



Conference of the States Parties to the United Nations Convention against Corruption

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Prevention

Serbia: draft resolution

[Protection of reporting persons [(whistle-blowers)] [who suffer/from] retaliation or any unjustified treatment [because of the act of reporting/they exposed corruption]]

The Conference of the States Parties to the United Nations Convention against Corruption,

Concerned about the seriousness of the problems and threats posed by corruption to the stability and security of societies, undermining the institutions and values of democracy, ethical values and justice and jeopardizing sustainable development and the rule of law,

Reaffirming the commitment of States parties to the United Nations Convention against Corruption¹ as the most comprehensive, legally binding universal instrument on corruption, and the need for the full and effective use of the Convention,

Highlighting the important role that reporting plays in enhancing efforts provided by the States parties to more efficiently and effectively prevent and combat corruption and thus effectively implement the Convention,

Recalling article 33 of the Convention, which requires that States parties consider incorporating into their domestic legal systems appropriate measures to provide protection against any unjustified treatment for any person who reports in good faith and on reasonable grounds to the competent authorities any facts concerning offences established in accordance with the Convention,

Acknowledging the report of the United Nations Office on Drugs and Crime entitled *State of Implementation of the United Nations Convention against Corruption: Criminalization, Law Enforcement and International Cooperation*, [concerned/taking note] that States parties still face challenges in fully implementing article 33, and [noting the reluctance of some individuals to report corruption despite the efforts of the States parties to adopt protection measures for reporting persons,]

[*Acknowledging* that persons who report in the context of their professional activities [(also called [whistle-blowers] in some countries)] may also need specific protection against [work-related] unjustified treatment,]/[*Acknowledging* that reporting persons that report corruption, in the context of their professional activity

* [CAC/COSP/2023/1](#).

¹ United Nations, *Treaty Series*, vol. 2349, No. 42146.



or work environment, [referred to in some countries as whistle-blowers], may face unjustified treatment, and require reporting and protection systems that allow for effective protection from any kind of retaliation,]

[...]

Noting that the measures provided for in article 33 of the Convention represent one of the areas in which the United Nations Office on Drugs and Crime received the largest numbers of recommendations and technical assistance requests as part of the Mechanism for the Review of Implementation of the United Nations Convention against Corruption,

Recalling its resolution 9/1, entitled “Sharm el-Sheikh declaration on strengthening international cooperation in the prevention of and fight against corruption during times of emergencies and crisis response and recovery”, in which it called upon States parties to establish and, where appropriate, diversify and strengthen confidential complaint systems and protected reporting systems that are accessible and inclusive,

Recalling also its resolution 9/4 on strengthening the implementation of the Convention at regional levels, in which it requested the United Nations Office on Drugs and Crime to continue to provide technical assistance to States parties, upon request, including in the area of assisting States parties, as appropriate, in incorporating into their domestic legal systems appropriate measures to provide protection against any unjustified treatment for any person who reports in good faith and on reasonable grounds to the competent authorities any facts concerning offences established in accordance with the Convention,

[[*Taking into account/Noting*] the evolution of international standards for reporting and protection of [whistle-blowers and] reporting persons, [including the Group of 20 High-Level Principles for the Effective Protection of Whistle-Blowers; section XXII on protection of reporting persons of the Recommendation for Further Combating Bribery of Foreign Public Officials in International Business Transactions of the Council of the Organisation for Economic Co-operation and Development, of 2021; directive 2019/1937 of the European Parliament and the Council of the European Union on the protection of persons who report breaches of Union law; the Organization of American States Inter-American Convention against Corruption; the African Union Convention on Preventing and Combating Corruption; the *Resource Guide on Good Practices in the Protection of Reporting Persons* and the *Anti-Corruption Toolkit*, of the United Nations Office on Drugs and Crime; Council of Europe Recommendation CM/Rec(2014)7 on the protection of whistle-blowers; the Government Accountability Project International Best Practices for Whistle-blower Policies; the Whistle-blowing International Network Series on the European Union directive compliance standards; the Global Principles on National Security and the Right to Information (Tshwane Principles); the International Organization for Standardization Guidelines on Whistle-blowing Management Systems (37002:2021); and the Transparency International International Principles for Whistle-blower Legislation,]]

Highlighting the importance that States parties establish or maintain appropriate channels for reporting by public officials of any acts of corruption when such acts come to their notice in the performance of their functions, including, when appropriate, the possibility of confidentially reporting to an authority with the mandate to initiate or conduct an independent investigation, in accordance with article 8 of the Convention and domestic law,

[*Welcoming/Taking note of*] guides and tools developed by the United Nations Office on Drugs and Crime such as the *Resource Guide on Good Practices in the Protection of Reporting Persons* and *Speak Up for Health! Guidelines to Enable Whistle-blower Protection in the Health-care Sector* to support States parties in developing national frameworks as well as internal mechanisms for reporting and protecting reporting persons,

