United Nations
Office on Drugs and Crime

GOVERNMENT ACCOUNTABILITY PROJECT

Protecting Whistle-blowers

Practical toolkit for developing whistle-blower protection frameworks

Contents

Acknowledgement

This toolkit was produced by the United Nations Office on Drugs and Crime (UNODC) in collaboration with Government Accountability Project and the Fundamental Rights Policy Unit of the Directorate General for Justice and Consumers (DG JUST) of the European Commission.

The toolkit was developed on the basis of the international study on best practices and challenges in the protection of reporting persons (CAC/COSP/WG.4/2025/CRP.1) [1] that was presented at the sixteenth session of the Open-ended Intergovernmental Working Group on the Prevention of Corruption in June 2025, in line with the requirements of the resolution 10/8 entitled "Protection of reporting persons" of the Conference of States Parties to the United Nations Convention against Corruption (COSP). [2]

The International Study and this toolkit are based on the analysis of the submission received from 82 States Parties and the European Union received in response to the questionnaire that was circulated via Note Verbale (CU 2024/400(A)-(B)/DTA/CEB/FSS) between 23 December 2024 and 31 March 2025. All individual submissions are available on the UNODC website.[3]

The toolkit also draws from recognized international good practices on the protection of whistle-blowers and from the provisions of the European Union Directive 2019/1937 on "the protection of persons who report breaches of Union law". The Directive offers a valuable example of a supranational instrument that has been transposed into 27 distinct national legal frameworks. This experience has provided important insights into the development of the present toolkit, which aims to offer model legislative provisions that States may adapt and draw upon when formulating or strengthening their own national legal frameworks. The proposed provisions have also been informed by the work of civil society organizations with expertise in whistle-blower protection, as well as on practical examples and insights shared through their engagement in this field.

UNODC acknowledges its profound gratitude to Government Accountability Project and the European Commission for the development of this toolkit. UNODC would especially like to thank: Mr. Tom Devine, Ms. Samantha Feinstein and Ms. Dulcie Watson Robinson from Government Accountability Project and Mr. Paul Hafellner from the European Commission who extensively contributed to the development of the toolkit.

This toolkit also benefited from the valuable input of UNODC staff members, including Ms. Daniela Sota Valdivia, Ms. Indra Espinosa, Ms. Louise Portas, Mr. Tim Steele, Ms. Xiaohong Li and Ms. Brigitte Strobel-Shaw from the Corruption and Economic Crime Branch.

1 https://track.unodc.org/uploads/documents/UNCAC/WorkingGroups/workinggroup4/2025-June-17-20/CRP.1/CAC-COSP-WG.4-2025-CRP.1_E.pdf

2 https://www.unodc.org/corruption/en/cosp/conference/session10-resolutions.html

3 https://www.unodc.org/corruption/en/cosp/WGP/session16.html.

Introduction

Reporting persons and whistle-blowers play a critical role in exposing corruption and other forms of misconduct that may otherwise remain undetected. Their protection is consistently identified by States Parties to the United Nations Convention against Corruption (UNCAC) as one of the most effective ways to prevent, detect, and prosecute corruption-related offences. A strong system for reporting and protection is a cornerstone of anti-corruption efforts, in line with Sustainable Development Goal 16 on peace, justice, and strong institutions.

Article 33 of UNCAC requests States Parties to consider adopting measures to protect against unjustified treatment, any person who reports offences established in accordance with the Convention, in good faith and on reasonable grounds. Recognizing the essential role that reporting persons play in the effective prevention and combatting of corruption, the Conference of the States Parties (COSP) to UNCAC adopted resolution 10/8, entitled "Protection of reporting persons"[4], at its tenth session in December 2023. The resolution highlights the need for States Parties to develop and strengthen effective frameworks to protect individuals who disclose wrongdoing in work-related contexts, noting the serious personal and professional risks such individuals often face.

Building on the UNODC Resource Guide on Good Practices in the Protection of Reporting Persons,[5] this practical toolkit offers an updated, action-oriented synthesis of measures that States Parties can adopt or reinforce to establish effective whistle-blower protection frameworks. It draws extensively on national experiences, challenges, and good practices shared by 82 States and the European Union, as compiled in the International Study on Best Practices and Challenges in the Protection of Reporting Persons, (hereinafter referred to as the International Study)[6] presented by UNODC at the sixteenth session of the Open-ended Intergovernmental Working Group on the Prevention of Corruption in June 2025.

The objective of this toolkit is to provide practical guidance to States on how to develop, implement, and sustain comprehensive legal frameworks for the protection of whistle-blowers. It is grounded in international standards and informed by comparative experiences, and it is structured to support practitioners, legislators, and policymakers in identifying context-appropriate solutions.

By implementing the measures outlined in this toolkit, States can promote a culture of integrity and rule of law, encourage the timely and safe reporting of wrongdoing, ensure that individuals who come forward are effectively protected from retaliation and that wrongdoing are effectively addressed. Ultimately, this toolkit contributes to the broader goals of UNCAC, including reinforcing transparency, accountability, and public trust, by recognizing whistle-blowers as essential actors in the global fight against corruption.

