm/sites/default/files/documents/amendment_act/Constitution%20of%20Zambia%20%20(Amendment).%202016-Act%20No.%202_0.pdf).

³² Office of the Auditor General (2023), About us https://www.ago.gov.zm/?page_id=4862, accessed on 12th July 2023.

consultations.³³ In 2012, the Patriotic Front-led government established a Taskforce on ATI and produced a draft ATI Bill. Disappointingly, for over a decade the government failed to pass this bill.³⁴ In 2022, the United Party for National Development (UPND) government informed the public that the draft ATI Bill would undergo another round of nation-wide consultation. Stakeholders bemoaned this decision, as they believed that it would cause further delays to enacting this critical law that has been decades in the making.³⁵ In the absence of this law, access to information has been at the benevolence of government departments and ministries.

Articles 52 and 58 – Anti-Money Laundering

In 2023, Zambia launched the National Anti-Money Laundering and Countering Terrorism and Proliferation Financing Policy.³⁶ The Policy outlines the government's policy direction for the effective combatting of money laundering, terrorism financing and proliferation financing. The country also has a comprehensive legal framework and institutional framework, including; the Anti-Money laundering legal framework which includes the Prohibition and Prevention of Money Laundering (Amendment) Act No. 44 of 2010³⁷, read together with the Prohibition and Prevention of Money Laundering Act No. 14 of 2001.³⁸ Other relevant laws include the Forfeiture of Proceeds of Crime Act No. 19 of 2010, the Mutual Legal Assistance in Criminal Matters Act (1993), and the Plea Negotiations and Agreements Act No. 20 of 2010.³⁹

Zambia established the Financial Intelligence Centre (FIC) in 2010 to receive and analyze Suspicious Transaction Reports (STRs) and Currency Transaction Reports (CTRs) from Commercial Banks and Non-Bank Financial Institutions, and Designated Non-Financial Businesses and Professions (DNFBPs), including casinos, real estate agents, accountants and legal practitioners.¹³⁹ Through its annual, trends and typology reports, the FIC has been consistent in carrying out its mandate. The Number of STRs received by the FIC has increased from 2,266 in 2020 to 5,745 in 2022, out of which, the number of cases disseminated to Law Enforcement Agencies have also increased from 61 in 2020 to 129 in 2022. In this regard, the FIC has assisted in a number of joint investigations with other competent authorities with some of these cases leading to arrests and forfeiture of assets.⁴⁰

³³ Ministry of information and Broadcasting Services (2013), Ministerial Statement on the Access to Information Bill <https://www.parliament.gov.zm/node/2051>, accessed on 10th July 2023.

³⁴ Kayula, L. (2018), Access to Information Law in Zambia: For Who And For What? Lusaka, Zambia: Jesuit Centre for Theological Reflection (JCTR), <https://repository.jctr.org.zm/handle/20.500.14274/143>, accessed on 10th July 2023.

³⁵ News Diggers Newspaper (2nd June 2022), Why We Should Have An Access To Information Act In Zambia, <https://diggers.news/guest-diggers/2022/06/02/why-we-should-have-an-access-to-information-act-in-zambia/>, accessed on 15th July 2023.

³⁶ Financial Intelligence Centre (2022), The National Anti-Money Laundering and Countering Terrorism and Proliferation Financing Policy, <https://www.fic.gov.zm/component/attachments/download/126>, accessed on 20th July 2023.

³⁷ Prohibition and Prevention of Money Laundering (Amendment) Act No. 44 of 2010, <https://www.parliament.gov.zm/node/3419>, accessed on 25th July 2023.

³⁸ Prohibition and Prevention of Money Laundering Act No. 14 of 2001, https://www.boz.zm/53_TheProhibitionandPreventionofMoneyLaunderingAct.pdf, accessed on 25th July 2023.

³⁹ The Financial Intelligence Centre (2023), AML CFT Framework, <https://www.fic.gov.zm/aml-cft-framework>, accessed on 25th July 2023.

⁴⁰ Financial Intelligence Centre (2023), 2022 Trends Report, <https://www.fic.gov.zm/79-fic-news/118-trends-report-2022>, accessed on 16th July 2023.

Articles 53, 55, 56 and 57 – Direct Recovery, return and disposal of property

Zambia has a legal framework for the return and disposal of confiscated property. This includes Section 28 of the Forfeiture of Proceeds of Crime Act No. 19 of 2010⁴¹ that deals with forfeiture proceeding. Others are the Mutual Legal Assistance in Criminal Matters Act, Chapter 98 of the Laws of Zambia⁴², which allows Zambia to cooperate with other state parties for the purpose of return and disposal of confiscated property. The Office of the Attorney General facilitates this cooperation using Mutual Legal Assistance (MLA) requests. In practice, requests made through Mutual Legal Assistance tend to take a long time. Therefore, Zambia has also been using Bilateral Agreements and the International Criminal Police Organization (INTERPOL)⁴³ to obtain information and recover assets. The Asset Recovery Inter-Agency Network for Southern Africa (ARINSA) has also been very helpful in the recovery of assets, though it is not a legal channel. With regards to information exchange, the Financial Intelligence Centre Networks have been critical since many countries have established Financial Intelligence Units (FIUs) which exchange information through the Egmont Group.⁴⁴

Table 1: Implementation and enforcement summary

UNCAC articles	Status of implementation in law	Status of implementation and enforcement in practice
Art. 5. – Preventive anti-corruption policies and practices	Partially Implemented	Good
Art. 6 – Preventive anti-corruption body or bodies	Fully implemented	Moderate
Art. 7.3 – Political financing	Not Implemented	Poor
Art. 8.4 and 13.2 – Reporting mechanism and whistleblower protection	Largely implemented	Poor
Art. 9.1 – Public procurement	Fully implemented	Moderate
Art. 9.2 – Management of public finances	Fully implemented	Moderate
Art. 10 and 13.1 – Access to information and the participation of society	Not implemented	Poor
Art. 52 and 58 – Anti-money laundering	Fully implemented	Moderate

⁴¹ Forfeiture of Proceeds of Crime Act No. 19 of 2010, <https://www.parliament.gov.zm/node/3286>, accessed on 20th July 2023.

⁴² Mutual Legal Assistance in Criminal Matters Act, Chapter 98 of the Laws of Zambia, <https://www.parliament.gov.zm/node/841>, accessed on 20th July 2023.

⁴³ International Criminal Police Organization (2023), What is INTERPOL? <https://www.interpol.int/en/Who-we-are/What-is-INTERPOL>, accessed on 15th July 2023.

⁴⁴ EGMONT Group (2023), Connecting Financial Intelligence Units Worldwide <https://egmontgroup.org/>, accessed on 14th July 2023.

Art. 53 and 56 – Measures for direct recovery of property	Fully implemented	Moderate
Art. 51, 54, 55, 56 and 59 – International cooperation for the purpose of confiscation	Largely implemented	Moderate
Art. 57 – The return and disposal of confiscated property	Largely implemented	Moderate

Table 2: Performance of selected key institutions

Name of institution	Performance in relation to responsibilities covered by the report	Brief comment on performance (for example, inadequate resources, lack of independence, strong expertise)
Anti-Corruption Commission	Poor	Inadequate legal, institutional and financial independence as well as limited geographical coverage.
Zambia Public Procurement Authority	Poor	Limited infrastructure and financial resources.
Zambia Institute of Purchasing and Supply (ZIPS)	Poor	Inadequate capacity and lack of clear mandate to regulate integrity and ethical behavior.
The Ministry of Finance	Moderate	Strong expertise, clear legal and operational mandate, and limited responsiveness.
The Office of the Auditor General (OAG)	Good	Strong expertise and consistent publication of Audit Reports
Electoral Commission of Zambia (ECZ)	Poor	Inadequate legal framework.
Financial Intelligence Centre (FIC)	Good	Comprehensive legal framework with punitive action, multi-stakeholder and coordinated approach.
Drug Enforcement Commission (DEC)	Moderate	Comprehensive legal framework, inadequate human and technical capacity, and limited geographical coverage.
Office of the Attorney General	Poor	Limited responsiveness and delays in finalizing matters.

2.4 Recommendations for Priority Actions

1. Ensure the approval of the new National Anti-Corruption Policy and adequate dissemination to all parts of the country following its publication.
2. Designate the Anti-Corruption Commission as a grant-aided institution in order to enhance financial management autonomy from the central treasury.
3. Amend the Anti-Corruption Act No. 3 of 2012 to make State officers, Constitutional office holders, Judges and Judicial officers liable under the Act and to strengthen the autonomy of the Commission in prosecuting cases of corruption.
4. Enact subsidiary legislation on political financing in order to actualize constitutional provisions and effectively regulate the use of money in politics.
5. Amend the Public Interest Disclosure (Protection of Whistleblowers) Act No. 4 of 2012 in order to remove unfavorable provisions and provide sufficient protection for whistleblowers and rewards for whistleblowers in the event of recovery of assets.
6. Ensure the full rollout of the Electronic Government Procurement (e-GP) System as it has demonstrated potential in promoting transparency in the procurement process.
7. Ensure the full rollout of the Integrated Financial Management Information System (IFMIS) through onboarding all government department and ministries.
8. Ensure the operationalization of the Public Debt Management Office in order to support the monitoring and evaluation of Government investments and the management of Government's debt stock.
9. Create a system that will interface procurement information with beneficial ownership information for purposes of declaration of interest and combating public procurement corruption.
10. Ensure the enactment of an access to information law in order to ensure access to information in Zambia.
11. Conduct nation-wide sensitization on the dangers of illicit financing of political parties, state capture and grand corruption in order to generate support for political party and campaign finance regulation.
12. Sensitize the public on right to information and protect journalists and other non-state actors from intimidation.
13. Develop a mechanism for effective follow-up of cases disseminated to law enforcement agencies by the Financial Intelligence Centre.
14. Ensure the operationalization of the Forfeited Assets Fund as a consolidate fund to enhance transparency and accountability in the management of forfeited assets.

III. Assessment of Review Process for Zambia

In order to assess the status of the review process, Transparency International Zambia sent an information request to the Ministry of Justice. This section is therefore a summary of the information provided by the Ministry of Justice on the status of the review process in Zambia.

3.1 Report on the Review Process

The official review process for Zambia commenced in 2019, with some governmental bodies, including the Ministry of Justice, accessing hard copies of the checklist or questionnaire and making submissions to the Anti-Corruption Commission. This was in readiness for a country visit schedule for later that year. However, the outbreak of COVID-19 pandemic derailed the process such that there has been limited progress, following the containment of the pandemic. Since the timeframe for the review is largely dependent on the official visit, which is yet to take place, it is not clear when Zambia is likely to complete the official review process.

