

INDICATORS TO PREVENT, DETECT, AND ERADICATE IMPUNITY FOR ACTS OF CORRUPTION WITH REGARD TO THE RESULTS OF THEIR CRIMINAL INVESTIGATION, PROSECUTION, ADJUDICATION, AND SENTENCING

MESICIC I Follow - Up Mechanism for the Implementation of the Inter-American Convention Against Corruption

Department of Legal Cooperation of the Secretariat for Legal Affairs



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I. Background

The corruption-prevention and prompt risk analysis indicators have its origin in the mandates assigned to the MESICIC Committee of Experts at the Fourth Meeting of its Conference of States Parties and in the Lima Commitment on Democratic Governance against Corruption, adopted at the Eighth Summit of the Americas.

In keeping with those mandates, the Technical Secretariat prepared the “Proposed System of Indicators to Detect, Prevent and Reduce Impunity for Acts of Corruption” which was first presented to said Committee in its September 2019 meeting. Taking into account the comments and observations received from member states to that document, the Technical Secretariat prepared a Methodology that established a procedure for considering and determining a system of indicators in successive phases, which was adopted by the Committee in its March 2021 meeting.¹

In accordance with this Methodology, the Committee, in its March 2022 meeting, adopted the Indicators to Prevent, Detect, and Eradicate Impunity for Acts of Corruption with Regard to the Results of Their Criminal Investigation, Prosecution, Adjudication, and Sentencing.²

¹ Methodology for Considering the System of Indicators to Prevent, Detect, and Eradicate Impunity for Acts of Corruption, available at the following link
http://www.oas.org/en/sla/dlc/mesicic/docs/mesicic6_35reunion_metodologia_indicadores_ing.pdf

² The indicators are a non-binding guide or set of guidelines, which are made available to member states to use in whatever manner they deem useful, in accordance with their domestic rules and regulations.

II. Content and Scope

The Indicators adopted by the Committee are divided into 3 sections, containing **31 indicators**:

- A. **Ten (10)** indicators to determine the results of actions in relation to the performance of functions in connection to the criminal investigation and prosecution of acts of corruption.
- B. **Eighteen (18)** indicators to determine the results of actions in relation to the performance of functions in connection to the adjudication and sentencing of acts of corruption.
- C. **Three (3)** indicators to determine the results of actions in relation to the performance of functions in connection to the adjudication and sentencing of acts of corruption at the appeal stage.

Each indicator was designed to consider each stage of a criminal proceeding, that is, from the investigation of a possible act of corruption to an appeal. The indicators were also prepared to be quantifiable, enabling officials to determine the status of a proceeding and apply appropriate corrective measures to combat impunity for acts of corruption.

III. Adopted Indicators

INDICATORS TO PREVENT, DETECT, AND ERADICATE IMPUNITY FOR ACTS OF CORRUPTION WITH REGARD TO THE RESULTS OF THEIR CRIMINAL INVESTIGATION, PROSECUTION, ADJUDICATION, AND SENTENCING*

* The Indicators to Prevent, Detect, and Eradicate Impunity for Acts of Corruption with regard to the Results of their Criminal Investigation, Prosecution, Adjudication, and Sentencing were adopted by the MESICIC Committee of Experts at the Thirty-Sixth Meeting, held September 13 – 16, 2021, and at the Thirty-Seventh Meeting, held March 14 – 17, 2022, in compliance with the mandates of the MESICIC Fourth Conference of States Parties and the Eighth Summit of the Americas. These set of indicators correspond to the first phase as set out in the Methodology for Considering the System of Indicators (SG/MESICIC/doc.581/21 rev.1 corr. 1), adopted by the Committee on March 10, 2021, in its Thirty-Fifth Meeting.

A. Indicators to determine the results of actions in relation to the performance of functions in connection to the criminal investigation and prosecution of acts of corruption, referring to aspects such as:

1. Number of cases filed on possible acts of corruption with the appropriate authorities.
2. Number of cases on possible acts of corruption in which there are no grounds for continuing an investigation, in accordance with the respective criminal law and procedure.
3. Total number of cases on possible acts of corruption in which there are grounds for continuing an investigation, in accordance with the respective criminal law and procedure.
4. Number of cases under investigation on possible acts of corruption suspended for any reason, in accordance with the respective criminal law and procedure.
5. Number of cases under investigation on possible acts of corruption closed.
6. Number of cases on possible acts of corruption time-barred during the investigation stage, in accordance with applicable law.
7. Number of cases under investigation on possible acts of corruption in which an indictment or the filing of charges can be carried out.
8. Number of cases under investigation on possible acts of corruption in which an indictment or charges were filed with the competent authority for their prosecution, trial, or other procedure to decide on the merits.
9. Number of measures of provisional or preventive detention for possible acts of corruption that have been ordered.
10. Number of measures of provisional or preventive detention for possible acts of corruption that were executed.

B. Indicators to determine the results of actions in relation to the performance of functions in connection to the adjudication and sentencing of acts of corruption, referring to aspects such as:

1. Number of cases on possible acts of corruption received for trial.
2. Number of cases on possible acts of corruption in which a trial was ordered.
3. Number of cases on possible acts of corruption in which a trial started.
4. Number of cases on possible acts of corruption in which a trial has started, but has not yet concluded within the normal timeframe established by the respective criminal law and procedure.
5. Number of cases on possible acts of corruption in which a trial has started, and has been suspended for any reason, in accordance with the respective criminal law and procedure.
6. Number of cases on possible acts of corruption that, during the trial stage, have been time-barred in accordance with the respective criminal law and procedure.
7. Number of cases on possible acts of corruption in which the trial has concluded.
8. Number of cases on possible acts of corruption that have been concluded through legal proceedings other than the conclusion of a trial (guilty pleas, etc.).
9. Number of cases on possible acts of corruption in which, after the conclusion of the trial, no decision has been adopted within the timeframe established by the respective criminal law and procedure.
10. Number of cases on possible acts of corruption in which, after the conclusion of the trial, an acquittal was handed down.
11. Number of cases on acts of corruption in which, after the conclusion of the trial, a conviction was handed down.
12. Number of cases on acts of corruption in which, after the conclusion of the trial, a conviction with a custodial sentence was handed down.
13. Number of cases on acts of corruption in which, after the conclusion of the trial, a custodial sentence was handed down and enforced.
14. Number of cases on acts of corruption in which, after the conclusion of the trial, a fine was imposed.

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15. Number of cases on acts of corruption in which, after the conclusion of the trial, an order to impose a fine was enforced.
 16. Number of cases on acts of corruption in which, after the conclusion of the trial, a sentence of any other nature was handed down.
 17. Number of cases on acts of corruption in which, after the conclusion of the trial, a sentence of any other nature was handed down and enforced.
 18. Number of cases on acts of corruption in which, in accordance with the respective criminal law and procedure, the sentence was time-barred or liability was discharged for failure to enforce it within the established deadline.

C. Indicators to determine the results of actions in relation to the performance of functions in connection to the adjudication and sentencing of acts of corruption, at the appeal stage, referring to aspects such as:

1. Number of cases on acts of corruption in which, once the trial was concluded, an appeal was launched on the merits or on the sentence, in accordance with the respective criminal law and procedure.
2. Number of cases on acts of corruption in which, once the trial was concluded, a new trial was ordered on appeal based on the merits or sentence, in accordance with the respective criminal law and procedure.
3. Number of cases on acts of corruption in which, once the trial was concluded, and all appeals exhausted, the decision at trial was upheld, in accordance with the respective criminal law and procedure.