4 https://www.unodc.org/corruption/en/cosp/conference/session10-resolutions.html#Res.10-8.

5 https://track.unodc.org/track/uploads/res/track/resourcehub/resource-guide-on-good-practices-in-the-protection-of-reporting-persons_html/UNODC_2015_Resource_Guide_on_Good_Practices_Protection.pdf.

6 https://track.unodc.org/uploads/documents/UNCAC/WorkingGroups/workinggroup4/2025-June-17-20/CRP.1/CAC-COSP-WG.4-2025-CRP.1_E.pdf.

Part I:

Who can report: determining the personal scope of a whistle-blower protection law

An effective legal framework for the protection of whistle-blowers must begin by clearly defining its personal scope of application, meaning who qualifies for protection under the law. This determination is foundational, as it defines the reach and inclusivity of protection against retaliation and lays the groundwork for equitable access to remedies.

While Article 33 of UNCAC refers to "any person" who reports in good faith and on reasonable grounds, the term "whistle-blower" has gained prominence at international and national level and is increasingly used to refer to individuals who report wrongdoing in work-related context and work environment. Indeed, persons in a work-related context or work environment have more privileged access to information both compared to law enforcement and to citizens outside. In addition, these persons are typically in a more vulnerable position as they can easily be the target of retaliation that affects their professional environment, career as well as economic and other forms of well-being. COSP resolution 10/8 acknowledges this trend, noting that some jurisdictions define whistle-blowers as persons who report wrongdoing in their professional activity and workplace context, through appropriate channels.

In responses collected by the United Nations Office on Drugs and Crime (UNODC), during the preparation for the International Study on whistle-blower protection, States consistently reaffirmed the importance of ensuring that all persons who disclose wrongdoing in a professional context or work environment benefit from protection against retaliation.

1.1 Defining the personal scope: beyond employees

The term "whistle-blower" is generally used to describe individuals who report information about breaches or wrongdoing acquired in a work environment.

The international good practices call for the development of one or several legal frameworks dedicated to the protection of whistle-blowers and to define the term "whistle-blower", or its equivalent in national language, as persons who report wrongdoing that they were made aware of in their professional context, workplace or work-related environment.

However, limiting protections to the term of "employees" exposes to the risk of excluding a broad category of individuals or persons who may be equally vulnerable to reprisals. Indeed, many national laws define the term "employee" under their labor or employment laws as a person who works under the direction and control of another in return for remuneration, characterized by subordination, continuity, and legal formality. Such definition appears too narrow for the purposes of whistle-blower protection.

It is therefore crucial that the legal frameworks adopt a broad and inclusive interpretation of the concept of "workers," encompassing all those engaged in professional and work activities regardless of their contractual or employment status, whether salaried employee, self-employed, or otherwise engaged in non-standard forms of work.

It is also essential to extend protection to former workers, who may report wrongdoing after their employment has ended, and to job applicants who may suffer retaliation (such as withdrawal of a job offer) for reporting information acquired during the recruitment process.

In some sectors, the definition should also be extended to users of a service or customers who may also be aware of wrongdoing and wish to report them.[7]

7 Some examples of the extension of the definition to the patients of a medical service or users of medical facilities can be found in the UNODC publication "Speak Up for Health! Guidelines to enable whistle-blower protection in the health-care sector": https://www.unodc.org/documents/corruption/Publications/2021/Speak_up_for_Health_-_Guidelines_to_Enable_Whistle-Blower_Protection_in_the_Health-Care_Sector_EN.pdf

In this regard, it is therefore suggested that the personal scope includes the following categories:

- Permanent and temporary employees,
- Volunteers, interns, apprentices, trainees, both paid and unpaid
- Consultants and experts,
- Contractors, subcontractors and suppliers or anyone working under their supervision or direction
- Facility management workers
- Any other category of workers that are otherwise connected to a workplace (i.e., shareholders, board members, agents, partners, etc.)
- Persons having the self-employed status
- Former workers
- Job applicants
- Customers, users

1.2 Inclusion of third parties at risk of retaliation

Whistle-blowers are not always the sole targets of retaliation. Individuals close to them, colleagues, relatives, and even legal entities they are connected with, may also face threats or reprisals. An inclusive personal scope must recognize and extend protections to these associated persons.

Ensuring that facilitators and other stakeholders in the whistle-blower's professional or personal environment are also covered is critical for a safe and enabling environment for reporting. These individuals must be protected by law where the risk of retaliation is foreseeable and connected to the act of reporting.

The term "facilitators" can be defined in this context as persons who assist the whistle-blower. This includes all persons and individuals who can play a role in facilitating and investigating the reports (i.e., investigators and authorized persons to receive reports) as well as all persons who play a role in assisting the whistle-blower such lawyers and journalists who may also suffer from retaliation.

Finally, the framework should also protect legal entities that the whistle-blowers own, work for or are otherwise connected with in a work-related context, who may also suffer from retaliation connected with a whistle-blowing report.