In the meantime, the only publicly available information concerning the review process in Zambia is a Ministerial Statement issued in 2018⁴⁵ by the then Minister of Justice, Hon. G. Lubinda, MP, which is limited in nature and coverage. In 2019, the Ministry of Justice circulated more information on the process to all relevant government departments and institutions, through a Cabinet Memorandum. Though there is no information on the checklist, a list of country experts is available on the UNODC website.⁴⁶ This notwithstanding, the Zambian government has not taken any deliberate action to make this information available to local civil society, academia and the media.

Table 3: Transparency of the government and CSO participation in the UNCAC review process

Did the government disclose information about the country focal point?	Yes	The contact person's name is available online on the UNODC website on Zambia's country profile, in the governmental experts list. ⁴⁷
Was the review schedule published somewhere/publicly known?	Not available	There is no information on the review schedule available; it is not clear when the country visit will be undertaken and when the process will be completed.

⁴⁵ Government of the Republic of Zambia (2018), Ministry of Justice - On the Conference of States Parties to the UN Convention Against Corruption, https://www.parliament.gov.zm/sites/default/files/images/publication_docs/MINISTERIAL%20STATEMENT%20BY%20THE%20MINISTER%20OF%20JUSTICE.pdf, accessed on 17th July 2023.

⁴⁶ United Nations Office on Drugs and Crimes (2023), Zambia, <https://www.unodc.org/unodc/en/corruption/country-profile/countryprofile.html#?CountryProfileDetails=%2Funodc%2Fcorruption%2Fcountry-profile%2Fprofiles%2Fzmb.html>, accessed on 18th July 2023.

⁴⁷ United Nations Office on Drugs and Crimes (2023) Zambia, <https://www.unodc.org/unodc/en/corruption/country-profile/countryprofile.html#?CountryProfileDetails=%2Funodc%2Fcorruption%2Fcountry-profile%2Fprofiles%2Fzmb.html>, accessed on 18th July 2023.

Was civil society consulted in the preparation of the self-assessment checklist?	No	Government is yet to consult civil society and no information has been shared for the purposes of such a consultation.
Was the self-assessment checklist published online or provided to civil society?	No	There has been no deliberate action taken to publish the self-assessment checklist to make it available to civil society.
Did the government agree to a country visit?	Yes	The government previously agreed to a country visit prior to the change of regime. There is no information available concerning the current regimes position.
Was a country visit undertaken?	No	The COVID-19 pandemic derailed the country visit and there is no information on when it will be undertaken.
Was civil society invited to provide input to the official reviewers?	No	The official reviewers are yet to visit the country.
Was the private sector invited to provide input to the official reviewers?	No	The official reviewers are yet to visit the country.
Has the government committed to publishing the full country report?	No	The official reviewers are yet to visit the country.

3.2 Access to Information

At present, Zambia has no access to information law.⁴⁸ Consequently, all requests for information sent to relevant government departments and institutions were not legally binding on the State. Nonetheless, Transparency International Zambia (TI-Z) submitted two requests for information; one received a positive response while the did not receive a response. Other efforts to collect information included direct phone calls to specific staff in government departments and an expert consultative meeting to review the gaps in anti-corruption laws. The consultative meeting was largely successful as legal experts from the Anti-Corruption Commission, the Ministry of Justice, the Zambia Law Development Commission, the Legal Aid Board, and the Zambia Police Service, among others, provided key insights on implementation gaps and practice.

It was also notable that during the parallel review process, the Anti-Corruption Commission and the Ministry of Justice promptly attended to the requests for

⁴⁸ In July 2023, the Zambian government approved the Access to Information Bill, in principle, for presentation to Parliament, <https://diggers.news/local/2023/07/30/cabinet-approves-introduction-of-ati-bill-in-parley/>.

information. However, other government entities did not provide the required information and did not respond to the requests for information, even after submitting formal letters and specifying the information required. Further, the heads of some government departments and agencies provided positive feedback and appointed select staff to attend to the interviews. However, the majority of the staff allocated to these interviews were non-responsive to emails and phone calls.

In conducting this review, TI-Z had access to nearly all the statutes through the Parliament Website⁴⁹ and obtained relevant information from media, civil society reports, publications and other institutional websites. Further, a number of government websites clearly indicated the legal framework and mandate of relevant institutions and this complemented the analysis. It was however challenging to collect standard statistics on the number of staff dedicated full-time (or full-time equivalent) to investigating money laundering in the judiciary, the number of persons/legal entities convicted for money laundering offences, and the number of convictions for crimes other than money laundering originating from STRs. This is because there is no centralized database for such information across law enforcement agencies. The Ministry of Justice referred our request for information to the various law enforcement agencies, who were unable to provide the information requested. In the absence of this information, TI-Z collected some publicly available statistics from publicly available reports.

⁴⁹ National Assembly of Zambia (2023) Laws of Zambia, <https://www.parliament.gov.zm/acts/volumes>, accessed on 20th June 2023.

IV. Assessment of Implementation of Chapter II and Chapter V Provisions

This chapter analyzes the implementation of the provisions of UNCAC Chapter II on preventive measures and Chapter V on asset recovery in Zambia through the application of laws, regulations and practices, and highlights both good practices and areas for improvement. We begin the assessment by considering the legal and institutional framework under each of the provisions and then highlighting the legal and implementation challenges before ending with a list of the good practices and deficiencies observed. The findings presented in this section are a compilation of expert submissions, consultations and a review of relevant documents and media articles.

4.1 Chapter II

4.1.1 Art. 5 – Preventive Anti-Corruption Policies and Practices

The most recent National Anti-Corruption Policy (NACP) in Zambia, for the period 2009 to 2015,⁵⁰ led to the establishment of over 145 Integrity Committees (ICs) in government agencies and departments to oversee the implementation of preventive anti-corruption measures. The ICs have been spearheading the development and utilization of integrity tools such as gift policies, codes of conduct, and institutional core values. As a leading institution in the implementation of the Policy, the Anti-Corruption Commission (ACC) has also established Anti-Corruption Clubs in over 100 schools across the country and introduced anti-corruption as part of the civic education curriculum. The Commission has also been implementing community education campaigns with the most recent one focusing on bribery in the road sector.⁵¹ Therefore, the 2009 Policy was largely effective in providing guidance and coordinating anti-corruption efforts in Zambia.

In 2015, the Zambian government undertook an evaluation of the Policy and established that the coordination mechanism, comprised of the National Steering Committee (NSC), Technical Committees and Ministries Departments and Agencies (MDAs), was largely effective. However, the lack of a financing mechanism and Monitoring and Evaluation Framework limited the effective implementation of the Policy.⁵²

During the period between 2016 to 2021, the ACC, with support from the Cabinet Office, spearheaded the consultative process for the development of a new policy. The ACC brought together state and non-state actors such as line ministries and civil society organizations; Transparency International Zambia participated in this process

⁵⁰ Republic of Zambia (2009) National Anti-Corruption Policy, https://www.academia.edu/37753195/NATIONAL_ANTI_CORRUPTION_POLICY_REPUBLIC_OF_ZAMBIA_REPUBLIC_OF_ZAMBIA, accessed 15th June 2023.

⁵¹ Anti-Corruption Commission (4th November 2022), ACC to Hold Campaign Against Traffic Corruption, <https://www.acc.gov.zm/acc-to-hold-campaign-against-traffic-corruption/>, accessed on 20th June 2023.

⁵² Milapo, Nalukui (2016), Evaluation of the National Anti-Corruption Policy: 2011- 2015. 10.13140/RG.2.1.2582.7445, https://www.researchgate.net/publication/303860116_Evaluation_of_the_National_Anti-Corruption_Policy_2011-2015, accessed on 20th June 2023.

through the provision of technical and supplementary financial support. Through this collaborative effort, a draft policy was developed and reached an advanced stage before the 2021 elections. However, after the regime change, the UPND-led administration recalled the policy for fresh consultations and alignment to their new vision. At this point, the Ministry of Justice took the lead in the development of the new policy, and after another multi-stakeholder consultative process, the Ministry of Justice finalized the policy pending approval by Cabinet. There are indications that Cabinet will approve the Policy and its Implementation Plan by the end of 2023.

Good practices

- Establishment of Integrity Committees (ICs) to spearhead the implementation of preventive anti-corruption measures in government agencies and departments.
- Establishment of a coordination mechanism for the implementation of the National Anti-Corruption Policy.
- Development of Integrity Tools such as Codes of Conduct and Gift Policies.
- Establishment of Anti-Corruption Clubs in primary and secondary schools.

Deficiencies

- Lack of policy guidance during the period 2016-2023, due to delayed finalization of the new National Anti-Corruption Policy.
- Limited dissemination and utilization of integrity tools and evaluation of the performance of Integrity Committees.
- Limited funding of Integrity Committees in carrying out preventive measures.
- Lack of Monitoring and Evaluation Framework in the previous National Anti-Corruption Policy.

4.1.2 Art. 6 – Preventive Anti-Corruption Body or Bodies

Established in 1980 under the Corrupt Practices Act No. 14 of 1980,⁵³ the Anti-Corruption Commission (ACC) is Zambia's lead institution in the fight against corruption and the country's anti-corruption body. In order to strengthen the operational mandate of the Commission, Zambia amended the Corrupt Practices Act No. 14 of 1980 in 1982⁵⁴. Thereafter, the Anti-Corruption Commission Act No. 46 of 1996⁵⁵ repealed and replaced this legislation. In 2010, as part of the National Anti-Corruption Policy implementation, Zambia embarked on an extensive legislative review in order to strengthen the legal framework for the fight against corruption.⁵⁶ Pursuant to this review, the Zambian government passed the Anti-Corruption

⁵³ Anti-Corruption Commission, About, <https://www.acc.gov.zm/about-2/>, accessed on 20th June 2023.

⁵⁴ Corrupt Practices Act No. 14 of 1980 in 1982, <https://zambialii.org/akn/zm/act/1980/14/eng@1980-09-29/source>.

⁵⁵ Anti-Corruption Commission Act No. 46 of 1996, <https://zambialii.org/akn/zm/act/1996/42/eng@1996-12-12/source>.

⁵⁶ Muna Ndulo (2014), Review of the Anti-corruption Legal Framework in Zambia, http://saipar.org/wp-content/uploads/2013/09/Ndulo_Review-of-the-Anti-corruption-Legal-Framework1.pdf, accessed on 20th June 2023, pp. 12.

Commission Act (2010)⁵⁷; the Forfeiture of Proceeds of Crime Act (2010)⁵⁸; the Public Interest Disclosure (Protection of Whistleblowers) Act (2010)⁵⁹; the Plea Bargaining Act (2010)⁶⁰; the Amendment to the Prohibition and Prevention of Money Laundering Act (2010)⁶¹; The Financial Intelligence Centre Act (2010)⁶²; and the National Prosecution Authority Act (2010)⁶³.

