



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

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## Prevention

### State of Palestine: draft resolution

#### **Protection of [whistle-blowers and other] reporting persons/reporting persons, including in their professional context and work environment [, referred to as “whistle-blowers” in some countries]**

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

*Reaffirming* the commitment of States parties to fully implement their obligations under the United Nations Convention against Corruption<sup>1</sup> as the most comprehensive, legally binding universal instrument on corruption,

*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,

*Reaffirming* the importance of all reporting persons to enable States parties to detect, investigate and prosecute cases of corruption,

*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,

*Recalling also* article 8, paragraph 4, of the Convention, which requires that States parties consider, in accordance with the fundamental principles of their domestic law, establishing measures and systems to facilitate the reporting by public officials of acts of corruption to appropriate authorities, when such acts come to their notice in the performance of their functions, and article 13, paragraph 2, in which States parties are called upon to provide access to anti-corruption bodies by the public, where appropriate, for the reporting, including anonymously, of any incidents that may be considered to constitute an offence established in accordance with the Convention,

*Recognizing* the importance of the establishment of robust systems for reporting and to allow reporting persons to be effectively protected from any kind of unjustified

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

<sup>1</sup> United Nations, *Treaty Series*, vol. 2349, No. 42146.



treatment for having reported in good faith and on reasonable grounds any facts or information concerning offences established in accordance with the Convention,

[...]

*Highlighting* the need to promote academic research on good practices with regard to [providing protection from personal, legal, professional, financial, reputational, psychological, social, physical and any other unjustified treatment that may result from reporting,]/[protection against any unjustified treatment that may result from reporting,]

[...]

[...]

*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, including through the regional platforms, 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,

*Recalling further* its resolution 6/5, entitled “St. Petersburg statement on promoting public-private partnership in the prevention of and fight against corruption”, in which it recommended that States parties consider, in accordance with their domestic legal systems, establishing confidential complaint systems and effective witness and whistle-blower protection programmes and measures, consistent with articles 32 and 33 of the Convention,

*Recalling* that, in the political declaration entitled “Our common commitment to effectively addressing challenges and implementing measures to prevent and combat corruption and strengthen international cooperation”, adopted by the General Assembly at its special session against corruption held in 2021,<sup>2</sup> Member States stressed the importance of providing protection against any unjustified treatment for persons who expose, report and fight, in good faith and on reasonable grounds, corruption and related offences and for their relatives and other persons close to them,

*Encouraging* States parties, in accordance with their domestic legal systems, to interpret the notion of good faith, when included in national frameworks, broadly, and to ensure that it is not overemphasized,

*Taking note* of the 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. *Calls upon* States parties to continue their efforts to implement article 33 of the United Nations Convention against Corruption, in accordance with the fundamental principles of their legal systems, and continue to develop measures to fully and effectively provide protection against unjustified treatment for all persons who, on reasonable grounds, [expose and] report corruption and related offences, and

<sup>2</sup> General Assembly resolution S-32/1, annex.

to extend the protection, when appropriate, to their relatives and other persons close to them;

2. *Encourages* States parties, within their means, and in accordance with their domestic laws, to consider that all reporting channels [should] take into consideration good practices related to protecting reporting persons;

3. *Invites* States parties, in accordance with the fundamental principles of their domestic law, to establish and strengthen confidential complaint systems and protected internal [whistle-blowing] reporting systems that are accessible and inclusive to facilitate timely reporting by all [whistle-blowers and other] reporting persons and to ensure the confidentiality of the reporting persons' identities and personal information, including, where appropriate and possible, [in accordance with domestic law, offering the option of anonymity and] using innovative and digital technology with due regard for data protection and privacy rights;

4. *Encourages* States parties to initiate, develop or improve specific training programmes for their personnel responsible for protecting [whistle-blowers], in line with article 33 of the Convention, to effectively protect against any unjustified treatment as a result of reporting;

5. *Also encourages* States parties, in accordance with their domestic law, to consider exploring whether appropriate [incentives or] awards could be offered to reporting persons who provide accurate and effective information that supports a successful corruption prosecution;