It is suggested that following additional persons should also be considered for inclusion in this in the personal scope:

- family members and relatives,
- facilitators of the reporting and its process,
- Colleagues (including those wrongly identified as a whistle-blower),
- Witnesses (who may participate in any subsequent investigation),
- Legal entities that the reporting persons own, work for or are otherwise connected with in a work-related context.

1.3 Applicability Across Sectors: Public and Private

The international good practices related to the protection of reporting persons and whistle-blowers recommend adopting protective frameworks for workers from both the public and the private sectors. In this context, public sector should be understood widely, including all branches of the government as well as the judicial and legislative branch. It is worth noting also that in some countries, the terms public and private sectors do not include the social sector (i.e., associations and non-profit organizations) as well as the international organizations. It is important, in this case, to specify that the framework also applies to those sectors.

In the International Study, some countries have indicated having developed whistle-blower protection frameworks only in some limited sectors, ranging from the public sector broadly to specific sector, such as security forces. However, countries that have adopted whistle-blower protection frameworks only for limited sectors, also indicated facing challenges to protect persons from other sectors who can also disclose information on corruption and other very serious wrongdoing. Some countries indicated having decided to adopt several sector specific laws and legislative frameworks, for instance two separate laws for the public and the private sector. However, States that have several frameworks applicable to various sectors also tended to indicate facing challenges in ensuring the consistency of terminology, implementation of their frameworks and protection of the whistle-blowers.

As such, developing one comprehensive legal framework protecting workers from both the public and the private sectors has been identified, notably in the International Study, as a good practice to ensure the effective protection of all whistle-blowers.

In the International Study, States highlighted the importance of having a broad personal and material scope to ensure a satisfactory level of protection, minimizing the risks that whistle-blowers are left without protection, thus encouraging the reporting of wrongdoing.

This gives indeed the competent authorities a certain margin of appreciation and avoids reports of wrongdoing being declared inadmissible for "technical" reasons, such as that the report does not correspond to a particular area covered by the legislation or the person is excluded from the personal scope.

A wide scope also facilitates communication with the concerned public, giving them confidence in the importance of reporting, as well as the reporting and protection system in general.

1.4 Recommended coverage

As a summary, the personal scope of a robust whistle-blower protection law should be linked to professional activity and work environment but wide enough to include all the possible categories of workers and other connected persons that may face retaliation in connection with a report.

The following coverage is therefore recommended:

- **Current and former workers in public and private sectors** (permanent, temporary, part-time, casual).
- **Persons in non-standard arrangements:** i.e., contractors, subcontractors, consultants, outsourced and platform workers, experts, suppliers.
- **Persons connected to the workplace:** i.e., volunteers, interns, apprentices, trainees, and job applicants.
- **Persons at risk of indirect retaliation:** i.e., facilitators, colleagues wrongly identified as whistleblowers, family members, relatives, and witnesses cooperating with investigations.

Model Drafting Provisions for Personal Scope

Section X – Definitions

- **"whistle-blower"** means any person who, in the context of current or past work-related activities or environment *(including employment, self-employment, contracting, subcontracting, consulting, volunteering, interning, apprenticeship or recruitment),* reports information concerning actual, suspected or potential wrongdoing.
- **"Facilitator"** means any person who assists a reporting person in the reporting process and whose assistance may expose that person to retaliation. Protections afforded to whistle-blowers apply equally to facilitators and persons connected to the reporting person who may suffer retaliation.

Chapter/Section X- Personal scope

1. This [Law/Act] shall apply to persons working in the private or public sector who acquired information on suspected or potential wrongdoing in a work-related context or work environment including, at least, the following:
   a. persons having the status of [workers/employees] (permanent, temporary, part-time, casual)
   b. Consultants, contractors, subcontractors, experts, suppliers
   c. Interns, volunteers, paid or unpaid trainees, apprentices
   d. Persons having self-employed status
   e. Shareholders and persons belonging to the administrative, management or supervisory body of an undertaking, including non-executive members,
   f. Any person working under the supervision and direction of contractors, subcontractors and suppliers.
2. This [Law/Act] shall also apply to persons:
   a. Who report on wrongdoing acquired in a work-based relationship which has since ended
   b. whose work-based relationship is yet to begin in cases where information on wrongdoing has been acquired during the recruitment process or other pre-contractual negotiations.
   c. Who are planning or preparing to report on suspected or potential wrongdoing.
3. The measures for the protection of whistle-blowers in [Part/Chapter X related to the protective measures] shall also apply, where relevant, to:
   a. Facilitators;
   b. Third persons who are connected with the whistle-blowers and who could suffer retaliation in a work-related context or work environment, such as peers, colleagues or relatives;
   c. Legal entities that the whistle-blowers own, work for or are otherwise connected with in a work-related context or work environment; and
   d. Persons who are wrongly identified as or suspected to be the whistle-blower.

Part II:

What can be reported: determining the material scope of a whistle-blower protection law

2.1 Adopting a wide material scope

A dedicated whistle-blower protection law must enable individuals to report a broad range of serious wrongdoing, beyond criminal offences and corruption. Unlike criminal procedure laws that primarily protect witnesses or victims in ongoing criminal proceedings, whistle-blower protection laws are also meant to encourage reporting before the harm becomes irreversible, often in complex organizational settings. The ultimate objective of whistle-blower protection is to support the enforcement of laws that aim to protect the public interest.