This legislative review also sought to domesticate regional and international conventions such as the United Nations Convention against Corruption (UNCAC) following ratification in 2007.⁶⁴ The Anti-Corruption Act No. 3 of 2012⁶⁵ later repealed and replaced the Anti-Corruption Commission Act (2010) as the main anti-corruption legislation. Under Section 6 of the Anti-Corruption Act No. 3 of 2012,⁶⁶ the mandate of the ACC is to; (i) investigate and prosecute cases of suspected corruption (ii) conduct public sensitization on the dangers of corruption and foster public support in the fight against corruption, and (iii) put in place mechanisms for preventing the corruption scourge in Zambia.⁶⁷ The ACC has however been limited in executing its mandate due to some legal and institutional challenges. These include the constitutional requirement to seek consent from the Director of Public Prosecutions (DPP), the limited scope imposed on the definition of a public officer in the Anti-Corruption Act No. 2 of 2012, limited geographical coverage of the ACC and a constraining public financial management mechanism.

⁵⁷ Anti-Corruption Commission Act (2010), <https://zambialii.org/akn/zm/act/2010/38/eng@2010-11-19/source>.

⁵⁸ The Forfeiture of Proceeds of Crime Act (2010), <https://zambialii.org/akn/zm/act/2010/19/eng@2010-04-16/source>.

⁵⁹ Public Interest Disclosure (Protection of Whistleblowers) Act (2010), <https://zambialii.org/akn/zm/act/2010/4/eng@2010-04-16/source>.

⁶⁰ Plea Bargaining Act (2010), <https://www.parliament.gov.zm/sites/default/files/documents/acts/The%20Plea%20Negotiations%20%26%20Agreements%202010.PDF>.

⁶¹ Prohibition and Prevention of Money Laundering Act (2010), https://www.parliament.gov.zm/sites/default/files/documents/amendment_act/Prohibition%20and%20Prevention%20of%20Money%20Laundering%20%28Amendment%29%20Act%202010.PDF.

⁶² Financial Intelligence Centre Act (2010), <https://www.parliament.gov.zm/sites/default/files/documents/acts/Financial%20Intelligence%20Centre%20Act%20%20No.%2046%20of%202010.pdf>.

⁶³ National Prosecution Authority Act (2010), <https://www.parliament.gov.zm/sites/default/files/documents/acts/National%20Prosecution%20Authority%20Act%202010.pdf>.

⁶⁴ United Nations Office on Drugs and Crimes, Zambia Country Profile, <https://www.unodc.org/unodc/en/corruption/country-profile/countryprofile.html#?CountryProfileDetails=%2Funodc%2Fcorruption%2Fcountry-profile%2Fprofiles%2Fzmb.html>, accessed on 14th June 2023.

⁶⁵ Anti-Corruption Act No. 3 of 2012, <https://www.parliament.gov.zm/sites/default/files/documents/acts/Anti%20Corruption%20Act%2C%202012.PDF>.

⁶⁶ Anti-Corruption Act No. 3 of 2012, <https://www.parliament.gov.zm/sites/default/files/documents/acts/Anti%20Corruption%20Act%2C%202012.PDF>.

⁶⁷ Anti-Corruption Commission, Mandate, <https://www.acc.gov.zm/mandate/>, accessed on 20th June 2023.

The requirement to seek consent from the Director of Public Prosecutions (DPP)⁶⁸ has made the Director General of the ACC and the entire Commission subservient to the DPP, who is also an appointee of the President. The DPP has powers under the Zambian Constitution⁶⁹ to institute, undertake, take over, continue and discontinue criminal investigations instituted by any person or authority. Further, the Anti-Corruption Act No. 3 of 2012 prescribes that any prosecution initiated by the ACC is subject to the direction of the DPP. Although this power is for exceptional cases, its exercise has been a subject of great debate, especially in cases involving politically influential persons.⁷⁰

Further, there is a limitation in scope imposed on the definition of a “public officer” in the Anti-Corruption Act No. 3 of 2012 by the Constitution of Zambia (Amendment) Act No. 2 of 2016. Therefore, the Commission is essentially unable to charge constitutional office holders and state officers, such as the President, Vice-President, Speaker, Deputy Speaker, Member of Parliament and Ministers, for offences under the Act. This means that the ACC cannot charge these officials for the offence of abuse of authority of office, for example, because they are essentially not “public officers.” Due to this limitation, the Commission is only able to prosecute these officials for illicit enrichment through the Forfeiture of Proceeds of Crime Act No. 19 of 2010.⁷¹

The Anti-Corruption Commission (ACC) is physically present in 12 out of Zambia’s 116 districts. This limited geographical presence has inhibited the effective reporting of corruption and the implementation of preventive measures. However, there are plans to open more offices in various parts of the country following significant improvements in budget allocations in the 2022 and 2023⁷² national budgets. The outstanding concern with regard to funding is the budgetary and Public Financial Management (PFM) treatment. Unlike similar constitutionally independent bodies, such as the Electoral Commission of Zambia (ECZ) and the Human Rights Commission, designated as grant-aided entities, and therefore authorized to manage their own expenses, the ACC does not have this management authority. For all budget and PFM purposes, payments and operations made by the Commission go through the Treasury, including payroll processing, and obtaining approval for its personnel structure.⁷³

⁶⁸ Section 6(1) (b) of the Anti-Corruption Act No. of 2012 provides that the ACC has the mandate to “initiate, receive and investigate complaints of alleged or suspected corrupt practices, and, subject to the directions of the Director of Public Prosecutions, prosecute-(i) offences under this Act;” <https://www.parliament.gov.zm/sites/default/files/documents/acts/Anti%20Corruption%20Act%2C%202012.PDF>.

⁶⁹ Constitution of Zambia (Amendment) Act No. 2 of 2016, [https://www.parliament.gov.zm/sites/default/files/documents/amendment_act/Constitution%20of%20Zambia%20%20\(Amendment\),%202016-Act%20No.%202_0.pdf](https://www.parliament.gov.zm/sites/default/files/documents/amendment_act/Constitution%20of%20Zambia%20%20(Amendment),%202016-Act%20No.%202_0.pdf).

⁷⁰ News Diggers News Paper, 5th April 2022, “DPP enters nolle in Milingo Lungu’s theft case” <https://diggers.news/courts/2022/04/05/dpp-enters-nolle-in-milingo-lungus-theft-case/>.

⁷¹ Section 21 of the Anti-Corruption Act No. 3 of 2012 only applies to a Public Officer while the Constitution defines a public officers as “a person holding or acting in a public office, but does not include a State officer, Councillor, a Constitutional office holder, a judge and a judicial officer.”

⁷² Republic of Zambia, 2023 Estimates of Revenue And Expenditure, https://www.parliament.gov.zm/sites/default/files/images/publication_docs/07%20Main%20Report%20Budget%202023%20%282%29.pdf, accessed 20th June 2023, pp. 741.

⁷³ International Monetary Fund (10th January 2023), Zambia: Technical Assistance Report-Diagnostic Report on Governance and Corruption,

In 2022, Zambia established a specialized court to determine matters relating to economic and financial crimes, and corruption.⁷⁴ This Court will not only speed up the prosecution of cases but will also allow the Judges to develop expertise in such types of crimes.⁷⁵

Good practices

- High level of transparency through the publication of annual reports indicating the number of corruption reports received, the number of cases investigated and number of cases prosecuted.⁷⁶
- Increased funding of the ACC following the regime change in 2021.
- Considerable security of tenure for the ACC's Director General. The President can only remove the Director General from office following approval by parliament for the Chief Justice to set up a tribunal to inquire into the matter, and a recommendation from this tribunal.⁷⁷ This requirement protects the office of the Director General from political interference.
- Establishment of a specialized Economic and Financial Crimes Court to speed up the prosecution of cases.

Deficiencies

- The ACC is unable to charge State officers, Councilors, Constitutional office holders, Judges and Judicial officers for various offences under its Act.
- The ACC is not a designated grant-aided institution and therefore lacks financial management autonomy.
- The ACC is subservient to the Director of Public Prosecutions in instituting criminal prosecutions.
- The ACC has limited geographical coverage with offices in only 12 out of 116 districts.

4.1.3 Art. 7.3 – Political Financing

Article 60 (4) of the Constitution of Zambia (Amendment) Act No. 2 of 2016⁷⁸ provides for the establishment of the Political Parties Fund, auditing of political parties

<https://www.elibrary.imf.org/view/journals/002/2023/003/article-A001-en.xml>, accessed on 20th June 2023.

⁷⁴ Economic and Financial Crimes (Division of Court) Order (2022),

<https://zambialii.org/akn/zm/act/si/2022/5/eng@2022-01-14/source>.

⁷⁵ News Diggers Newspaper (13th January 2022), Caliber Of Judges Will Determine Economic Financial Crimes Court Performance-Lifuka, <https://diggers.news/local/2022/01/13/calibre-of-judges-will-determine-economic-financial-crimes-court-performance-lifuka/>, accessed on 20th June 2023.

⁷⁶ Anti-Corruption Commission (2017), 2016 Annual Report, <https://www.acc.gov.zm/downloads/?tax%5Bwpdmcategory%5D=report#>, accessed on 20th June 2023.

⁷⁷ Anti-Corruption Act No. 3 of 2012,

<https://www.parliament.gov.zm/sites/default/files/documents/acts/Anti%20Corruption%20Act%2C%202012.PDF>.

⁷⁸ Constitution of Zambia (Amendment) Act No. 2 of 2016,

[https://www.parliament.gov.zm/sites/default/files/documents/amendment_act/Constitution%20of%20Zambia%20%20\(Amendment\).%202016-Act%20No.%2020.pdf](https://www.parliament.gov.zm/sites/default/files/documents/amendment_act/Constitution%20of%20Zambia%20%20(Amendment).%202016-Act%20No.%2020.pdf).

accessing the fund, declaration of sources of funding and spending limits during an election.⁷⁹ However, there is no law in place to actualize this constitutional provision. The Political Parties Bill (2017)⁸⁰ is the most recent attempt at regulating political financing in Zambia. However, the government has not enacted this Bill due to a general lack of consensus among stakeholders. For instance, stakeholders do not agree on the selection criteria for funding through the Political Parties Fund, as many political parties have no representation in parliament, and the government is weary of the financial burden of funding political parties. Furthermore, there are mixed feelings among stakeholders concerning the purpose of the bill, as some suspect that it may stifle the free operation of opposition political parties.⁸¹

The Registrar of Societies, under the Ministry of Home Affairs and Internal Security, is responsible for the registration of political parties. However, duly-registered political parties are not required to disclose their sources of funding or publish their financial reports for public scrutiny. In the past 3 years, the Drug Enforcement Commission (DEC) and other law enforcement agencies have attempted to investigate political parties in order to establish their sources of funding. These investigations have however proved to be cumbersome due to the lack of legislation.

