



MECHANISM FOR FOLLOW-UP ON IMPLEMENTATION  
OF THE INTER-AMERICAN CONVENTION AGAINST  
CORRUPTION  
Washington, D.C.

OEA/Ser.L.  
SG/MESICIC/doc.624/22 rev. 6  
March 13, 2025  
Original: Spanish

INDICATORS TO PREVENT, DETECT, AND REDUCE IMPUNITY RELATED TO RESULTS IN  
THE PROTECTION OF WHISTLEBLOWERS AND WITNESSES OF ACTS OF CORRUPTION

### **EXPLANATORY NOTE**

This document is a guide or a set of non-binding guidelines, which are made available to member states, so that they may make use of it pursuant to their legal framework and at their discretion.

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## INTRODUCTION

### **BACKGROUND**

The MESICIC Committee of Experts, at its Thirty-Fifth Meeting in March 2021, approved the *Methodology for Considering the System of Indicators to Prevent, Detect, and Eradicate Impunity for Acts of Corruption*,<sup>1</sup> which establishes the procedure for the consideration and definition of those indicators, in successive phases, in order to comply with the mandate set forth in paragraph 49 of the Lima Commitment, *Democratic Governance against Corruption*, adopted at the Eighth Summit of the Americas.

In compliance with the first phase established in that Methodology, at its Thirty-Seventh Meeting, held in March 2022, the Committee adopted the Indicators to Prevent, Detect, and Eradicate Impunity for Acts of Corruption with Regard to Results of their Investigation, Prosecution, Adjudication, and Sentencing.<sup>2</sup>

At that same meeting, in accordance with the aforementioned Methodology and, in particular, pursuant to the second phase provided for therein, the Committee tasked the Technical Secretariat with preparing a proposed set of indicators for the protection of whistleblowers and witnesses.

### **SCOPE AND CONTENT OF THIS PROPOSAL**

These indicators aim to develop the issues identified for the second phase with respect to the protection of whistleblowers and witnesses of acts of corruption. In this respect, they take into account, among others, the provisions of the *Model Law to Facilitate and Encourage the Reporting of Acts of Corruption and to Protect Whistleblowers and Witnesses*.<sup>3</sup>

It should also be noted that they are not binding, but constitute as a guide, and therefore can be used, modified or complemented by States, in accordance with their particularities, as well as their legal framework and tradition. Consequently, they are for the internal use of each State as a tool for self-analysis and can be particularly useful for those administrative or judicial agencies responsible for the protection of whistleblowers and witnesses of acts of corruption. Therefore, States are invited to share these indicators with these agencies so that they may make use of those indicators that are useful to them, in accordance

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<sup>1</sup> See *Methodology for Considering the System of Indicators to Prevent, Detect, and Eradicate Impunity for Acts of Corruption*, available at: [http://www.oas.org/en/sla/dlc/mesicic/docs/mesicic6\\_35reunion\\_metodologia\\_indicadores\\_ing.pdf](http://www.oas.org/en/sla/dlc/mesicic/docs/mesicic6_35reunion_metodologia_indicadores_ing.pdf).

<sup>2</sup> See *Indicators to Prevent, Detect, and Eradicate Impunity for Acts of Corruption with Regard to Results of Their Investigation, Prosecution, Adjudication, and Sentencing*, available at: [http://www.oas.org/en/sla/dlc/mesicic/docs/mesicic37\\_indicadores\\_ing.pdf](http://www.oas.org/en/sla/dlc/mesicic/docs/mesicic37_indicadores_ing.pdf).

<sup>3</sup> See *Model Law to Facilitate and Encourage the Reporting of Acts of Corruption and to Protect Whistleblowers and Witnesses* ("Model Law"), available at: [http://www.oas.org/juridico/pdfs/model\\_law\\_reporting.pdf](http://www.oas.org/juridico/pdfs/model_law_reporting.pdf).



with their internal regulations, as well as apply the corresponding corrective measures to combat impunity in relation to acts of corruption.

