



MECHANISM FOR FOLLOW-UP ON  
IMPLEMENTATION OF THE INTER-AMERICAN  
CONVENTION AGAINST CORRUPTION  
Thirty-Eighth Meeting of the Committee of Experts  
September 12 to 15, 2022  
Washington, D.C.

OEA/Ser.L.  
SG/MESICIC/doc.624/22  
23 August 2022  
Original: Spanish

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



**EXPLANATORY NOTE**

This document is a guide or a set of non-binding guidelines, which have been made available to Member States, so that they may make use of it pursuant to their domestic provisions



**CONTENTS**

I. INTRODUCTION ..... 4

II. PROPOSED INDICATORS TO PREVENT, DETECT, AND REDUCE IMPUNITY RELATED TO RESULTS IN THE PROTECTION OF WHISTLEBLOWERS AND WITNESSES OF ACTS OF CORRUPTION IN CRIMINAL MATTERS ..... 6

    A. INDICATORS TO DETERMINE THE RESULTS OF THE PROTECTION OF WHISTLEBLOWERS OF ACTS OF CORRUPTION IN CRIMINAL MATTERS ..... 6

    B. INDICATORS TO DETERMINE THE RESULTS OF THE PROTECTION OF WITNESSES OF ACTS OF CORRUPTION IN CRIMINAL MATTERS ..... 10



## 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 proposed set of indicators aims to develop the issues established for the second phase with respect to the protection of whistleblowers and witnesses of acts of corruption in criminal matters. Thus, the proposed indicators were developed on the basis, as applicable, of 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>

---

<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).



The indicators are divided into two sections: (a) indicators to determine the results of the protection of whistleblowers of acts of corruption in criminal matters,<sup>4</sup> and (b) indicators to determine the results of the protection of witnesses of acts of corruption in criminal matters.<sup>5</sup>

---

<sup>4</sup> The proposed indicators in this section apply exclusively to whistleblowers of acts of corruption and their family group.

<sup>5</sup> The proposed indicators in this section apply exclusively to witnesses of acts of corruption and their family group.



**I. PROPOSED INDICATORS TO PREVENT, DETECT, AND REDUCE IMPUNITY RELATED TO RESULTS IN THE PROTECTION OF WHISTLEBLOWERS AND WITNESSES OF ACTS OF CORRUPTION IN CRIMINAL MATTERS**

**A. INDICATORS TO DETERMINE THE RESULTS OF THE PROTECTION OF WHISTLEBLOWERS OF ACTS OF CORRUPTION IN CRIMINAL MATTERS<sup>6</sup>**

1. Does your country have *legislation* on the protection of whistleblowers of acts in corruption in criminal matters?  Yes ( )  No ( )
2. Does it have a *program*<sup>7</sup> for the protection of whistleblowers established under an organic and specialized agency?  Yes ( )  No ( )
3. Does it have a *competent authority*<sup>8</sup> to receive requests and process or grant protective measures<sup>9</sup> for whistleblowers of acts of corruption in criminal matters?  Yes ( )  No ( )
4. Does the competent authority *have sufficient resources* to fully carry out the actions related to the protection of whistleblowers of acts of corruption in criminal matters?  Yes ( )  No ( )
5. Total number of protective measures for the protection of whistleblowers<sup>10</sup> of acts of corruption in criminal matters *requested*.<sup>11</sup>
6. Total number of protective measures for the protection of whistleblowers of acts of corruption in criminal matters *being processed*.

---

<sup>6</sup> In addition to whistleblowers, this section of proposed indicators applies to members of their family group. To that end, 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.”

<sup>7</sup> 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.”

<sup>8</sup> 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>9</sup> Article 2.f) of the Model Law defines *protective measures* in the following terms: “A set of measures ordered by the competent authority intended to protect the exercise of the personal and labor rights of whistleblowers and witnesses of acts of corruption and administrative or judicial prosecution of the acts of corruption. Their application is to depend on the information presented and the circumstances and conditions of vulnerability as assessed by the competent authority and, if appropriate, is to be extended to the family group.”

<sup>10</sup> Include, if applicable, the family group benefiting from the protective measure.

<sup>11</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.