The International Study confirms that a broad material scope is a key feature of effective legal frameworks. States that restrict reportable wrongdoing to a narrow list of criminal offences, or to offences listed in anti-corruption laws, tended to report significant implementation challenges, particularly regarding the exclusion of relevant reports, legal uncertainty for whistle-blowers, and institutional reluctance to act on reports that fall outside the narrow statutory scope.

Challenges identified, in the International Study, by a narrow scope

- **Overly narrow scope excludes serious misconduct:** Several States noted that their whistle-blower protections frameworks only applied to corruption-related offences or to breaches of specific laws, leaving out misconducts such as environmental violations, threats to health and safety, or ethical breaches that may not be criminal but are harmful to the public interest.
- **Whistle-blowers are expected to legally qualify the offence:** Some States reported that individuals seeking protection were required to demonstrate that the reported conduct met the legal definition of a criminal offence, something few whistle-blowers can do without legal training.
- **Inflexible legal references:** States that incorporated whistle-blower protections into sectoral or anti-corruption laws often faced difficulties adapting to new forms of misconduct or applying the law consistently across institutions.

These experiences highlight the importance of adopting a **broad and principle-based material scope** that reflects the full range of misconduct.

In addition, the adoption of a broad material scope responds to the following rationale

- **Serious wrongdoing may not be criminal.** For instance, a healthcare worker who fails to sterilize surgical instruments may not commit a crime but endanger patient lives and undermine public trust. Similarly, breaches of aviation safety protocols, environmental regulations, or workplace safety rules may not rise to the level of criminality but still warrant protection for those who report them.[8]
- **Administrative violations can reveal larger crimes.** What may appear as a procedural breach, such as bypassing a public procurement rule, can, after investigation, uncover systemic corruption or collusion.
- **Ethical misconduct may have severe consequences.** Violations of internal codes of conduct may erode institutional integrity and expose the public to harm, even if they are not criminal in nature.

8 See in this regard the UNODC publication "Speak Up for Health! Guidelines to enable whistle-blower protection in the health-care sector": https://www.unodc.org/documents/corruption/Publications/2021/Speak_up_for_Health_-_Guidelines_to_Enable_Whistle-Blower_Protection_in_the_Health-Care_Sector_EN.pdf

In the International Study, States that adopted a wide material scope frequently reported more effective implementation of whistle-blower frameworks and higher levels of trust in the reporting channels.

These States noted that an inclusive approach led to more disclosures, earlier detection of systemic risks, and better protection for whistle-blowers.

2.2 The use of "public interest" in the terminology

While many whistle-blower protection laws are framed around the concept of the "public interest," States have warned that the term may be **misapplied against whistle-blowers,** for example, by questioning whether they acted out of personal interest.

While the reference to "public interest" can represent a good baseline for the determination of the material scope (i.e., environment, health, safety and security), it should not play a role in the assessment of individual whistle-blower cases. Once a report falls within the established material scope of the whistle-blower protection law, the whistle-blower should not be required to demonstrate that the reported wrongdoing affects the public interest. Any breach of law covered by the material scope should qualify for reporting without further assessment of its impact on the public interest.

As such, terms like **"protected disclosure"** or **"reportable wrongdoing"** are preferable to be included in the whistle-blower protection laws instead of "public interest disclosure" to avoid ambiguity and undue burden on the reporting person.

2.3 Recommended coverage

Drawing on international good practices as well as country examples, a whistle-blower protection legislative framework should include, at minimum, the following non-exhaustive categories of reportable wrongdoing:

- Corruption, fraud, bribery, and other criminal offences;
- Breaches of legal, regulatory, or administrative obligations (past, ongoing, or imminent);
- Miscarriages of justice or abuse of authority;
- Health and safety risks, including patient and product or workplace safety;
- Transport safety;
- Consumer protection;
- Environmental harm or breaches of environmental law;
- Gross mismanagement, waste of public and private resources, or serious maladministration;
- Violations of professional or ethical standards posing risks to the public;
- Violations related to financial services (i.e., tax avoidance schemes, money laundering and financing of terrorism);
- Attempts to conceal or suppress any of the above.

It is essential that protection is triggered regardless of whether the conduct has already occurred, is ongoing, or is likely to occur in the future. It should also extend to whistle-blowers who disclose efforts to conceal misconduct.

Finally, if such behavior is not already covered by the breach of legal obligation, the act of refusing to obey an unlawful order, that would violate any law, rule, regulation, or would otherwise constitute an offense, should be protected and the unlawful order should also be considered as a reportable wrongdoing.