The indicators are divided into two sections: (a) indicators to determine the results of the protection of whistleblowers of acts of corruption, and (b) indicators to determine the results of the protection of witnesses of acts of corruption.

## **I. INDICATORS TO PREVENT, DETECT, AND REDUCE IMPUNITY RELATED TO RESULTS IN THE PROTECTION OF WHISTLEBLOWERS AND WITNESSES OF ACTS OF CORRUPTION<sup>4</sup>**

### **A. INDICATORS TO DETERMINE THE RESULTS OF THE PROTECTION OF WHISTLEBLOWERS OF ACTS OF CORRUPTION<sup>5</sup>**

1. Does your country have specific legislation on the protection of whistleblowers of acts of corruption? Yes ( ) No ( )
2. Does your country have legislation that only generally regulates the protection of whistleblowers of acts of corruption or is derived from various legal texts? Yes ( ) No ( )
3. Does it have a program<sup>6</sup> for the protection of whistleblowers of acts of corruption? Yes ( ) No ( )
4. Does it have an authority responsible for receiving complaints from whistleblowers of acts of corruption, for which protective measures may be available? Yes ( ) No ( )
5. Does it have an authority responsible for receiving requests from whistleblowers of acts of corruption, for which protective measures may be available? Yes ( ) No ( )
6. Does it have an authority responsible for granting protective measures that were requested for whistleblowers of acts of corruption? Yes ( ) No ( )
7. Does it have several authorities responsible for granting protective measures that were requested for whistleblowers of acts of corruption? Yes ( ) No ( )

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<sup>4</sup> It is suggested a period of 5 years as the basis for measuring the indicators, which is the same time frame that the Committee has set in the recommendations made in country reports regarding results of acts of corruption.

<sup>5</sup> The indicators in this section, in addition to referring to good-faith whistleblowers of acts of corruption, could also apply to their family group as provided for in domestic law. For example, Article 2.c) of the Model Law defines *whistleblower* in the following terms: "Any person who informs the competent authority of the commission of an act which that person considers could be an act of corruption that is liable for administrative and/or criminal investigation." Similarly, Article 2.e) of the Model Law defines *family group* in the following terms: "Spouse, partner, forebears, children, and siblings of the whistleblower or witness of acts of corruption." In addition, as the aim is to protect the whistleblower and to prevent unlawful acts of pressure against him/her, exceptionally, if permitted by domestic law of the respective State, it may also include those persons that he/she indicates, because of the existence of personal or emotional ties, even when they are not recognized as a member of his/her family in domestic law.

<sup>6</sup> For example, article 2.k) of the Model Law defines *program* in the following terms: "Public entity named "Program to Protect Whistleblowers and Witnesses of Acts of Corruption" responsible for enforcing and implementing certain provisions in this law."



8. Does the responsible authority have the necessary resources to carry out the actions related to the protection of whistleblowers of acts of corruption?<sup>7</sup>
- (a) Annual Regular Financial Resources Yes ( ) No ( )
- (b) Human Resources Yes ( ) No ( )
- (c) Technological Resources Yes ( ) No ( )
- (d) Infrastructural Resources Yes ( ) No ( )
9. Total number of measures for the protection of whistleblowers<sup>8</sup> of acts of corruption requested.<sup>9 10</sup>
10. Total number of measures for the protection of whistleblowers of acts of corruption being processed.
11. Total number of measures for the protection of whistleblowers of acts of corruption that have been granted.
12. Total number of measures for the protection of whistleblowers of acts of corruption that have been denied.
13. Total number of appeals or applications for review, where appropriate, filed against the refusal of the responsible authority to grant protective measures to whistleblowers of acts of corruption.<sup>11</sup>
14. Total number of decisions overturning the responsible authority's decision to deny protective measures to whistleblowers of acts of corruption.
15. Total number of decisions affirming the responsible authority's decision to deny protective measures to whistleblowers of acts of corruption.
16. Total number of protective measures granted to whistleblowers in force.
17. Total number of protection measures granted to whistleblowers whose term of protection has been extended, if relevant.

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<sup>7</sup> If a response is "no" to any of these indicators, the specific resource need should be quantified.