For example, prior to the 2021 general election, the Financial Intelligence Centre (FIC) analyzed a case of suspected money laundering involving a political party. In this matter, a total of K100 million (about USD\$ 5 million) was deposited into the account of a law firm by a political party official and other party associates. The law firm later transferred the funds to several media houses across the country including radio stations, social media pages, television stations, outdoor advertising companies and newspapers.⁸² After the elections, the DEC attempted to investigate this matter but was later sued by the Patriot Front (PF), which sought a declaration order that the party could not be forced to declare its sources of funding.⁸³

Good practices

- The Constitution of Zambia (Amendment) Act No. 2 of 2016 provides for the regulation of political financing in Zambia. This has been the basis for ongoing advocacy for the development and enactment of the Political Parties Bill.

⁷⁹ Article 60 (4) “The following shall be prescribed with regard to political parties:(a) the establishment and management of a Political Parties’ Fund to provide financial support to political parties with seats in the National Assembly; (b) the accounts of political parties which are funded under the Political Parties’ Fund and the submission of audited accounts by political parties; (c) the sources of funds for political parties; (d) the maximum amount of money to be used for campaigns during elections; and (e) matters incidental to matters specified in this clause.”

⁸⁰ Political Parties Bill 2017,

<https://www.parliament.gov.zm/sites/default/files/documents/articles/THE%20POLITICAL%20PARTIES%20BILL,%202017%20Consultative%20Process%20Document-1.pdf>, accessed on 20th June 2023.

⁸¹ Civicus, 10th October 2017, “The Political Parties Bill is ‘poison for Zambia’s ailing democracy’” <https://www.civicus.org/index.php/media-resources/news/interviews/2973-the-political-parties-bill-is-poison-for-zambia-s-ailing-democracy>, accessed on 20th June 2023.

⁸² Financial Intelligence Centre (2022), The 7th Money Laundering And Terrorist Financing Trends Report, <https://www.fic.gov.zm/component/attachments/download/119>, accessed on 21st June 2023, pp. 30-31.

⁸³ News Diggers Newspaper (11th February 2022), DEC has also summoned media houses over PF campaign adverts, Mwila tells court, <https://diggers.news/courts/2022/02/11/dec-has-also-summoned-media-houses-over-pf-campaign-adverts-mwila-tells-court/>, accessed on 21st June 2023.

Deficiencies

- There is no subsidiary legislation to actualize the constitutional provision on the regulation of political financing in Zambia.
- It is difficult to investigate and prosecute cases of corruption related to political financing due to the lack of legislation.

4.1.4 Art. 8.4 and 13.2 – Reporting Mechanisms and Whistleblower Protection

Zambia has a substantive law on corruption reporting and the protection of whistleblowers, the Public Interest Disclosure (Protection of Whistleblower) Act No. 4 of 2010.⁸⁴ This Act is however limited in scope as it provides for the protection of a whistleblower in the context of an employment relations, either in the public or the private sector. Further, the law also contains some unfavorable provisions. For instance, whistleblowers can open themselves up for legal prosecution and possible imprisonment if law enforcement agencies deem their disclosure as malicious, frivolous, and vexatious or made in bad faith. Although there is no specific case where a whistleblower has been charged for making a malicious, frivolous or vexatious disclosure, this provision in the Act has however worked to discourage whistleblowers from reporting to relevant law enforcement agencies, with whistleblowers instead preferring to report incidents to Civil Society Organizations and the media. Further, the Act provides no financial rewards for whistleblowers in the event of recovery of assets because of the information they have provided. This is unlike other African Countries such as Nigeria⁸⁵ and Ghana.⁸⁶

After a decade of poor implementation, it is now apparent that the Act is losing touch with the reality on the ground. For example, it is unclear, what role, if any, the Integrity Committees (ICs) should play in the public interest disclosure system and the protection of whistleblowers. This is because the proliferation of ICs came after the enactment of this law. Further, in the absence of sufficient protection, highly placed whistleblowers such as public officials in government have been turning to civil society organizations (CSOs) and the media for their reports. For instance, in 2022, a whistleblower reported a matter to Transparency International Zambia regarding suspected corruption at the Ministry of Finance. Following an investigation, it was established that over K100million (about USD\$ 5million) was looted from the Ministry of Finance through fictitious payments of sitting and daily subsistence allowances over a two-year period.⁸⁷ Consequently, the Anti-Corruption Commission instituted

⁸⁴ Public Interest Disclosure (Protection of Whistleblower) Act No. 4 of 2010, <https://www.parliament.gov.zm/sites/default/files/documents/acts/Public%20Interest%20Disclosure%20of%28Protection%20of%20Whistleblowers%29%20Act%202010.PDF>, accessed on 21st June 2023.

⁸⁵ All Africa News (9th December 2019), 20 Nigerians to get over \$1m whistleblower reward from recovered \$36.8m, <https://www.africanews.com/2017/06/08/20-nigerians-to-get-over-1m-whistleblowing-money-from-recovered-368m/>, accessed on 30th October 2023.

⁸⁶ Transparency International (2018), Whistleblower Reward Programmes, <https://knowledgehub.transparency.org/assets/uploads/helpdesk/Whistleblower-Reward-Programmes-2018.pdf>, accessed on 30th October 2023.

⁸⁷ Transparency International Zambia (11 September 2022), TI-Z Statement on the K100 Million Alleged Looting at the Ministry of Finance, <https://tizambia.org.zm/blog/2022/09/11/ti-z-statement-on-the-k100-million-alleged-looting-at-the-ministry-of-finance/>, accessed on 1st July 2023.

investigations into the matter,⁸⁸ after which, the government took administrative action against some offenders⁸⁹ while others voluntarily refunded the money.⁹⁰

The ACC also receives reports from the public through its designated offices, a toll-free phone line, online platforms and emails. These reporting platforms allow for anonymous reporting, although this has proved problematic in cases where the information is incomplete.⁹¹ Apart from this general guidance on where to report corruption, there is no specific guidance on the steps for reporting corruption in order to secure protection as a whistleblower.⁹² Nonetheless, as of end of 2021, the commission had received 424 reports,⁹³ compared to 694 reports in the first quarter of 2022⁹⁴ and 181 reports in the second quarter of 2022.⁹⁵ The increase in the number of reports demonstrates that there has been improved public confidence in the ACC.

Good practices

- Investigative journalism conducted by CSOs and media following disclosure by whistleblowers have led to prosecution and the uncovering of corruption cases.
- Government responsiveness to CSOs and media generated investigations.
- An increase in reports of corruption in the past few years signals an increased awareness of the public of corruption issues.

Deficiencies

- Insufficient protection for whistleblowers and legal deterrent under the pretext of frivolous and vexatious disclosures.
- Lack of financial rewards for whistleblowers in the event of recovery of assets because of the information they have provided

4.1.5 Art. 9.1 – Public Procurement

Zambia has a comprehensive legal framework for public procurement. This includes Articles 210 (1) of the Constitution of Zambia (Amendment) Act No. 2 of 2016 which provides guidance that “A State organ, State institution and other public office shall procure goods or services, in accordance with a system that is fair, equitable,

⁸⁸ News Diggers Newspaper (9th February 2023), ACC investigates suspected abuse of public funds at MOF, <https://diggers.news/local/2023/02/09/acc-investigates-suspected-abuse-of-public-funds-at-mof/>, accessed on 1st July 2023.

⁸⁹ News Diggers Newspaper (13th February 2023), K100m theft suspects at MoF should be suspended not transferred, <https://diggers.news/opinion/2023/02/13/k100m-theft-suspects-at-mof-should-be-suspended-not-transferred/>, accessed on 1st July 2023.

⁹⁰ Diamond TV Zambia (21st March 2023), Some Ministry Of Finance Officials Return Stolen Funds, <https://diamondtvzambia.com/some-ministry-of-finance-officials-return-stolen-funds/>, accessed on 1st July 2023.

⁹¹ Anti-Corruption Commission (2023), How to Report Corruption, <https://www.acc.gov.zm/report-corruption/>, accessed on 5th July 2023.

⁹² Anti-Corruption Commission (2023), How we can protect you as a whistleblower?, <https://www.ausatmen.de/ACC-Test/report-corruption-2/how-we-can-protect-you-as-a-whistleblower/>, accessed on 30th October 2023.

⁹³ Anti-Corruption Commission (2022), 1st Quarter Press Briefing, <https://www.acc.gov.zm/wp-content/uploads/2022/10/2022-First-Quarterly-Media-Brief.docx.pdf>, accessed on 5th July 2023.

⁹⁴ Anti-Corruption Commission (2022), 2nd Quarter Press Briefing, <https://www.acc.gov.zm/wp-content/uploads/2022/10/2022-2nd-Quarter-Media-Brief-Final.pdf>, accessed on 5th July 2023.

⁹⁵ Anti-Corruption Commission (2022), 3rd Quarter Press Briefing, <https://www.acc.gov.zm/wp-content/uploads/2019/05/2022-Third-Quarterly-Media-Brief-Final.pdf>, accessed on 5th July 2023.

transparent, competitive and cost-effective”.⁹⁶ The Public Procurement Act No. 8 of 2020 and the Public Procurement Regulations of 2022 complete this legal framework.⁹⁷ The Public Procurement Act No. 8 of 2020 replaced the Procurement Act No. 12 of 2008 in order to enhance provisions on transparency of procurement for public projects funded through private lenders and to introduce reference market price indices for benchmarking procurement for standard goods and services.⁹⁸

In 2008, the Zambian government renamed the Zambia National Tender Board, a body established in 1982 to regulate public procurement, as the Zambia Public Procurement Authority (ZPPA). The ZPPA is therefore responsible for regulating public procurement in Zambia through standard setting, planning, compliance and performance monitoring, professional development and information management, and dissemination.⁹⁹ The ZPPA has enhanced the execution of its mandate through the development and proliferation of the electronic government procurement (e-GP) system. This is in a bid to ensure transparency in public procurement processes and hold decision-makers accountable to the public. The e-GP has the potential to promote competition and, hence, obtain value for money.¹⁰⁰ On the professional side, the government established the Zambia Institute of Purchasing and Supply (ZIPS) in 2003, as a Regulatory body on Purchasing and Supply Management Profession in Zambia.¹⁰¹

Despite this legal and institutional framework, there are a number of implementation challenges. These include ineffective checks on rent seeking by Politically Influential Persons (PIPs); limited vetting of suppliers, resulting in awards of contracts to entities with no capacity to deliver, and limited beneficial ownership transparency. There is also limit comparisons between beneficial ownership information and procurement information. Making company beneficial ownership data interoperable with other datasets, such as those related to public procurement, political finance, and lobbying would improve transparency and reduce corruption.¹⁰² In the absence of such a system, there has been collusion between public officials, Politically Influential Persons (PIPs) and vendors in defrauding the government through the submission of false claims as well as other forms of procurement corruption. In 2021, the President revealed to the public that “many things were broken at the Ministry of Finance” referring to the fact that non-deserving suppliers who supplied fictitious goods used to

⁹⁶ Constitution of Zambia (Amendment) Act No. 2 of 2016, [https://www.parliament.gov.zm/sites/default/files/documents/amendment_act/Constitution%20of%20Zambia%20%20\(Amendment\),%202016-Act%20No.%2020.pdf](https://www.parliament.gov.zm/sites/default/files/documents/amendment_act/Constitution%20of%20Zambia%20%20(Amendment),%202016-Act%20No.%2020.pdf).