1. *Reaffirms* the important role of [whistle-blowers and other] reporting persons for the States parties to detect, investigate and prosecute cases of corruption;
2. [...]
3. [*Encourages* States parties to increase public awareness of means for reporting instances of corruption, including by disseminating information regarding the rights and responsibilities of reporting persons in accordance with domestic legislation;]
4. [...]
5. [...]
6. [*Further calls upon/Encourages*] States parties to [ensure that all/take appropriate measures in accordance with the fundamental principles of their domestic law and to strengthen] channels for reporting corruption [comply with/take into consideration] the [United Nations Office on Drugs and Crime best practices for the protection of [whistle-blowers and] reporting persons when developing or maintaining reporting channels/best practices shared by other States parties to the Office for the protection of reporting persons;]
7. [*Urges/Encourages*] States parties to [adopt/take] [laws that guarantee the anonymity of reporting persons] and strengthen measures in accordance with their domestic laws to provide protection against any unjustified treatment for any person who reports in good faith and on reasonable grounds any facts concerning offences established in accordance with the United Nations Convention against Corruption;
8. [*Calls upon* States parties to ensure that all relevant protections are available to those who report corruption and may suffer unjustified treatment, including workplace retaliation or actions that can result in reputational, professional, financial, social, psychological and physical harm;]
9. [*Urges* States parties to ensure that appropriate remedies are available to reporting persons to compensate for any unjustified treatment against them, including any direct or indirect detriment suffered as a result of any retaliatory action, and to ensure that persons cannot be held liable or subject to disciplinary proceedings in connection with protected disclosures;]
10. [*Also urges* States parties to provide for effective, proportionate and dissuasive penalties for those who retaliate against reporting persons;]
11. [*Encourages* States parties that use the term “good-faith reporting” to define it as the fact of having reasonable grounds to believe that what is reported is true, or to replace “good faith” with the concept of reasonable grounds to believe that the information is true;]
12. [*Calls upon* States parties to periodically assess the effectiveness of their domestic [whistle-blower] protection frameworks and consider making the results of these reviews publicly available;]
13. [*Urges/Encourages*] States parties, in accordance with their domestic laws, to [adopt/consider developing] [diversified, inclusive and gender-sensitive] national frameworks and protective measures according to the categories of reporting persons in particular to have specific protection measures for the category of [whistle-blowers], in line with the latest international standards related to the protection of [whistle-blowers and] reporting persons;
14. *Reaffirms* the importance of States parties affording one another, according to their capacities, the widest measure of technical assistance, [especially for the benefit of developing countries in their respective plans and programmes to combat corruption, including material support and training,] notably at the regional level, and addressing, upon request, technical assistance priorities, including those identified in the country reviews;

15. *Calls upon* States parties to continue [, in collaboration with other partners,] to provide each other with technical assistance, [upon request,] to strengthen national capacities to fully implement article 33 of the Convention [, in the light of other regional and international standards related to] the protection of [whistle-blowers and other] reporting persons;

16. *Requests* the United Nations Office on Drugs and Crime, within its mandate and subject to the availability of extrabudgetary resources, to continue and expand its provision of technical [and material assistance/assistance and material support] and capacity-building to States parties, upon request, to support their capacity to prevent and [address/combat] corruption by facilitating and handling disclosures as well as protecting [whistle-blowers and other] reporting persons, including through the following:

(a) The provision of advisory services or legislative assistance that may include sharing suggested model legislative provisions that meet best practices;

(b) The provision of technical [and material assistance/assistance and material support] and capacity-building activities to support States parties in meeting [international] best practices related to the protection of [whistle-blowers and other] reporting persons, including as part of their anti-corruption strategies;

(c) The promotion of the establishment of dedicated, independent, specialized and adequately resourced institutions with safe communications technology, in charge of handling the receipt of [corruption] disclosures, the investigation of corruption allegations, as well as retaliation complaints, requests for protection, and alternative dispute resolution;

17. [*Also requests* the United Nations Office on Drugs and Crime [, within its mandate and existing resources,] to [develop/consider developing] [and promote] a study, in close consultation and collaboration with [all] States parties, [civil society organizations and regional and international organizations], on the structures in place, best practices and common challenges for investigating corruption disclosures brought by reporting persons, and for providing protection for individuals who report corruption, including when they further cooperate as witnesses, and to provide a report on the findings of this study to the Open-ended Intergovernmental Working Group on the Prevention of Corruption at its fifteenth (or sixteenth) meeting, [including by holding a panel discussion];]

18. [*Decides* that the Open-ended Intergovernmental Working Group on the Prevention of Corruption should, in collaboration with the Implementation Review Group and relevant international organizations, include in its workplan for the period 2024–2025 the topic of good practices and challenges with respect to [whistle-blower] protection frameworks, including those identified in the first and second cycle reviews of States parties under the Mechanism for the Review of Implementation of the Convention;]

19. [*Further requests* the United Nations Office on Drugs and Crime to convene an intersessional thematic expert meeting that includes representatives of Member States, members of civil society and subject matter experts to discuss experiences and challenges on the protection of reporting persons;]

20. *Invites* States parties and other donors to provide extrabudgetary resources for the purposes identified in the present resolution, in accordance with the rules and regulations of the United Nations.