<sup>8</sup> Include, if applicable, the family group benefiting from the protective measure.

<sup>9</sup> In connection with this indicator and the following ones, set a five-year time frame as the base period for data preparation, which is the same time frame that the Committee has established in its recommendations on the results of acts of corruption formulated in the country reports.

<sup>10</sup> This indicator is applicable to those States whose systems previously require a request for a protection measure, to subsequently process, grant, or deny the request.

<sup>11</sup> For this indicator, attention must be paid to the legislation of each country with respect to appeals in this area, whether at the administrative level (appeals for reconsideration, appeal remedies, appeals for review) or at judicial venues.



18. Total number of protective measures granted to whistleblowers of acts of corruption that have concluded.
19. Number of whistleblowers<sup>12</sup> of acts of corruption that have been granted the following protections, where provided for under the country's whistleblower protection measures:
- a. Total number of whistleblowers granted legal advice to assist them on the facts related to the complaint of acts of corruption.
  - b. Total number of whistleblowers whose identity were subject to protections during and/or following the proceedings into acts of corruption.
  - c. Total number of whistleblowers granted police protection.
  - d. Total number of whistleblowers granted a change of residence or concealment of their whereabouts.
  - e. Total number of whistleblowers granted medical assistance.
  - f. Total number of whistleblowers granted psychological assistance.
  - g. Total number of whistleblowers granted transfers of administrative unit within the agency, without diminishing their working conditions.
  - h. Total number of whistleblowers granted changes of workplace, without diminishing their working conditions.
  - i. Total number of whistleblowers granted paid leaves of absence.
  - j. Total number of whistleblowers granted labor protection in order to not be subject to retaliation.
  - k. Total number of whistleblowers granted protective measures other than the above.
20. Total number of whistleblowers<sup>13</sup> who, with protective measures in place, suffered physical injury as a result of reporting acts of corruption.
21. Total number of whistleblowers who, with protective measures in place, lost their lives as a result of reporting acts of corruption.
22. Total number of whistleblowers who, with protective measures in place, were victims of harassment or workplace retaliation as a result of reporting acts of corruption.

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<sup>12</sup> Include, if applicable, the family group benefiting from the protective measure.

<sup>13</sup> Include, if applicable, the family group benefiting from the protective measure.



23. Total number of individuals or authorities sanctioned for noncompliance with their duties and/or negligence in connection with the protection of whistleblowers of acts of corruption.
24. If the whistleblower suffered harm as a result of the complaint; or due to the failure to grant a timely measure of protection or failure to comply with the same:
- a) Is any type of redress in their favor contemplated in the regulations governing whistleblower protection measures? Yes ( ) No ( )
  - b) Number of whistleblowers for whom some type of redress or compensation was granted.
25. Regarding requests for mutual assistance received from other States<sup>14</sup> in connection with the protection of whistleblowers of acts of corruption, indicate:
- a. Total number received.
  - b. Total number still in process.
  - c. Total number responded favorably.
  - d. Total number granted or executed.
  - e. Total number not granted or executed.
  - f. Total number denied.
26. Regarding requests for mutual assistance made to other States<sup>15</sup> in connection with the protection of whistleblowers of acts of corruption, indicate:
- a. Total number made.
  - b. Total number still in process.
  - c. Total number responded favorably.
  - d. Total number granted or executed.
  - e. Total number not granted or executed.
  - f. Total number denied.
27. Does your country have regional and inter-agency agreements to strengthen, promote, and guarantee the protection of whistleblowers? Yes ( ) No ( ). If yes, please indicate which agreements.
28. Does your country provide specialized training programs to officials with responsibilities on the protection of whistleblowers of acts of corruption? Yes ( ) No ( )
29. How many officials with responsibilities on the protection of whistleblowers of acts of corruption receive specialized training?

<sup>14</sup> For example, see Model Law, Article 50.

<sup>15</sup> For example, see Model Law, Article 50.