Model Drafting Provisions for material scope

Section X – Reportable wrongdoing

1. For the purposes of this [Law/Act], "reportable wrongdoing" includes any conduct, act, omission, or risk thereof, that has occurred, is occurring or is likely to occur and that the whistle-blower has reasonable grounds to believe that it constitutes:
   a. A criminal offence;
   b. An act of corruption, fraud, bribery, or misuse of public or private resources;
   c. A failure to comply with any legal, regulatory, contractual, or professional obligation;
   d. A miscarriage of justice, abuse of authority, or serious maladministration;
   e. A threat to life, health, safety, or the environment, including related to transport safety and consumer protection;
   f. Gross mismanagement, waste of resources or serious maladministration;
   g. A violation of a professional code of conduct or ethics that poses significant risk
   h. A violation related to financial services, including tax avoidance schemes, money laundering and financing of terrorism;
   i. Any other act is considered as constituting harm or threat to the public interest;
   j. Any attempt, threat, or act aimed at concealing, covering up, or obstructing the detection of the above.
2. The whistle-blower shall not be required to demonstrate the legal classification of the reported wrongdoing nor demonstrate that it has affected the public interest, provided they had reasonable grounds to believe that the information disclosed falls within one or more of the categories listed above.

Part III:
Conditions of honesty of the report

3.1 Good faith and Reasonable grounds

Article 33 of UNCAC requires States Parties to consider adopting measures to protect persons who report offences established in accordance with the Convention, provided that such reports are made "in good faith and on reasonable grounds." In practice, most of the States Parties contributing to the International Study reported that their legal frameworks require whistle-blowing to be done honestly, typically expressed through conditions of "good faith" and/or "reasonable grounds to believe."

However, several States Parties have highlighted facing challenges associated with the concept of "good faith." Specifically, its application has, in some instances, led to an examination of the whistle-blower's motives or conduct, rather than the substance or credibility of the information reported. In fact, Resolution 10/8 invites States Parties 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.

In line with evolving international good practices, a growing number of States have replaced the subjective criterion of "good faith" with a more objective standard, namely, the requirement that the report was made based on "reasonable grounds to believe" that the information reported was true at the time of reporting.[9] This approach reduces the risk of misinterpretation and limits undue scrutiny of the whistle-blower's personal motives.

In the International Study, most States reported requiring whistle-blowers to make reports honestly.

However, many also reported having moved away from the notion of "good faith" and instead using now the concept of having "reasonable grounds to believe" that the information reported is true.

It is also important to note that the concepts of "good faith" or "reasonable grounds" do not imply that the reporting person must be innocent of wrongdoing. Whistle-blower protection frameworks are designed to shield individuals who report wrongdoing, including those who may have participated in certain activities under instruction, while focusing accountability on the leaders or primary perpetrators. Protection, however, does not exempt individuals from prosecution if they are found culpable.

3.2 Reasonable but mistaken belief

Effective legal frameworks should ensure that protection is not contingent upon the ultimate accuracy of the information disclosed. Rather, protection should still be applied to whistle-blowers who, at the time of reporting, had reasonable grounds to believe that the information was true even if the report is later determined to be unfounded or mistaken.

In addition, some legal frameworks, also extend the concept of "reasonable belief" to the material scope to avoid the risk of protection not being afforded in circumstances where the wrongdoing ultimately does not fall under the material scope of the law.

This principle encourages early reporting of potential wrongdoing, strengthens legal certainty, and minimizes chilling effects that may deter persons from coming forward.

9 https://track.unodc.org/track/uploads/res/track/resourcehub/resource-guide-on-good-practices-in-the-protection-of-reporting-persons_html/UNODC_2015_Resource_Guide_on_Good_Practices_Protection.pdf

3.3 Preventing the abuse of reporting framework

To uphold the integrity of the whistle-blower protection system and deter abuse, legislation may provide for the possibility of withholding or revoking protection where it is established that the individual knowingly made materially false or misleading reports. In such cases, proportionate civil or criminal sanctions may be considered and procedural rights of persons affected by such false reports should be ensured.

Nevertheless, drafters should exercise particular caution in framing such provisions to avoid inadvertently penalizing genuine whistle-blowers whose reports, although mistaken, were made honestly and based on reasonable belief. The distinction between an erroneous but reasonable report and a deliberately false report must be clearly maintained.

Penalties for false reporting included in the legal framework should be proportional to the ones included for those retaliating against the whistle-blower or hindering reporting. Too strong penalties for false reporting may indeed have the adverse effect to undermine an enabling environment that encourages whistle-blowers to report.

Model Drafting Provisions for reasonable reporting

Section X – Reasonable grounds for protection

1. A person shall be entitled to protection under this [Law/Act] if, at the time of making the [report/disclosure], they had reasonable grounds to believe that the information disclosed was true or likely to be true, irrespective of whether the information ultimately proves to be correct.
2. For the purposes of subsection (1), the assessment of "reasonable grounds to believe" shall:
   a. Be based on an objective standard, taking into account the facts and circumstances known to the person at the time of the [report/disclosure]; and
   b. Not consider the personal motives of the person in making the [report/disclosure].
3. A person shall not be excluded from protection solely because the information disclosed:
   a. Was inaccurate, incomplete, or could not be substantiated; or
   b. Did not result in any enforcement action, investigation, or legal proceedings.
4. In the absence of clear and convincing evidence to the contrary, the person shall be presumed to have made the [report/disclosure] on reasonable grounds.
5. Protection under this law shall not apply to any person who is found to have knowingly reported information that they knew to be materially false or misleading at the time of the [report/disclosure].
6. The burden of proving that a report was made without reasonable grounds shall rest with the person or authority alleging such conduct.