⁹⁷ Zambia Public Procurement Authority (2023), Public Procurement Legislation, <https://www.zppa.org.zm/public-procurement-act>, accessed on 5th July 2023.

⁹⁸ International Monetary Fund (10th January 2023), Zambia: Technical Assistance Report-Diagnostic Report on Governance and Corruption, <https://www.elibrary.imf.org/view/journals/002/2023/003/article-A001-en.xml>, accessed on 20th June 2023.

⁹⁹ Zambia Public Procurement Authority (2023), About us, <https://www.zppa.org.zm/about-us>, accessed on 5th July 2023.

¹⁰⁰ Zambia Public Procurement Authority (2023), e-Procurement System, <https://www.zppa.org.zm/e-procurement-system>, accessed on 3rd November 2023.

¹⁰¹ Zambia Institute of Purchasing and Supply (2023), Background, <http://zips.org.zm/About-ZIPS/Background>, accessed on 20th August 2023.

¹⁰² Open Ownership (2023), Company Beneficial Ownership, <https://www.opengovpartnership.org/open-gov-guide/anti-corruption-company-beneficial-ownership/>, accessed on 6th November 2023.

be on the priority list for payment while some suppliers received payments two or three times for the same job.¹⁰³ In 2022, the Ministry of Finance contracted six (6) independent audit firms to ensure correctness of the figures owed by different Government entities, as a way of correcting the situation.¹⁰⁴

The 2022 Zambia Bribe Payers Index, published by Transparency International Zambia and the ACC, found that the e-GP system is underutilized. The supplier's survey established that 44% of the respondents received tender notices through advertisement at the institution's offices and 26.3% through newspapers. Only 20.7% of the sampled suppliers received tender notices through the e-GP system and/or the ZPPA website.¹⁰⁵ These findings are largely consistent with the IMF Governance Diagnostic Assessment.¹⁰⁶ With respect to Transparency, the ZPPA publishes tenders and bids on the e-GP but the system does not explicitly state which bid is the winning bid and also does not publish the contracts given to the winning bidder. There is also limited post contract award monitoring. In 2022, the Anti-Corruption Commission arrested the former secretary to the treasury after investigations revealed that he authorized a payment of USD\$33.7 million towards the construction of a university that was never existed.¹⁰⁷

In 2021, the Lusaka Magistrate Court convicted and sentenced a former Minister, responsible for Community Development, to two (2) years simple imprisonment on two (2) charges of willful failure to follow procedure contrary to Section 34 (2)(b) of the Anti-Corruption Act No. 3 of 2012¹⁰⁸ of the Laws of Zambia. The Minister willfully failed to comply with the law, applicable procedure or guidelines relating to procurement by extending the scope of coverage of a contract between Zambia Postal Services Corporation (ZAMPOST) and the Ministry of Community Development and Social Services to include three (3) Provinces and two (2) Districts under the Social Cash Transfer Programme.¹⁰⁹

Good practices

- Development of the e-GP System to enhance transparency in procurement.

¹⁰³ News Diggers Newspaper (29th October 2021), There are many broken things at MoF – HH, <https://diggers.news/local/2021/10/29/there-are-many-broken-things-at-mof-hh/>, accessed on 10th July 2023.

¹⁰⁴ ZNBC (2023), GOVT TO AUDIT DOMESTIC DEBT, <https://www.znbc.co.zm/news/govt-to-audit-domestic-debt/>, accessed on 3rd November 2023.

¹⁰⁵ Anti-Corruption Commission & Transparency International Zambia (2023), 2022 Zambia Bribe Payers Index Report, [https://tizambia.org.zm/wp-content/uploads/2023/03/2022-ZBPI-Survey-Report-A5-Approved .pdf](https://tizambia.org.zm/wp-content/uploads/2023/03/2022-ZBPI-Survey-Report-A5-Approved.pdf), accessed on 5th July 2023.

¹⁰⁶ International Monetary Fund (2023), Zambia: Technical Assistance Report-Diagnostic Report on Governance and Corruption, <https://www.elibrary.imf.org/view/journals/002/2023/003/article-A001-en.xml>, accessed on 20th June 2023.

¹⁰⁷ ZNBC (5th May, 2022), YAMBA ARRESTED OVER \$33M PAYMENT FOR FTJ UNIVERSITY, <https://www.znbc.co.zm/news/yamba-arrested-over-33m-payment-for-ftj-university/>, accessed on 6th November 2023.

¹⁰⁸ Anti-Corruption Act No. 3 of 2012, <https://www.parliament.gov.zm/sites/default/files/documents/acts/Anti%20Corruption%20Act%2C%202012.PDF>.

¹⁰⁹ Anti-Corruption Commission (1st June 2021), Former Community Development Minister Emerine Kabanshi Jailed for Corruption, <https://www.acc.gov.zm/former-community-development-minister-emerine-kabanshi-jailed/>, accessed on 6th November 2023.

- Introduction of market index to benchmark prices and to control contract overpricing.
- Procurement audits to identify and address systemic weaknesses in the procurement process.

Deficiencies

- Slow rollout of the e-GP system due to implementation challenges.
- Limited interface of procurement information with beneficial ownership information for purposes of declaration of interest.
- Insufficient post-contract award monitoring leading to the loss of public funds.

4.1.6 Art. 9.2 – Management of Public Finances

Article 202 of the Constitution of Zambia (Amendment) Act No. 2 of 2016¹¹⁰ provides for the presentation of the national budget to the National Assembly for approval. The national budget is required to indicate the maximum amount the government seeks to collect, borrow and spend in the next financial year. Following this presentation, the National Assembly has the powers to vary the allocation to specific functions and departments, but not the total budget.⁶⁹ In practice, however, the National Assembly of Zambia does not exercise this power but focuses on debating the budget and voting to pass the Budget Appropriation Bill, which gives powers to the executive to implement the national budget. The Constitution of Zambia (Amendment) Act No. 2 of 2016 also provides for other key aspects of the public finance management (PFM) process. These include the presentation and approval of a supplementary budget (Article 203), public participation in the budget planning process (Article 205), public debt and investment management (Articles 206 to 209), public procurement (Article 210), financial reporting (Article 211) and financial auditing (Article 212).¹¹¹

The legal framework for PFM also includes the National Planning and Budgeting Policy of 2014; the Public Debt Management Act No. 15 of 2022, which regulated public borrowing; the Public Audit Act No. 29 of 2016 and the Planning and Budgeting Act No. 1 of 2020.¹¹² The Planning and Budgeting Act No. 1 of 2020 provides for an integrated national planning and budgeting process; strengthened accountability, oversight and participation mechanisms in the national planning and budgeting process. The Public Finance Management Act No. 1 of 2018 is perhaps the most critical law in the PFM process. It provides for an institutional and regulatory framework for the management of public funds; the strengthening of accountability, oversight, management and control of public funds in the public financial management framework.¹¹³

¹¹⁰ Constitution of Zambia (Amendment) Act No. 2 of 2016, [https://www.parliament.gov.zm/sites/default/files/documents/amendment_act/Constitution%20of%20Zambia%20%20\(Amendment\).%202016-Act%20No.%202_0.pdf](https://www.parliament.gov.zm/sites/default/files/documents/amendment_act/Constitution%20of%20Zambia%20%20(Amendment).%202016-Act%20No.%202_0.pdf).

¹¹¹ Constitution of Zambia (Amendment) Act No. 2 of 2016, [https://www.parliament.gov.zm/sites/default/files/documents/amendment_act/Constitution%20of%20Zambia%20%20\(Amendment\).%202016-Act%20No.%202_0.pdf](https://www.parliament.gov.zm/sites/default/files/documents/amendment_act/Constitution%20of%20Zambia%20%20(Amendment).%202016-Act%20No.%202_0.pdf).

¹¹² National Planning and Budgeting Act No. 1 of 2020, https://www.parliament.gov.zm/sites/default/files/documents/acts/The%20National%20Planning%20and%20Budgeting%20Act%20No.%201%20of%202020_0.pdf, accessed on 5th July 2023.

¹¹³ The Public Finance Management Act No. 1 of 2018, <https://www.parliament.gov.zm/sites/default/files/documents/acts/The%20Public%20Finance%20Management%20ACT%202018.pdf>, accessed on 10th July 2023.

The Ministry of Finance is responsible for the greater part of the PFM process in Zambia. With the support of the Bank of Zambia in issuing securities and managing the government's cash position through a single treasury consolidated fund, the Ministry uses an Integrated Financial Management Information Systems (IFMIS) to monitor how ministries, departments and other state agencies spend funds on a real-time basis in order to improve budget implementation.¹¹⁴ Unfortunately, due to acute cash constraints and cash rationing, government departments and ministries have continued to process contracts and commitments outside this system. Currently, the vast majority of government department and ministries only enter prioritized commitments into IFMIS for processing and payment and a large part of expenditures remain outside the system.⁹⁸

The Ministry of Finance is also responsible for timely reporting on revenue and expenditure as well as sharing critical economic information with the public. In carrying out this function, the Ministry releases monthly economic indicators, annual economic reports, mid-year economic reviews, and quarterly economic reviews, among others.¹¹⁵ On the budget, the ministry publishes the White Paper, Green Paper and Citizen Budget in addition to the National Budget. The Ministry has however not operationalized the Public Debt Management Office, which is supposed to develop and publish debt related analysis and reports.¹¹⁶ However, since 2021 the Ministry has become more efficient in sharing information with the public, with most critical information uploaded on the Ministry website.¹¹⁷

The Ministry of Finance has made National budget information available in formats that facilitate analysis of the data¹¹⁸ and in summary form¹¹⁹. However, this budget information is available through the website and limited physical copies. This has led to limited awareness and accessibility of this information by the wider citizenry. This limited dissemination of budget information may be a consequence of the current legal framework, since the National Planning and Budget Act No.1 of 2020¹²⁰, does not provide for consequences for failing to comply with provisions on publication of budget related information. The National Planning and Budget Act No. 1 of 2020¹²¹ does however provide for public participation during the formulation and approval stage of

¹¹⁴ Muwema, T. and Phiri, J. (2020), The Impact of Integrated Financial Management Information Systems on Procurement Process in Public Sector in Developing Countries – A Case of Zambia. Open Journal of Business and Management, 8, 983-996, <https://doi.org/10.4236/ojbm.2020.82062>, accessed on 10th July 2023

¹¹⁵ Ministry of Finance (2023), Economic Information, https://www.mofnp.gov.zm/?page_id=3198, accessed on 10th July 2023.