30. Does your country have an agency responsible for specialized whistleblower protection training for officials? Yes ( ) No ( )

## **B. INDICATORS TO DETERMINE THE RESULTS OF THE PROTECTION OF WITNESSES OF ACTS OF CORRUPTION:<sup>16</sup>**

1. Does your country have specific legislation on the protection of witnesses of acts of corruption? Yes ( ) No ( )
2. Does your country have legislation that only generally regulates the protection of witnesses of acts of corruption or is derived from various legal texts? Yes ( ) No ( )
3. Does it have a competent<sup>17</sup> authority to receive requests or complaints from witnesses of acts of corruption, for which protective measures may be available? Yes ( ) No ( )
4. Does it have an authority responsible for receiving complaints from witnesses of acts of corruption, for which protective measures may be available? Yes ( ) No ( )
5. Does it have an authority responsible for receiving requests from whistleblowers of acts of corruption, for which protective measures may be available? Yes ( ) No ( )
6. Does it have an authority responsible for granting protective measures that were requested for witnesses of acts of corruption? Yes ( ) No ( )
7. Does it have several authorities responsible for granting protective measures that were requested for witnesses of acts of corruption? Yes ( ) No ( )
8. Does the responsible authority have the necessary resources to carry out the actions related to the protection of witnesses of acts of corruption?<sup>18</sup>
  - (a) Annual Regular Financial Resources Yes ( ) No ( )
  - (b) Human Resources Yes ( ) No ( )
  - (c) Technological Resources Yes ( ) No ( )
  - (d) Infrastructural Resources Yes ( ) No ( )

<sup>16</sup> The indicators in this section, in addition to referring to witnesses of acts of corruption, could also apply to members of their family group as provided for in domestic law. For example, Article 2.g) of the Model Law defines *witness* in the following terms: “Any person with first-hand knowledge of facts relating to the commission of an act of corruption of an administrative and/or criminal nature who is willing to cooperate with the administration of justice.” Similarly, Article 2.e) of the Model Law defines *family group* in the following terms: “Spouse, partner, forebears, children, and siblings of the whistleblower or witness of acts of corruption.” In addition, as the aim is to protect witnesses and to prevent unlawful acts of pressure against him/her, exceptionally, if permitted by domestic law of the respective State, it may also include those persons that he/she indicates, because of the existence of personal or emotional ties, even when they are not recognized as a member of his/her family in domestic law.

<sup>17</sup> For example, article 2.b) of the Model Law defines *competent authority* in the following terms: “The public institution or institutions responsible for receiving requests for protective measures from whistleblowers and witnesses of acts of corruption, assessing them, and, where appropriate, granting them.”

<sup>18</sup> If a response is “no” to any of these indicators, the specific resource need should be quantified.



9. Total number of measures for the protection of witnesses<sup>19</sup> of acts of corruption requested.<sup>20 21</sup>
10. Total number of measures for the protection of witnesses of acts of corruption being processed.
11. Total number of measures for the protection of witnesses of acts of corruption that have been granted.
12. Total number of measures for the protection of witnesses of acts of corruption that have been denied.
13. Total number of appeals or applications for review, where appropriate, filed against the refusal of the responsible authority to grant protective measures to witnesses of acts of corruption.<sup>22</sup>
14. Total number of decisions overturning the responsible authority's decision to deny protective measures to witnesses of acts of corruption.
15. Total number of decisions affirming the responsible authority's decision to deny protective measures to witnesses of acts of corruption.
16. Total number of protective measures granted to witnesses in force.
17. Total number of protective measures granted to witnesses of acts of corruption whose term of protection has been extended, if relevant.
18. Total number of protective measures granted to witnesses of acts of corruption that have concluded.
19. Number of witnesses<sup>23</sup> of acts of corruption that have been granted the following protections, where provided for under the country's witness protection measures:
  - a. Total number of witnesses granted legal advice to assist them on the facts related to the complaint of acts of corruption.
  - b. Total number of witnesses whose identity were subject to protections during and/or following the proceedings into acts of corruption.

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<sup>19</sup> Include, if applicable, the family group benefiting from the protective measure.

