

**DRAFT LEGISLATIVE GUIDELINE:
BASIC ELEMENTS ON A SYSTEM REQUIRING PUBLIC OFFICIALS TO
REPORT TO APPROPRIATE AUTHORITIES ACTS OF CORRUPTION IN THE
PERFORMANCE OF PUBLIC FUNCTIONS OF WHICH THEY ARE AWARE**

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INTRODUCTION

These guidelines refer to the basic elements that should be included in legal frameworks related to a system requiring public officials to report to appropriate authorities acts of corruption in the performance of public functions of which they are aware. As the title suggests, the elements contained herein are the basic elements that should be included in such a legal framework, and accordingly, the list of elements is not exhaustive. It should be noted that this draft legislative guideline corresponds closely with the system for protecting public servants and private citizens who, in good faith, report acts of corruption. This system for protection is addressed in a separate draft legislative guideline.

1. SCOPE OF LEGISLATION

1.1. Obligation to Report

1.1.1. Public Officials

Provisions that establish the obligation of reporting acts of corruption applicable to all those who perform public functions.

1.1.2. *Criminal and Administrative Provisions*

Provisions that establish the obligation to report acts of corruption that are not only described in criminal law, but also those set out in administrative provisions.

1.2. Special Standards

Provisions which provide for special standards for the obligation of reporting acts of corruption applicable to officials of a given category, such as:

- a) Legislators
- b) Ministers
- c) Judges and other judicial officials
- d) Senior government officials
- e) Officials in oversight bodies (Office of the Auditor General, Office of the Attorney General, Office of the Comptroller, etc...)
- f) Central bank officials
- g) Customs officials
- h) Officials of tax collection offices
- i) Officials responsible for government procurement

2. ENFORCEMENT

Provisions that establish mechanisms that enforce the obligation of those who perform public functions to inform the competent authorities of acts of corruption that they are aware of.

3. GOVERNMENT AGENCIES RESPONSIBLE FOR RECEIVING REPORTS

3.1. Identification of Official or Body

Provisions that specify the special official or body that is responsible for receiving and processing the reports submitted by those who perform public functions on the acts of corruption of which they become aware.

3.2. Consultation

Provisions that provide easily available consultation mechanisms for those who perform public functions, such as an instance or authority to resolve doubts that might arise in concrete cases.

4. FORMAT FOR REPORTING

4.1. Ease of Reporting

Provisions that establish mechanisms that make it easy for those who perform public functions to comply with their obligation to report acts of corruption, such as streamlined filing procedures.

4.2. Use of Forms and other Means

Provisions that facilitate the reporting obligation through the use of forms and computer and communication technologies, such as the internet, telephone reporting lines, etc.

5. SANCTIONS OR CONSEQUENCES FOR NON COMPLIANCE

5.1. Agencies or Officials that Monitor Compliance

Provisions that specify the special official or body that has been given the duty of monitoring the obligation on those who perform public functions to inform to the competent authorities the acts of corruption that they are aware of.

5.2. Sanctions

Provisions that establish administrative and criminal sanctions for failure by public officials to report acts of corruption of which they are aware.

6. AWARENESS BUILDING MECHANISMS AND TRAINING

6.1. Establishment

Provisions that establish mechanisms that ensure that those who perform public functions or aspire to performing them, will learn about, and understand, clearly and on a timely basis, the standards of conduct regarding the reporting of acts of corruption.

6.2. Periodic Training

Provisions that establish mechanisms that provide periodic training for those who perform public functions regarding the obligation to report acts of corruption, such as induction courses and/or workshops or conferences.