Section X – Prohibition of abusive of fraudulent reports

1. Any person who knowingly makes a report that contains false or misleading information, with the intent to cause harm to another person or to gain an undue advantage, commits an offence under this [Law/Act].
2. A person convicted of the offence under subsection (1) is liable to a fine of [xxx], or to imprisonment of [xxx] or both.
3. In addition to criminal liability, the offender may be subjected to [civil/administrative] proceedings for damages caused by the false report as well as disciplinary sanctions.

Part IV:
Establishment of reporting channels

An effective whistle-blower protection system requires the establishment of formal reporting channels. UNCAC uses the terms "appropriate", "competent" or "relevant" authorities (see articles 8, 13 and 33 of UNCAC), leaving enough flexibility to States Parties to determine the details of establishing and designating reporting channels.

The resolution 10/8 encourages States Parties to establish and strengthen confidential reporting 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' identity and personal information. The resolution further calls upon States Parties to allow persons who are reporting in their professional context and workplace environment, to report directly to law enforcement or other relevant authorities, without the need to exhaust internal reporting systems first.

International good practices increasingly recommend the adoption of a three-tiered reporting regime for whistle-blowing. This approach enables individuals to report wrongdoing through a structured reporting channel, thereby enhancing both the effectiveness of the reporting framework and the protection of reporting persons. The three tiers typically include internal reporting within the workplace, external reporting to the competent and law enforcement authorities as well as public disclosure to the media or civil society organizations.

4.1 Internal reporting

The first and preferred channel for whistle-blowers to report wrongdoing is through internal mechanisms, within their workplace or to their employer.

Facilitating internal reporting increases the likelihood that concerns can be addressed promptly and effectively within the organization, enabling early detection, prevention, and timely resolution of misconduct. It also enhances the ability of organizations to recognize individuals as whistle-blowers and ensure they benefit from the appropriate protection.

While internal reporting should not be made as a precondition for receiving protection, legal frameworks should actively encourage it by establishing conditions that make internal reporting accessible, trusted, and effective. A strong internal reporting system is not only an essential component of a comprehensive whistle-blower protection framework, but it also contributes to building a culture of integrity and accountability within institutions.

To ensure effectiveness and inclusiveness, legal frameworks should require the establishment of multiple internal reporting channels. Whistle-blowers should be allowed to choose the most appropriate avenue depending on their circumstances and the nature of the wrongdoing. Internal reports can be made to:

- A direct or indirect supervisor or another person in the management hierarchy, including via form of communication of the "protected disclosure", that are part of the professional responsibilities and duty speech;
- A designated ethics or compliance officer;
- An internal audit or human resources department;
- A dedicated whistle-blowing mechanism established within the organization.

The internal reporting mechanisms must be:

- Confidential, ensuring the identity of the whistle-blower is protected;
- Accessible to all categories of workers;
- Credible and trusted, with safeguards in place to protect against retaliation and to encourage reporting.

Mandatory Establishment of Internal Mechanisms

To institutionalize effective reporting systems, legislation should mandate the establishment of internal whistle-blowing mechanisms in both the public and private sectors, particularly in entities exceeding a certain threshold of workers. While the threshold commonly used is 50 workers, this can be adjusted based on national contexts, such as the average size of workplaces and administrative capacities.

Organizations that fall under this obligation should be required to have:

- A whistle-blowing policy outlining procedures for receiving, handling, and following up on reports;
- An anti-retaliation policy, ensuring that whistle-blowers are protected and that any retaliation is promptly addressed;
- Dedicated personnel or units trained to handle whistle-blower reports impartially and professionally;
- Clear procedures for investigating reports, implementing corrective measures, and taking disciplinary action in case of retaliation;
- A mechanism to refer matters to law enforcement or other competent authorities when a criminal offence is suspected.
- An obligation to provide feedback on regular basis to the whistle-blower.[10]

In the International Study, States highlighted the importance of the inclusion of clear legal provisions for internal reporting mechanisms. It ensures coherent implementation across workplaces and competent authorities.

They also noted that establishing reporting channels close to reporting persons, including within their workplace, enhances their sense of safety and security.

Model Drafting Provisions for internal reporting

Chapter X – Internal Reporting Mechanisms

Section 1 – Right to Report Internally

1. Any person who becomes aware of information concerning wrongdoing in the context of their work-related activities or work environment shall have the right to report such information within their workplace.
2. Internal reporting may be used without prejudice to the right of any person to report externally to competent authorities or to disclose information publicly in accordance with the provisions of this [Law/Act]
3. Entities subject to the obligations under this Chapter shall take appropriate steps to inform workers and relevant stakeholders of the internal reporting procedures available to them, conditions of reporting as well as the conditions of protection.