6. [*Invites* States parties, in accordance with their domestic laws, to consider appropriate options to provide independent legal advice to persons who consider reporting and ways of cooperating with competent authorities [, other individuals] [and [other legal experts or professionals outside the public sector, such as/those from] civil society organizations];]

7. [[*Urges/Calls upon*] States parties to [ensure that [whistle-blower] protection/include in their] legislation and measures [include the/appropriate] protection of those who expose and report corruption, in accordance with article 33 of the Convention from [civil, criminal or administrative liability], in accordance with domestic law;]

8. *Calls upon* States parties to ensure that [whistle-blower] protection legislation provides protective measures to prevent or stop retaliation, as well as the possibility to complain against retaliation or any unjustified treatment to the competent authorities, in accordance with domestic law;

9. [*Also 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;]

10. [*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;]

11. [*Also urges* States parties to provide for effective, proportionate and dissuasive penalties for those who retaliate against [reporting persons/persons who report in good faith and on reasonable grounds;]]

12. [*Invites* States parties to consider, as appropriate and in accordance with the fundamental principles of their domestic law, adopting legislation or measures that make it easier to establish proof in respect of complaints for retaliation brought [by whistle-blowers] in civil and administrative proceedings;]

13. *Encourages* States parties, in accordance with domestic legislation, to ensure that individual legal or contractual obligations, such as confidentiality or non-

disclosure agreements, cannot be used to conceal corrupt acts from scrutiny in order to deny protection or penalize reporting persons for having reported information on corruption-related offences;

14. *Invites* States parties, as applicable and in accordance with their domestic law, to consider enhancing domestic legislation and, in particular, employment legislation, in a manner that ensures the protection of any reporting person, particularly those who report in their professional context or workplace environment;

15. *Calls upon* States parties, in accordance with domestic law, to establish, facilitate and maintain complaint intake systems that allow [whistle-blowers] reporting persons in their professional context or workplace environment to report directly to law enforcement or other relevant authorities, without the need to exhaust internal reporting systems first;

16. *Also calls upon* States parties to increase public awareness about existing provisions, procedures and means for safe reporting and available protection for persons who report or expose corruption [in good faith and on reasonable grounds];

17. *Encourages* States parties to consider, as appropriate, periodically assessing the effectiveness of their domestic laws and policies regarding the protection of reporting persons and to make full use of the results of these reviews to further improve the protection of reporting persons and to build trust and improve confidence of potential reporting persons;

18. [*Also encourages* States parties to continue, [in collaboration with regional and international organizations [and other partners]], to provide each other with technical assistance, upon request, to strengthen national capacities to fully implement article 33 of the Convention, [including by sharing [regional and international/best] practices related to the protection of reporting persons]];

19. *Invites* States parties, on a voluntary basis, to share [with each other] experiences on best practices and challenges in ensuring the protection of reporting persons [, and to continue cooperation at the national, regional and international levels, with the aim of raising awareness among the public as well as relevant stakeholders, including civil society and the private sector, bearing in mind the important contribution that they make];

20. [*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 assistance and capacity-building to States parties, upon request, to support their capacity to protect [whistle-blowers and other] reporting persons;]

21. [*Also requests* the United Nations Office on Drugs and Crime to continue to collect and compile national, regional and international best practices on [whistle-blower] protection and to develop a study, in collaboration with States parties, civil society organizations, regional and international organizations and other stakeholders [, on best practices and common challenges in implementing article 33 of the Convention, paragraph 30 of the political declaration adopted by the General Assembly at its special session against corruption and the present resolution, subject to the availability of resources, and seek in this regard the contributions of civil society organizations, regional and international organizations and other stakeholders];]

22. [*Further requests* the United Nations Office on Drugs and Crime to provide a report on the findings of this study to the Open-ended Intergovernmental Working Group on the Prevention of Corruption and to hold a panel discussion on challenges and good practices in the protection of [whistle-blowers and] reporting persons at the [next available] meeting of the Working Group, based on these findings [and requests the secretariat to prepare a background paper to inform the discussion in this regard];]

23. *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.

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