7. Total number of protective measures for the protection of whistleblowers of acts of corruption in criminal matters *granted*.
8. Total number of protective measures for the protection of whistleblowers of acts of corruption in criminal matters *denied*.
9. Total number of *appeals filed* against the refusal of the competent authority to grant protective measures to whistleblowers of acts of corruption in criminal matters.<sup>12</sup>
10. Total number of *overturning* the competent authority's refusal to grant protective measures to whistleblowers of acts of corruption in criminal matters.
11. Total number of protective measures granted to whistleblowers in criminal matters *in force*.
12. Total number of protective measures granted to whistleblowers of acts of corruption in criminal matters *in which extensions of the protective measures have been granted*.
13. Total number of protective measures granted to whistleblowers of acts of corruption in criminal matters that have *concluded*.
14. Number of whistleblowers<sup>13</sup> of acts of corruption in criminal matters who have been granted the following protective measures:
  - a. Total number of whistleblowers granted *legal advice* for matters related to the complaint of acts of corruption in criminal matters.
  - b. Total number of whistleblowers whose *identity was made confidential* during and/or following the proceedings into acts of corruption in criminal matters.
  - 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 and/or psychological assistance*.

---

<sup>12</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>13</sup> Include, if applicable, the family group benefiting from the protective measure.



- f. Total number of whistleblowers granted *transfers of administrative unit within the agency*, without diminishing their working conditions.
  - g. Total number of whistleblowers granted *changes of workplace*, without diminishing their working conditions.
  - h. Total number of whistleblowers granted *paid leaves of absence*.
  - i. Total number of whistleblowers granted *protective measures other than the above*.<sup>14</sup>
15. Total number of whistleblowers<sup>15</sup> who, with protective measures in place, *suffered physical injury* as a result of reporting acts of corruption.
16. Total number of whistleblowers who, with protective measures in place, *lost their lives* as a result of reporting acts of corruption.
17. 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.
18. Total number of *authorities sanctioned for noncompliance with their duties and/or negligence* in actions related to the protection of whistleblowers of acts of corruption in criminal matters.
19. Total number of *requests for international legal assistance received from other States*<sup>16</sup> in connection with the protection of whistleblowers of acts of corruption in criminal matters.
20. Total number of responses to requests for international legal assistance *received from other States* in connection with the protection of whistleblowers of acts of corruption in criminal matters *that responded favorably to the request*.
21. Total number of responses to requests for international legal assistance *received from other States* in connection with the protection of whistleblowers of acts of corruption in criminal matters *in which the request was denied*.

---

<sup>14</sup> Other protective measures referred to in this indicator are those measures provided for in the legislation of each country for the protection of whistleblowers of acts of corruption in criminal matters that are not included in the *Model Law to Facilitate and Encourage the Reporting of Acts of Corruption and to Protect Whistleblowers and Witnesses*.

<sup>15</sup> Include, if applicable, the family group benefiting from the protective measure.

<sup>16</sup> See Model Law, Article 50.





22. Total number of *requests for international legal assistance made to other States*,<sup>17</sup> in connection with the protection of whistleblowers of acts of corruption in criminal matters.

23. Total number of *requests for international legal assistance made to other States*, in connection with the protection of whistleblowers of acts of corruption in criminal matters, that *were received favorably*.

24. Total number of *requests for international legal assistance made to other States*, in connection with the protection of whistleblowers of acts of corruption in criminal matters, that *were denied*.

---

<sup>17</sup> See Model Law, Article 50.



**B. INDICATORS TO DETERMINE THE RESULTS OF THE PROTECTION OF WITNESSES OF ACTS OF CORRUPTION IN CRIMINAL MATTERS:<sup>18</sup>**

1. Does your country have *legislation* on the protection of witnesses of acts in corruption in criminal matters?  Yes ( )  No ( )
2. Does it have a *program*<sup>19</sup> for the protection of witnesses established under an organic and specialized agency?  Yes ( )  No ( )
3. Does it have a *competent authority*<sup>20</sup> to receive requests and process or grant protective measures<sup>21</sup> for witnesses of acts of corruption in criminal matters?  Yes ( )  No ( )
4. Does the competent authority have *sufficient resources* to fully carry out the actions related to the protection of witnesses of acts of corruption in criminal matters?  Yes ( )  No ( )
5. Total number of protective measures for the protection of witnesses<sup>22</sup> of acts of corruption in criminal matters *requested*.<sup>23</sup>
6. Total number of protective measures for the protection of witnesses of acts of corruption in criminal matters *being processed*.
7. Total number of protective measures for the protection of witnesses of acts of corruption in criminal matters *granted*.
8. Total number of protective measures for the protection of witnesses of acts of corruption in criminal matters *denied*.