10 To have more information and a step by step guidance on how to establish internal reporting mechanism, please see the UNODC publication "Speak Up for Health, Guidelines to enable whistle-blower protection in the health-care sector": https://www.unodc.org/documents/corruption/Publications/2021/Speak_up_for_Health_-_Guidelines_to_Enable_Whistle-Blower_Protection_in_the_Health-Care_Sector_EN.pdf.

Section 2 – Obligation to Establish Internal Reporting Channels

1. All legal entities in the public and private sectors employing [50] or more workers shall establish and maintain internal reporting channels and procedures for receiving and following up on reports.
2. Internal reporting channels shall be:
   a. Easily accessible to all workers and persons in a work-related context;
   b. Confidential, protecting the identity of the persons reporting and any persons named in the report and allowing for the submission and handling of anonymous reports;
   c. Impartial and independent, managed by a designated person or department trained in receiving and handling reports;
   d. Secure, ensuring safe and reliable submission, processing, and storage of reports.
3. Private sector entities with fewer than [50] workers may be required to establish internal channels where the [Authority-ies X] determine(s) that their activities pose a significant risk to the public interest, health, safety, or the environment.
4. All public sector entities, including entities owned or controlled by public authorities, shall establish internal channels. The [Authority-ies X] may exempt entities such as [municipalities with fewer than 10,000 inhabitants or fewer than 50 workers], where such exemption is reasonable and proportionate.
5. Legal entities may share resources or establish joint internal reporting systems, provided that such arrangements:
   a. Guarantee independence and functional autonomy;
   b. Ensure the confidentiality of reports;
   c. Maintain a clear distinction from any external reporting mechanisms.
6. Entities may assign the operation of internal reporting channels to an external third party, provided all obligations concerning confidentiality, impartiality, and data security are met.

Section 3 – Reporting Options

1. Internal reports may be submitted to:
   a. The direct supervisor or a higher-level manager, including via form of communication of the protected [report/disclosure], that are part of the professional responsibilities and duty speech;
   b. A designated officer or department, such as compliance, internal audit, human resources, or ethics;
   c. A dedicated whistle-blowing mechanism, including secure electronic systems, telephone hotlines, or other accessible channels.
2. Internal channels shall allow for reports to be made:
   a. In writing or orally, or both;
   b. Via telephone, secure electronic platforms, or other digital means;
   c. By physical meeting, if requested by the reporting person.
3. A person may wish to make an anonymous report. A report is anonymous if the identity of the person is not revealed and if no contact details for the person are provided.
4. Internal channels shall be available at all times, without interruption and at no cost to the persons using them.

Section 4 – Internal Procedures and Follow-Up

1. Internal reporting procedures shall include:
   a. Acknowledgement of receipt of the report within seven (7) calendar days of its submission;
   b. Designation of a competent and impartial person or unit to follow up on the report;
   c. Diligent assessment and investigation of the report, as appropriate;
   d. Feedback to the reporting person on the outcome or planned actions, within a reasonable timeframe not exceeding three (3) months from the date of acknowledgment, or if none is given, from the expiration of the seven-day period;
   e. Procedures for referral or escalation to competent external authorities where the report cannot be adequately addressed internally or reveal serious legal violations.
2. The designated person or unit shall maintain communication with the whistle-blower and may request additional information where necessary.

Section 5 – Training, Awareness and Support

1. Employers shall ensure that:
   a. Workers rights to report and reporting channels are displayed prominently in the workplace and all work sites in the native languages of the people who work there;
   b. Workers and relevant stakeholders receive regular training and information on the internal reporting mechanisms;
   c. Accessible guidance and support are available to persons considering making a report, including through designated contact points.
2. Training shall cover the purpose of whistle-blower protection, reporting procedures, and the rights and protections available under this law.

Section 6 – Protection Against Retaliation

1. Employers shall implement effective measures to protect whistle-blowers from any form of retaliation, including but not limited to any action or omission included under Section X [protection against unjustified treatments].
2. Any act of retaliation shall be subject to sanctions included under [Chapter/Section X].
3. The protection measures provided under this [Law/Act] shall also apply to persons who assist the whistle-blower or are associated with them and risk retaliation in a work-related context or work environment [as included under Section/Chapter X related to the personal scope].

4.2 External reporting

Whistle-blowers shall have the right to report wrongdoing directly to designated external authorities, without being required to report internally first. Legal frameworks should guarantee protection whether the report is made internally or externally (after internal report or directly).

The law should designate one or more competent authorities to receive and handle external reports. These authorities should be independent, impartial, and adequately resourced. A dedicated whistle-blower protection body may also be established for this purpose (see competent authority below).

Designated authorities must establish confidential and secure reporting channels and adopt clear procedures for receiving, assessing, and following up on reports. They shall provide ongoing timely and regular feedback to the reporting person and refer cases to appropriate investigative or enforcement bodies where necessary. External reporting channels should also allow for anonymous reports and ensure appropriate follow-up where feasible.

In the International Study, States also highlighted the benefits of allowing persons to report directly to law enforcement authorities.