¹¹⁶ Ministry of Finance and National Planning (2023), 2024-2026 Medium Term Budget Plan (Green Paper) <https://www.mofnp.gov.zm/?wpdmpro=2024-2026-medium-term-budget-plan-green-paper>, accessed on 20th July 2023.

¹¹⁷ Ministry of Finance (2023), Budget Information, https://www.mofnp.gov.zm/?page_id=3938, accessed on 10th July 2023.

¹¹⁸ Ministry of Finance (2023), 2024 National Budget (OBB), <https://www.mofnp.gov.zm/?wpdmpro=2024-national-budget-obb>, accessed on 6th November 2023.

¹¹⁹ Ministry of Finance (2023), Infographic-2024 National Budget, <https://www.mofnp.gov.zm/?wpdmpro=infographic-2024-national-budget>, accessed on 6th November 2023.

¹²⁰ The National Planning and Budgeting Act, 2020, <https://www.parliament.gov.zm/node/8573>.

¹²¹ The National Planning and Budgeting Act, 2020, <https://www.parliament.gov.zm/node/8573>.

the budget, through grass root and national consultations as well as parliamentary submissions.

After the close of each financial year, the Office of Auditor General (OAG) conducts audits on government accounts as mandated by Article 250 (1) of the Constitution of Zambia (Amendment) Act No. 2 of 2016⁶⁹. As Zambia's supreme audit institution, the OAG conducts annual audits of the accounts of state organs, state institutions, provincial administration and local authorities and institutions financed from public funds. The OAG also conduct financial and value for money audits, including forensic audits and any other type of audit, in respect to a project that involves the use of public funds. Following these audits, the Office submits reports to the President and Parliament. Additionally, the Auditor General has the power to recommend to the Director of Public Prosecutions or law enforcement agencies any matter for investigation and/or prosecution.¹²² In practice, however, there has been limited responsiveness by the executive to the recommendations made by the OAG and the Public Accounts Committee (PAC) following the publication of Audit reports.

Good practices

- Prompt sharing of economic and budget information with the public.
- Enactment of laws to enhance public participation in the budgeting and planning process.
- Consistent release of audit reports by the OAG and public scrutiny through the Public Accounts Committee (PAC).

Deficiencies

- Limited use of the Integrated Financial Management Information Systems (IFMIS).
- Failure to operationalize the Public Debt Management Office.
- Limited action by the executive on recommendations from OAG and PAC following the publication of audit reports.
- Inadequate monitoring systems to track the implementation of the recommendations made by the OAG and PAC.

4.1.7 Art. 10 and 13.1 – Access to Information and the Participation of Society

Zambia has no access to information law. A draft Access to Information (ATI) bill has been under development for the past 20 years. The government first introduced the ATI bill in 2002, for first reading in parliament, but later withdrew it for further consultations.¹²³ In 2012, the Patriotic Front-led government established a Taskforce on the ATI and produced a draft ATI Bill. Disappointingly, for over a decade the government failed to pass this bill.¹²⁴ In 2022, the United Party for National Development (UPND) government informed the public that the draft ATI Bill would undergo another round of nation-wide consultation. Stakeholders bemoaned this

¹²² Office of the Auditor General (2023), About us, https://www.ago.gov.zm/?page_id=4862, accessed on 12th July 2023.

¹²³ Ministry of information and Broadcasting Services (2013), Ministerial Statement on the Access to Information Bill, <https://www.parliament.gov.zm/node/2051>, accessed on 10th July 2023.

¹²⁴ Kayula, L. (2018), Access to Information Law in Zambia: For Who And For What? Lusaka, Zambia: Jesuit Centre for Theological Reflection (JCTR), <https://repository.jctr.org.zm/handle/20.500.14274/143>, accessed on 10th July 2023.

decision, as they believed that it would cause further delays to enacting this critical law that has been decades in the making.¹²⁵ In the absence of this law, access to information has been at the benevolence of government departments and ministries.

Although the Zambian government is broadly tolerant of negative articles in newspapers and other media outlets and widely consults civil society and the media in legal reform processes such as the development of the ATI bill,¹²⁶ there are instances of harassment of journalists and threats to intimidate independent media.¹²⁷ For example, on 9th June 2023, the Zambia Police interrogated the News Editor from a major private newspaper following the publication of a leaked letter.¹²⁸ Further, NGOs and some radio stations also experience political pressure and intimidation from ruling party cadres.¹²⁹ In January 2022, a private television station released a leaked audio recording of a telephone conversation between President Hichilema's political advisor and a Permanent Secretary in the Ministry of Home Affairs and Internal Security, in which they allegedly plotted to use state institutions to undermine an opposition party ahead of a parliamentary by-election. The police summoned the station manager and interrogated her regarding the alleged offense of "destroying evidence." Although police did make an arrest, the incident undermined press freedom and the privacy rights of media employees.¹³⁰

It is a constitutional requirement for presidential candidates to declare their assets and liabilities during an election.¹³¹ In the lead-up to the 2021 general elections, 16 presidential candidates declared their assets and liabilities to the Electoral Commission of Zambia (ECZ), Zambia's electoral management body. Following the elections, stakeholders, including Transparency International Zambia, requested the ECZ to publish this information. For months after this request, the ECZ remained silent and unresponsive to media articles and formal letters. Consequently, one of the presidential candidates dragged the Commission to court. In response, the ECZ submitted in court "that there was no Constitutional provision that compelled it to publish the declared assets and liabilities of presidential candidates."¹³² The

¹²⁵ News Diggers Newspaper (2nd June 2022), Why We Should Have An Access To Information Act In Zambia, <https://diggers.news/guest-diggers/2022/06/02/why-we-should-have-an-access-to-information-act-in-zambia/>, accessed on 15th July 2023.

¹²⁶ News Diggers Newspaper (27th March 2022), Government to take ATI Bill to all Provinces for consultations, <https://diggers.news/local/2022/03/27/govt-to-take-ati-bill-to-all-provinces-for-consultations/>, accessed on 8th November 2023.

¹²⁷ US State Department (2023), 2022 Country Reports on Human Rights Practices: Zambia, <https://www.state.gov/reports/2022-country-reports-on-human-rights-practices/zambia>, accessed on 8th November 2023.

¹²⁸ News Diggers Newspaper (9th June 2023), Police record warn and caution statement from KBN TV manager, <https://diggers.news/local/2023/06/09/police-summon-diggers-chief-editor-reporter/>, accessed on 15th July 2023.

¹²⁹ US State Department (2023), 2022 Country Reports on Human Rights Practices: Zambia, <https://www.state.gov/reports/2022-country-reports-on-human-rights-practices/zambia>, accessed on 8th November 2023.

¹³⁰ US State Department (2023), 2022 Country Reports on Human Rights Practices: Zambia, <https://www.state.gov/reports/2022-country-reports-on-human-rights-practices/zambia>, accessed on 8th November 2023.

¹³¹ Article 100 (1) (h) of the Constitution of Zambia (Amendment) Act No. 2 of 2016 stated that "A person qualifies to be nominated as a candidate for election as President if that person declares that person's assets and liabilities, as prescribed."

¹³² The News Diggers Newspaper (15th October 2021), There's no law compelling us to publish declared assets of presidential candidates – ECZ, <https://diggers.news/courts/2021/10/15/theres-no->

Constitutional Court later dismissed the matter citing that “the petitioner has not proved that the failure by the first respondent (ECZ) to publish information of declared assets and liabilities for Presidential candidates that contested on 12th August 2021 general elections contravened the Constitution.”¹³³ Consequently, this information has remained hidden from public scrutiny. Attempts to demand for this information directly from the President have also proved futile, as his Office has been referring the matter back to the ECZ.¹³⁴

Deficiencies

- Lack of a Constitutional provision and Access to Information law.
- Limited understanding of the importance of the ATI law.
- Instances of harassment of journalists and threats to intimidate independent media.

4.2 Chapter V

4.2.1 Art. 52 and 58 – Anti-Money Laundering

In 2023, Zambia launched the National Anti-Money Laundering and Countering Terrorism and Proliferation Financing Policy.¹³⁵ The Policy outlines the government’s policy direction for the effective combatting of money laundering, terrorism financing and proliferation financing. As a founding member of the Eastern and Southern Africa Anti-Money Laundering Group (ESAAMLG), Zambia has made significant efforts in combating money laundering. The country has a comprehensive legal framework and institutional framework. The key institutions include line ministries such as the Ministry of Finance and National Planning, Ministry of Home Affairs and Internal Security, Ministry of Justice and the Ministry of Foreign Affairs; and intelligence gathering and Law Enforcement Agencies/Units such as the Financial Intelligence Centre, the Anti-Money Laundering Investigations Unit (AMLIU) and the Drug Enforcement Commission (DEC), among others. Further, the National Task Force of Senior Officials has been providing comprehensive multi-stakeholder oversight and coordinating the implementation of preventive measures.¹³⁶

The Anti-Money laundering legal framework includes the Prohibition and Prevention of Money Laundering (Amendment) Act No. 44 of 2010,¹³⁷ read together with the

[law-compelling-us-to-publish-declared-assets-of-presidential-candidates-ecz/](#), accessed on 15th July 2023.

¹³³ The News Diggers Newspaper (15th March 2022), ConCourt dismisses Tembo’s HH assets declaration case, <https://diggers.news/courts/2022/03/15/concourt-dismisses-tembos-hh-assets-declaration-case/>, accessed on 15th July 2023.

¹³⁴ ZNBC (23rd August 2022), President HICHILEMA Declares Assets And Liabilities – BWALYA, <https://www.znbc.co.zm/news/president-hichilema-declares-assets-and-liabilities-bwalya/>, accessed on 25th July 2023.

¹³⁵ Financial Intelligence Centre (2022), The National Anti-Money Laundering and Countering Terrorism and Proliferation Financing Policy, <https://www.fic.gov.zm/component/attachments/download/126>, accessed on 20th July 2023.

¹³⁶ Financial Intelligence Centre (2023), AML CFT Framework, <https://www.fic.gov.zm/aml-cft-framework>, accessed on 9th November 2023.

¹³⁷ Prohibition and Prevention of Money Laundering (Amendment) Act No. 44 of 2010, <https://www.parliament.gov.zm/node/3419>, accessed on 25th July 2023.