---

<sup>18</sup> In addition to witnesses, this section of the proposed indicators applies to members of their family group. To that end, 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.”

<sup>19</sup> 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.”

<sup>20</sup> 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>21</sup> Article 2.f) of the Model Law defines *protective measures* in the following terms: “A set of measures ordered by the competent authority intended to protect the exercise of the personal and labor rights of whistleblowers and witnesses of acts of corruption and administrative or judicial prosecution of the acts of corruption. Their application is to depend on the information presented and the circumstances and conditions of vulnerability as assessed by the competent authority and, if appropriate, is to be extended to the family group.”

<sup>22</sup> Include, if applicable, the family group benefiting from the protective measure.

<sup>23</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



9. Total number of *appeals filed* against the refusal of the competent authority to grant protective measures to witnesses of acts of corruption in criminal matters.<sup>24</sup>
10. Total number of *overturning* the competent authority's refusal to grant protective measures to witnesses of acts of corruption in criminal matters.
11. Total number of protective measures granted to witnesses in criminal matters *in force*.
12. Total number of protective measures granted to witnesses of acts of corruption in criminal matters *in which extensions of the protective measures have been granted*.
13. Total number of protective measures granted to witnesses of acts of corruption in criminal matters that have *concluded*.
14. Number of witnesses<sup>25</sup> of acts of corruption in criminal matters who have been granted the following protective measures:
  - a. Total number of witnesses granted *legal advice* for matters related to the complaint of acts of corruption in criminal matters.
  - b. Total number of witnesses whose *identity was made confidential* during and/or following the proceedings into acts of corruption in criminal matters.
  - 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 papers*.
  - f. Total number of witnesses granted *police protection*.
  - g. Total number of witnesses granted a *change of residence or concealment of their whereabouts*.

---

<sup>24</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>25</sup> Include, if applicable, the family group benefiting from the protective measure.



- 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 whistleblowers granted *medical or psychological assistance*.
  - l. Total number of witnesses granted *transfers of administrative unit within the agency, without diminishing their working conditions*.
  - m. Total number of witnesses granted *changes of workplace, without diminishing their working conditions*.
  - n. Total number of witnesses granted *paid leaves of absence*.
  - o. Total number of witnesses granted *protective measures other than the above*.<sup>26</sup>
15. Total number of witnesses<sup>27</sup> who, with protective measures in place, *suffered physical injury* as a result of reporting acts of corruption.
16. Total number of witnesses who, with protective measures in place, *lost their lives* as a result of reporting acts of corruption.
17. 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.
18. Total number of *authorities sanctioned for noncompliance with their duties and/or negligence* in actions related to the protection of witnesses of acts of corruption in criminal matters.

---

<sup>26</sup> Other protective measures referred to in this indicator are those measures provided for in the legislation of each country for the protection of witnesses of acts of corruption in criminal matters that are not included in the *Model Law to Facilitate and Encourage the Reporting of Acts of Corruption and to Protect Whistleblowers and Witnesses*.

<sup>27</sup> Include, if applicable, the family group benefiting from the protective measure.



19. Total number of *requests for international legal assistance received from other States*<sup>28</sup> in connection with the protection of witnesses of acts of corruption in criminal matters.
20. Total number of responses to requests for international legal assistance *received from other States* in connection with the protection of witnesses of acts of corruption in criminal matters *that responded favorably to the request.*
21. Total number of responses to requests for international legal assistance *received from other States* in connection with the protection of witnesses of acts of corruption in criminal matters *in which the request was denied.*
22. Total number of *requests for international legal assistance made to other States*,<sup>29</sup> in connection with the protection of witnesses of acts of corruption in criminal matters.
23. Total number of *requests for international legal assistance made to other States*, in connection with the protection of witnesses of acts of corruption in criminal matters, that *were received favorably.*
24. Total number of *requests for international legal assistance made to other States*, in connection with the protection of witnesses of acts of corruption in criminal matters, that *were denied.*

---

<sup>28</sup> See Model Law, Article 50.

<sup>29</sup> See Model Law, Article 50.