<sup>20</sup> In connection with this indicator and the following ones, set a five-year time frame as the base period for data preparation, which is the same time frame that the Committee has established in its recommendations on the results of acts of corruption formulated in the country reports.

<sup>21</sup> This indicator is applicable to those States whose systems previously require a request for a protection measure, to subsequently process, grant, or deny the request.

<sup>22</sup> For this indicator, attention must be paid to the legislation of each country with respect to appeals in this area, whether at the administrative level (appeals for reconsideration, appeal remedies, appeals for review) or at judicial venues.

<sup>23</sup> Include, if applicable, the family group benefiting from the protective measure.



- c. Total number of witnesses in proceedings where methods were used to prevent the visual or aural identification of the witness (voice distorters, face coverings, etc.)
  - d. Total number of witnesses who have been granted the benefit of the use of mechanical or technological procedures to avoid the physical participation of the witness in the proceedings (videoconferencing, teleconferencing, etc.).
  - e. Total number of witnesses whose identity have been changed through the issuance of new identity documents.
  - f. Total number of witnesses granted police protection.
  - g. Total number of witnesses granted a change of residence or concealment of their whereabouts.
  - h. Total number of whistleblowers granted monetary assistance for subsistence.
  - i. Total number of witnesses granted an alternate address for notifications issued as a part of the investigation proceedings.
  - j. Total number of witnesses that are in prison who have been granted special protection measures, such as separation from the rest of the prison population or confinement in special prisons or areas.
  - k. Total number of witnesses granted medical assistance.
  - l. Total number of witnesses granted psychological assistance.
  - m. Total number of witnesses granted transfers of administrative unit within the agency, without diminishing their working conditions.
  - n. Total number of witnesses granted changes of workplace, without diminishing their working conditions.
  - o. Total number of witnesses granted paid leaves of absence.
  - p. Total number of witnesses granted labor protections in order to not be subject to retaliation.
  - q. Total number of witnesses granted protective measures other than the above.
20. Total number of witnesses<sup>24</sup> who, with protective measures in place, suffered physical injury as a result of reporting acts of corruption.

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<sup>24</sup> Include, if applicable, the family group benefiting from the protective measure.



21. Total number of witnesses who, with protective measures in place, lost their lives as a result of reporting acts of corruption.
22. Total number of witnesses who, with protective measures in place, were victims of harassment or workplace retaliation as a result of reporting acts of corruption.
23. Total number of individuals or authorities sanctioned for noncompliance with their duties and/or negligence in connection with the protection of witnesses of acts of corruption.
24. If the witness suffered harm as a result of the complaint; or due to the failure to grant a timely measure of protection or failure to comply with the same:
- a) Is any type of redress in their favor contemplated in the regulations governing witness protection measures? Yes ( ) No ( )
- b) Number of witnesses for whom some type of redress or compensation was granted.
25. Regarding requests for mutual assistance received from other States<sup>25</sup> in connection with the protection of witnesses of acts of corruption, indicate:
- g. Total number received.
- h. Total number still in process.
- i. Total number responded favorably.
- j. Total number granted or executed.
- k. Total number not granted or executed.
- l. Total number denied.
26. Regarding requests for mutual assistance made to other States<sup>26</sup> in connection with the protection of witnesses of acts of corruption, indicate:
- a. Total number made.
- b. Total number still in process.
- c. Total number responded favorably.
- d. Total number granted or executed.
- e. Total number not granted or executed.
- f. Total number denied.
27. Does your country have regional and inter-agency agreements to strengthen, promote, and guarantee the protection of witnesses? Yes ( ) No ( ). If yes, please indicate which agreements.

<sup>25</sup> For example, see Model Law, Article 50.

<sup>26</sup> For example, see Model Law, Article 50.



28. Does your country provide specialized training programs to officials with responsibilities on the protection of witnesses of acts of corruption? Yes ( ) No ( )
29. How many officials with responsibilities on the protection of witnesses of acts of corruption receive specialized training?
30. Does your country have an agency responsible for specialized witness protection training for officials? Yes ( ) No ( )