Prohibition and Prevention of Money Laundering Act No. 14 of 2001,¹³⁸ which criminalizes money laundering and establishes the Anti-Money Laundering Authority and Anti-Money Laundering Unit. There is also the Financial Intelligence Centre (Amendment) Act No. 16 of 2020 as read together with the Financial Intelligence Centre Act No. 46 of 2010, which designates the Financial Intelligence Centre as the national center for receipt, from reporting entities, and analysis of suspicious transaction reports, and any other information relevant to money laundering. Other relevant laws include the Forfeiture of Proceeds of Crime Act No. 19 of 2010, the Mutual Legal Assistance in Criminal Matters Act (1993), and the Plea Negotiations and Agreements Act No. 20 of 2010.¹³⁹

Zambia established the Financial Intelligence Centre (FIC) in 2010 to receive and analyze Suspicious Transaction Reports (STRs) and Currency Transaction Reports (CTRs) from Commercial Banks and Non-Bank Financial Institutions, and Designated Non-Financial Businesses and Professions (DNFBPs), including casinos, real estate agents, accountants and legal practitioners.¹³⁹ Through its annual, trends and typology reports, the FIC has been consistent in carrying out its mandate. The Number of STRs received by the FIC has increased from 2,266 in 2020 to 5,745 in 2022, out of which, the number of cases disseminated to Law Enforcement Agencies have also increased from 61 in 2020 to 129 in 2022. In this regard, the FIC has assisted in a number of joint investigations with other competent authorities with some of these cases leading to arrests and forfeiture of assets.¹⁴⁰

According to Section 49C of the Financial Intelligence Centre (Amendment) Act No. 16 of 2020,¹⁴¹ the Financial Intelligence Centre has the powers to take administrative sanctions on reporting entities or persons that commit an offence under the Act. These include cautions against repeating the conduct, reprimands, directives to take remedial action, restrictions or suspension of certain business activities such as the use of a bank account, and financial penalties not exceeding K300,000 (about USD\$ 15,000). Following the introduction of these administrative sanctions, in the 2020 amendment of the Act, there has been notable improvement in compliance. The number of Suspicious Transaction Reports received increased by 123% in 2022 as compared to 2021, with the majority of the reports coming from banks (accounting for 97% of the STRs received in 2022) and Money or value transfer services (MVTs). Further, the number of STRs received from Casinos increased to 15 from no reports recorded in 2021 and 2020.

Despite the notable improvements in the legal framework, the FIC faces a number of institutional and operational challenges. Prior to the 2020 amendment, the FIC had no powers to request Law Enforcement Agencies to provide an update on the cases disseminated. This has resulted in limited follow-up of cases disseminated to LEAs.

¹³⁸ Prohibition and Prevention of Money Laundering Act No. 14 of 2001, https://www.boz.zm/53_TheProhibitionandPreventionofMoneyLaunderingAct.pdf, accessed on 25th July 2023.

¹³⁹ The Financial Intelligence Centre (2023), AML CFT Framework, <https://www.fic.gov.zm/aml-cft-framework>, accessed on 25th July 2023.

¹⁴⁰ Financial Intelligence Centre (2023), 2022 Trends Report, <https://www.fic.gov.zm/79-fic-news/118-trends-report-2022>, accessed on 16th July 2023.

¹⁴¹ Financial Intelligence Centre (Amendment) Act No. 16 of 2020, <https://www.parliament.gov.zm/node/8668>.

¹⁴² Further, an assessment of the performance of the FIC in 2019 established that the Centre had inadequate financial resources which resulted in inadequate human resource and limited visibility. There were also inadequacies and inefficiencies in information sharing due to non-existence of a shared computer-based system between the FIC and state investigative and law enforcement agencies for inputting, storing and retrieval of intelligence information.¹⁴³

Good practices

- Development and implementation of the national anti-money laundering policy.
- Comprehensive multi-stakeholder oversight and coordinated implementation of preventive measures through the National Task Force.
- Introduction of punitive powers for the FIC through Section 49C of the Financial Intelligence Centre (Amendment) Act No. 16 of 2020¹⁴⁴.

Deficiencies

- Limited follow-up on cases disseminated to Law Enforcement Agencies due to limited legal mandate before the 2020 amendments.
- Ineffective coordination mechanism between the FIC and LEAs as evidenced by the lack of a shared computer-based system between the FIC and state investigative and law enforcement agencies.

4.2.2 Art. 53, 55, 56 and 57 – Measures for Direct Recovery, Return and Disposal of Property and International Cooperation in Confiscation

Zambia has a legal framework for the return and disposal of confiscated property. This includes Section 28 of the Forfeiture of Proceeds of Crime Act No. 19 of 2010¹⁴⁵ that deals with forfeiture proceedings. Other relevant legal instruments include the Mutual Legal Assistance in Criminal Matters Act and Chapter 98 of the Laws of Zambia,¹⁴⁶ which allows Zambia to cooperate with other States Parties for the purpose of return and disposal of confiscated property. The Office of the Attorney General facilitates this cooperation using Mutual Legal Assistance (MLA) requests. Through the Office of Attorney General's Office, law enforcement agencies use MLA requests to commence non-conviction-based forfeiture proceedings in the country where the property is domiciled. For example, if a person commits a crime in Zambia and then moves the proceeds to South Africa, the Zambian government can make a request to the South African government to pursue the matter in a South African Court. If the Court rules in

¹⁴² The National Assembly of Zambia (2019), REPORT OF THE COMMITTEE ON CABINET AFFAIRS FOR THE FOURTH SESSION OF THE TWELFTH NATIONAL ASSEMBLY, https://www.parliament.gov.zm/sites/default/files/documents/committee_reports/Report%20on%20Cabinet%20Affairs-2020.pdf, accessed on 9th November 2023.

¹⁴³ The National Assembly of Zambia (2019), REPORT OF THE COMMITTEE ON CABINET AFFAIRS FOR THE FOURTH SESSION OF THE TWELFTH NATIONAL ASSEMBLY, https://www.parliament.gov.zm/sites/default/files/documents/committee_reports/Report%20on%20Cabinet%20Affairs-2020.pdf, accessed on 9th November 2023.

¹⁴⁴ Financial Intelligence Centre (Amendment) Act No. 16 of 2020, <https://www.parliament.gov.zm/node/8668>.

¹⁴⁵ Forfeiture of Proceeds of Crime Act No. 19 of 2010 <https://www.parliament.gov.zm/node/3286>, accessed on 20th July 2023.

¹⁴⁶ Mutual Legal Assistance in Criminal Matters Act, Chapter 98 of the Laws of Zambia <https://www.parliament.gov.zm/node/841>, accessed on 20th July 2023.

favor of Zambia, it will issue a forfeiture order in favor of Zambia and a process will commence to transfer these properties or monies to Zambia.¹⁴⁷

In practice, requests made through Mutual Legal Assistance tend to take a long time. Therefore, Zambia has also been using Bilateral Agreements and the International Criminal Police Organization (INTERPOL)¹⁴⁸ to obtain information and recover assets. The Asset Recovery Inter-Agency Network for Southern Africa (ARINSA) has also been very helpful in the recovery of assets, though it is not a legal channel. With regards to information exchange, the Financial Intelligence Centre Networks have been critical since many countries have established Financial Intelligence Units (FIUs) which exchange information through the Egmont Group.¹⁴⁹

The Public Finance Management Act No.1 of 2018¹¹³ provides for the management of all assets returned, recovered or forfeited from criminal or civil matters through a consolidated fund. This means that the Secretary to the Treasury, under the Ministry of Finance and National Planning is responsible for the management and disposal of confiscated or forfeited assets. Section 73 of the Forfeiture of Proceeds of Crime Act No. 19 of 2010¹⁴⁵ provides for the establishment of the Forfeited Assets Fund. However, the government is yet to issue a statutory instrument to provide for the administration, management and operation of the fund.

In the absence of the Forfeited Assets Fund, each law enforcement agency used to manage both assets, such as motor vehicles and properties, as well as monies recovered through criminal and civil proceedings. However, with the passing of the Public Finance Management Act No.1 of 2018¹¹³, the Secretary to the Treasury has the final authority on the disposal of such monies and property. In practice, law enforcement agencies seek special authority to use these properties and, in most cases, they surrender the motor vehicles and other properties to the government through the Ministry of Works and Supply. The law enforcement agencies also transfer the funds recovered through these proceedings to the government's Consolidated Fund.¹⁴⁷

Good practices

- The use of Mutual Legal Assistance Requests for the recovery of property and international cooperation.
- Information exchange through leveraging bilateral agreements and Financial Intelligence Units.

Deficiencies

- Failure to operationalize the consolidated Forfeited Assets Fund.

¹⁴⁷ Interview with Drug Enforcement Commission (DEC), 7th July 2023.

¹⁴⁸ International Criminal Police Organization (2023), What is INTERPOL?

<https://www.interpol.int/en/Who-we-are/What-is-INTERPOL>, accessed on 15th July 2023.

¹⁴⁹ EGMONT Group (2023), Connecting Financial Intelligence Units Worldwide <https://egmontgroup.org/>, accessed on 14th July 2023.

4.3 Statistics¹⁵⁰

Money Laundering

Reporting/Intelligence Phase	Year: 2020	Year: 2021	Year: 2022
Number of Suspicious Transaction Reports (STRs) filed by each category of obliged entities:			
- Banks and financial institutions	2,225	2,535	5,582
- Non-financial businesses and professions (NFBPs)	0	0	19

The FIC report does not include specific information on the number of postponement orders or the number of money laundering investigations carried out independently by law enforcement agencies. Further, the 2022 FIC report, for example, presents the STRs by province and does not indicate the number of cases at the border or the number of reports analyzed by law enforcement agencies. In light of the missing information, TI-Z reached out to the FIC to request for this information but FIC did not respond to the request.

Asset Recovery

Law enforcement agencies and the Ministry of Justice did not provide this information.

4.4 Short analysis

The number of STR increased by 123% in 2022 with the majority of the increase in STRs coming from banks and financial institutions. Further, for the first time, STRs from casinos increased from zero to 15 in 2020 and 2021. However, the number of cases analyzed by the FIC out of the total received has been reducing over time.¹⁵¹

4.5 Information on asset recovery cases

- Dr. Chiluba served as the President of Zambia from 1991 to 2002. In February 2003, he was charged along with his former intelligence chief, Xavier Chungu, and several former ministers and senior officials, with 168 counts of theft totaling more than USD\$40 million. On 4 May 2007, Zambia obtained judgment against Dr. Chiluba and some of his co-defendants for about US \$46 million. Another Judgment was obtained against Mr. Chiluba's lawyer. His law firm had handled US \$10 million of the stolen money (a second London law firm was also found to have illegally handled USD\$3 million). However, on 31 July 2008, the lawyer successfully appealed the judgment against him, persuading the

¹⁵⁰ The tables below follow the format in this Eurostat report: <http://ec.europa.eu/eurostat/documents/3888793/5856465/KS-TC-13-007-EN.PDF/69cde077-3bd9-4d0d-8c19-a6fe3608c2cd>.

