



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

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## Prevention

### European Union, Norway, Russian Federation, Saudi Arabia, Serbia, State of Palestine and Thailand: revised draft resolution

#### Protection of reporting persons

*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 Corruption<sup>1</sup> 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,

*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,

*Recalling further* that, in the political declaration entitled “Our common commitment to effectively addressing challenges and implementing measures to

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



prevent and combat corruption and strengthen international cooperation”,<sup>2</sup> adopted by the General Assembly at its special session against corruption, held in 2021, Member States committed, inter alia, to providing a safe and enabling environment to those who expose, report and fight corruption and, as appropriate, for their relatives and other persons close to them, and to supporting and protecting against any unjustified treatment any person who identifies, detects or reports, in good faith and on reasonable grounds, corruption and related offences,

*Acknowledging* that reporting persons who report corruption to competent authorities in good faith and on reasonable grounds may require appropriate measures for protection against any unjustified treatment,

*Acknowledging also* that reporting persons who report corruption in the context of their professional activity and work-related environment, who may, in some countries, be referred to as whistle-blowers in their own domestic legal context or realities, may face unjustified treatment, and, in accordance with domestic law, also require appropriate protection,

*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,

*Highlighting* the need to enhance knowledge regarding all types of harm faced by reporting persons as a result of reporting and, in that regard, to promote academic research on good practices with regard to the protection of reporting persons against all kinds of unjustified and retaliatory treatment,

*Stressing* the importance of efficient cooperation between relevant domestic authorities, in particular regulators and law enforcement agencies that investigate administrative and criminal offences, and public and private employers to ensure the protection of reporting persons,

*Acknowledging* the important contribution of individuals and groups outside the public sector, such as the private sector, civil society, non-governmental organizations, community-based organizations and the media, in supporting the efforts of States parties to fight corruption, including by raising awareness of matters relevant to the protection of reporting persons, in accordance with article 13 of the Convention,

*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,

*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

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

effective witness and whistle-blower protection programmes and measures, consistent with articles 32 and 33 of the Convention,

*Recognizing* the importance of the establishment of robust frameworks for reporting and for the protection of all reporting persons, including public officials, who report corruption through appropriate channels,

*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 to continue to develop appropriate measures to fully and effectively provide protection against unjustified treatment for all persons who, on reasonable grounds, expose or report corruption and related offences to competent authorities, and to extend the protection, when appropriate, to their relatives and other persons close to them;

2. *Urges* 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;

3. *Encourages* States parties, in accordance with their domestic law, to establish and strengthen confidential complaint systems and protected internal reporting systems that are accessible, diversified and inclusive to facilitate timely reporting of corruption and to ensure the confidentiality of the reporting persons' identities and personal information, including, where appropriate, allowing for anonymous reporting, and utilize innovative and digital technology in these efforts, with due regard for data protection and privacy rights;

4. *Also encourages* States parties, within their means, and in accordance with their domestic laws, to consider that all reporting channels take into consideration good practices related to protecting reporting persons;

5. *Further encourages* States parties, where appropriate, to consider options to provide legal advice to persons who consider reporting corruption and ways of cooperating with competent authorities and other legal experts or professionals outside the public sector;

6. *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;

7. *Encourages* States parties to consider that appropriate remedies under domestic law are available to persons who report corruption in line with article 33 of the Convention for any unjustified treatment against them or retaliatory actions;

8. *Also encourages* States parties, in accordance with the fundamental principles of their legal systems, to consider that legislation on reporting persons 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;

9. *Further encourages* States parties, in accordance with the fundamental principles of their legal systems, to consider providing in their domestic frameworks appropriate and effective measures to deter unjustified treatment against reporting persons;

10. *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 to the competent authorities;

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

12. *Calls upon* States parties, in accordance with domestic law, to establish, facilitate and maintain complaint intake systems that allow 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;

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

14. *Invites* States parties, in accordance with domestic law, to interpret the notion of good faith, when included in national frameworks, as the reporting person's reasonable belief that the information reported is true, and without consideration of personal reasons that may be behind the report;

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

16. *Also encourages* States parties to afford one another, according to their capacities, the widest measure of technical assistance in the protection of reporting persons, especially for the benefit of developing countries, including material assistance and training, notably at the regional level, based on their needs and priorities, including, inter alia, those identified by States in their country reviews;

17. *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 reporting persons;

18. *Also requests* the United Nations Office on Drugs and Crime to convene an intergovernmental meeting with the participation of relevant experts, subject to the availability of resources, in close coordination with States parties, to identify and share best practices and challenges in the protection of reporting persons, and to develop a study for States parties on best practices and challenges identified;

19. *Further requests* the United Nations Office on Drugs and Crime to provide a report on the findings of that 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 reporting persons at the next available meeting of the Working Group, on the basis of those findings;

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.