¹⁵¹ Financial Intelligence Centre (2023), 2022 Trends Report, <https://www.fic.gov.zm/component/attachments/download/131>, accessed on 20th August 2023.

Court of Appeal that he had not known or suspected the dishonesty of his clients.¹⁵²

- In 2021, the Zambia government took possession of the K65 million (about USD\$ 3.25 million) cash and USD\$ 57,000 found at the house of a Lusaka Journalist. The State also seized the property in Lusaka valued at K6 million (USD\$ 300,000) where the funds suspected to be proceeds of crime were found. This was followed by a settlement agreement between the journalist and the Zambian joint investigative team comprising the Anti-Corruption Commission, the Zambia Police Service, the Drug Enforcement Commission and the Financial Intelligence Centre. The agreement was not to institute criminal proceedings against her on condition that she fulfils the requirements of section 80 of the Anti-Corruption Act number 3 of 2012. Section 80 of the Act allows the state to grant Amnesty to accused persons in certain instances on condition that they admit wrongdoing and return what they wrongfully acquired through corrupt practices.¹⁵³

¹⁵² Transparency International UK (2009), Combating Money Laundering and Recovering Looted Gains: Raising the UK's Game, https://www.transparency.org.uk/sites/default/files/pdf/publications/AML_report09.pdf, accessed on 10th November 2023.

¹⁵³ ZNBC (2021), FAITH MUSONDA: MONEY, PROPERTY SEIZED, <https://www.znbc.co.zm/news/faith-musonda-money-property-seized/>, accessed on 10th November 2023.

V. Recent Developments

The following are some of the recent developments within the past for the period 2021 to 2023:

1. **Government Commitment:** The Zambian President continued to set a positive policy direction through periodic pronouncement and statements.¹⁵⁴ This is critical as it sends a positive message to law enforcement agencies that they have government support in fighting corruption. The UN Resident Coordinator commended “the government for boldly demonstrating political will to persistently fight corruption in order to strengthen good governance, transparency, and accountability especially in public service delivery.”¹⁵⁵
2. **Appointments:** The government has been prompt in appointing substantive office holders such as the Director General of the ACC.¹⁵⁶ Under the previous regime, one Director General was put in an acting position for about two years.^{157 158}
3. **Anti-Corruption Policy:** As at end of August 2023, the government through the Ministry of Justice was validating the National Anti-Corruption Policy.¹⁵⁹
4. **Legal Framework:** From 2021 to 2023, the government has passed a number of progressive legislations including the Public Debt Management Act, 2022,¹⁶⁰ The Children’s Code Act, 2022¹⁶¹, and the Bank of Zambia Act, 2022.¹⁶² There are also some important bills under consideration including; The Public Procurement (Amendment) Bill, 2023¹⁶³, The Human Rights Commission Bill, 2023¹⁶⁴, and the National Prosecution Authority (Amendment) Bill, 2023.¹⁶⁵
5. **Access to Information:** In July 2023, Cabinet approved in principle the introduction of the Access to Information Bill in the National Assembly for enactment. This means that government has committed to submitting the Bill to parliament once the Ministry of Justice finalizes it.

¹⁵⁴ ZNBC (20th December 2022), HH TELLS ACC, DPP TO BE FEARLESS, <https://www.znbc.co.zm/news/hh-tells-acc-dpp-to-be-fearless/>, accessed on 10th October 2023.

¹⁵⁵ United Nations (2023), International Anti-Corruption Day Commemoration, <https://zambia.un.org/en/211481-international-anti-corruption-day-commemoration>, accessed on 10th November 2023.

¹⁵⁶ News Diggers Newspaper (30th March 2022), HH appoints Gilbert as ACC DG, <https://diggers.news/local/2022/03/30/hh-appoints-gilbert-phiri-as-acc-dg/>, accessed on 10th November 2023.

¹⁵⁷ News Diggers Newspaper (30th July 2019), We’ve failed to find the owner of seized 48 houses so we can’t go court-ACC, <https://diggers.news/local/2019/07/30/weve-failed-to-find-the-owner-of-seized-48-houses-so-we-cant-go-to-court-acc/>, accessed on 10th November 2023.

¹⁵⁸ Basel Institute on Government (1st July 2021), New partnership with Zambia’s Anti-Corruption Commission in the fight against corruption, <https://baselgovernance.org/news/new-partnership-zambias-anti-corruption-commission-fight-against-corruption>, accessed on 10th November 2023.

¹⁵⁹ United Nations (2023), International Anti-Corruption Day Commemoration, <https://zambia.un.org/en/211481-international-anti-corruption-day-commemoration>, accessed on 10th November 2023.

¹⁶⁰ Public Debt Management Act, 2022, <https://www.parliament.gov.zm/node/10341>.

¹⁶¹ The Children’s Code Act, 2022, <https://www.parliament.gov.zm/node/10343>.

¹⁶² Bank of Zambia Act, 2022, <https://www.parliament.gov.zm/node/10309>.

¹⁶³ The Public Procurement (Amendment) Bill, 2023, <https://www.parliament.gov.zm/node/11173>.

¹⁶⁴ The Human Rights Commission Bill, 2023, <https://www.parliament.gov.zm/node/10992>.

¹⁶⁵ National Prosecution Authority (Amendment) Bill, 2023, <https://www.parliament.gov.zm/node/10982>.

6. **Asset Recovery:** The new administration has ardently pursued the recovery of assets¹⁶⁶ through the Forfeiture of Proceeds of Crime Act No. 19 of 2010.¹⁶⁷ However, some sections of society consider the forfeiture as an elitist approach to fighting graft and corruption,¹⁶⁸ and thus perpetuating unfairness in the justice system.¹⁶⁹
7. **Geographical Coverage:** As of the end of August 2023, the ACC was physically present in only 12 out of Zambia's 116 districts. However, the Commission plans to establish more offices across the country by the end of 2023.
8. **Summit for Democracy:** There has been limited progress with respect to Zambia's commitment to ensure a free media, restoring the rule of law by protecting freedoms of assembly and association and improving the independence and transparency of the Electoral Commission of Zambia (ECZ). The government is yet to enact the Access to Information Law while the enforcement of the Public Order Act continues to limit the right to freedom of assembly and association.¹⁷⁰

¹⁶⁶ News Diggers Newspaper (22nd March 2022), Investigative Wings seize 31 vehicles abandoned in Makeni, <https://diggers.news/local/2022/03/22/investigative-wings-seize-31-vehicles-abandoned-in-makeni/>, accessed on 10th November 2023.

¹⁶⁷ Forfeiture of Proceeds of Crime Act No. 19 of 2010, <https://www.parliament.gov.zm/node/3286>. ; News Diggers Newspaper (21st October 2021) FAITH MUSONDA: MONEY, PROPERTY SEIZED, <https://www.znbc.co.zm/news/faith-musonda-money-property-seized/>, accessed on 10th November 2023.

¹⁶⁸ News Diggers (2021), Faith walks free after admitting crime, surrendering K64m, house, <https://diggers.news/local/2021/10/22/faith-walks-free-after-admitting-crime-surrendering-k64m-house/>, accessed 20th November 2023.

¹⁶⁹ Transparency International Zambia (2021), Rebuttals to "Money Heist and the Sleepy Law Enforcement", <https://tizambia.org.zm/blog/2021/10/28/rebuttals-to-money-heist-and-the-sleepy-law-enforcement/>, accessed 20th November 2023.

¹⁷⁰ News Diggers Newspaper (29th August 2023), LAZ condemns abuse of Public Order Act by new dawn govt, [38](https://diggers.news/local/2023/08/29/laz-condemns-abuse-of-public-order-act-by-new-dawn-govt/#:~:text=%E2%80%9CThe%20Law%20Association%20of%20Zambia,(%20the%20government%20),accessed on 29th August 2023.</p>
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VI. Recommendations

1. Ensure the approval of the new National Anti-Corruption Policy and adequate dissemination to all parts of the country following its publication,
2. Develop a financing mechanism, and Monitoring and Evaluation Framework for the new National Anti-Corruption Policy in order to improve implementation.
3. Improve the geographical coverage of the Anti-Corruption Commission by opening new offices in other parts of the country.
4. Conduct a comprehensive evaluation of the performance of Integrity Committees and strengthen their operational mandate through legal and administrative reforms.
5. Designate the Anti-Corruption Commission as a grant-aided institution in order to enhance financial management autonomy from the central treasury.
6. Amend the Anti-Corruption Act No. 3 of 2012 to make State officers, Constitutional office holders, Judges and Judicial officers liable under the Act and to strengthen the autonomy of the Commission in prosecuting cases of corruption.
7. Enact subsidiary legislation on political financing in order to actualize constitutional provisions and effectively regulate the use of money in politics.
8. Conduct nation-wide sensitisation on the dangers of illicit financing of political parties, state capture and grand corruption in order to generate support for political party and campaign finance regulation.
9. Amend the Public Interest Disclosure (Protection of Whistleblowers) Act No. 4 of 2012 in order to remove unfavorable provisions and provide sufficient protection for whistleblowers and rewards for whistleblowers in the event of recovery of assets.
10. Ensure the full rollout of the Electronic Government Procurement (e-GP) System as it has demonstrated potential in promoting transparency in the procurement process.
11. Create a system that will interface procurement information with beneficial ownership information for purposes of declaration of interest and combating public procurement corruption.
12. Improve the post-contract ward monitoring of public procurements in order to ensure value for money and to protect public funds.
13. Ensure the full rollout of the Integrated Financial Management Information System (IFMIS) through onboarding all government department and ministries.
14. Ensure the operationalization of the Public Debt Management Office in order to support the monitoring and evaluation of Government investments and the management of Government's debt stock.
15. Develop a tracking and monitoring framework for the recommendations made by the Office of the Auditor General and the Public Accounts Committee following the publication of audit reports.
16. Ensure the enactment of an access to information law in order to ensure access to information in Zambia.
17. Sensitize the public on right to information and protect journalists and other non-state actors from intimidation.
18. Develop a mechanism for effective follow-up of cases disseminated to law enforcement agencies by the Financial Intelligence Centre.

19. Ensure the operationalization of the Forfeited Assets Fund as a consolidate fund to enhance transparency and accountability in the management of forfeited assets.

VII. Annex

7.1 Data and Case Information

This information is not available, as Zambia has no access to information law. However, TI-Z wrote to a few public institutions in the hope that they would share the required information out of goodwill.

7.2 Table on Freedom of Information Requests

Identification number	Institution	Date of request	Date of answer	Information requested	Information provided
N/A	Ministry of Justice	9 th August 2023	11 th August 2023	Status of UNCAC Implementation	Status of UNCAC Implementation
N/A	Financial Intellegance Centre	20 th August 2023	N/A	Statistics on STRs investigates and Number of staff dedicated to Money Laundering	None

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