External reporting can provide an additional layer of protection and reassurance for whistle-blowers, particularly when internal channels are unavailable, ineffective, or perceived as unsafe, thereby strengthening overall trust in the reporting system.

Model Drafting Provisions for External reporting

Chapter X – External reporting

Section 1 – Right to Report Externally

1. Any person under this [Law/Act] shall have the right to report information on wrongdoing to designated external authorities, either after reporting internally or directly, without being required to report internally first.

Section 2 – Designation of Competent Authorities

1. [Authority-ies X] are responsible for receiving, assessing, and following up on external reports *[Authorities designated to receive external reports may include existing institutions with relevant mandates or a newly established independent body with specific responsibility for whistle-blower protection and reporting]*
2. [Authority-ies X] shall be independent in the exercise of their reporting-related functions and shall be provided with adequate financial, technical, and human resources.

Section 3 – Establishment and Operation of External Reporting Channels

1. [Authority-ies X] shall establish secure, confidential, and autonomous reporting channels for receiving and handling external reports. These channels shall be:
   a. Designed to ensure the completeness, integrity, and confidentiality of the information received;
   b. Protected from unauthorized access or disclosure;
   c. Capable of ensuring durable storage of reports to enable further investigation and follow-up.
2. Reports may be submitted, including anonymously:
   a. In writing, including by electronic means;
   b. Orally, including by telephone or other recorded voice systems;

c. In person, upon request by the reporting person or whistle-blower, within a reasonable period.

3. Reporting channels shall be available at all times, without interruption and at no cost.
4. [Authority-ies X] shall designate staff members responsible for:
   a. Providing information on the procedures for reporting;
   b. Receiving and following up on reports;
   c. Maintaining contact with the reporting person or whistle-blower and providing feedback.
5. These staff members shall receive specific training in handling reports, maintaining confidentiality, and supporting reporting persons and whistle-blowers.
6. Where a report is received by an official or channel not authorized for handling reports, it shall be promptly and securely forwarded to the designated reporting unit, and confidentiality shall be maintained throughout.

Section 4 – Follow-Up on Reports

1. [Authority-ies X]:
   a. Acknowledge receipt of the report within [seven (7) days], unless doing so would endanger the confidentiality of the reporting person requests otherwise;
   b. Conduct a prompt and diligent assessment of the report;
   c. Provide feedback to the reporting person or whistle-blower within [three (3) months] of acknowledgment, or within [six (6) months] in duly justified cases;
   d. Inform the reporting person or whistle-blower of the outcome of any investigation or other actions taken, in accordance with applicable procedures.
2. If the reported matter falls outside the competence of the receiving authority, it shall be transferred to the appropriate authority in a secure and timely manner, and the reporting person or whistle-blower shall be informed of the transfer without delay.
3. [Authority-ies X] may decide to close a procedure where:
   a. The breach is manifestly minor and no further action is warranted;
   a. The report is repetitive and contains no new meaningful information, unless new legal or factual circumstances justify further follow-up.
4. [Authority-ies X] shall inform the reporting person or whistle-blower of any such decision and the reasons for it.
5. [Authority-ies X] shall notify the reporting person or whistle-blower beforehand if their confidentiality or identity is going to be exposed or otherwise communicated.
6. In case of high volumes of reports, [Authority-ies X] may prioritize serious or urgent cases, without prejudice to the timeframes for feedback established in this law.

Section 5 – Review of Procedures

1. [Authority-ies X] shall periodically review their procedures for receiving and following up on reports, at least once every [three (3) years].
2. In conducting such reviews, [Authority-ies X] shall take into account their own experiences, evolving standards, and practices of other competent bodies, and make necessary adjustments to improve the effectiveness and accessibility of their reporting systems.

4.3 Public disclosures

In addition to internal and external reporting, international good practices increasingly recognize the importance of allowing whistle-blowers to report publicly, including to the media, civil society organizations, community groups, or through other means of dissemination. Such disclosures often occur in practice, particularly in situations where whistle-blowers lack trust in institutional mechanisms or believe that public attention is the only way for their concerns to be taken seriously.

For some whistle-blowers, going public may also serve as a form of self-protection, a way to ensure that threats or intimidation are brought to light. As such, public disclosure can, in certain contexts, act as a "life insurance policy" for individuals at risk.

Given the critical role that public disclosures can play in uncovering wrongdoing, it is essential that national legal frameworks recognize, regulate, and protect such disclosures under defined circumstances.

Due to the potential impact on third parties, reputations, ongoing investigations, and national security, public disclosures, particularly to the media, may be subject to certain conditions to ensure they are used appropriately. These conditions are designed to strike a balance between protecting the public interest and safeguarding against misuse. Common conditions found in international good practices include:

- The whistle-blower has first reported the matter internally or to a competent authority but no appropriate action was taken within a reasonable timeframe;
- The whistle-blower has reasonable grounds to believe that the information is at risk of being concealed, altered, or destroyed, or that evidence may otherwise be tampered with;
- The whistle-blower reasonably fears retaliation if they report internally or externally, or the risk of retaliation is imminent or severe;
- The reported wrongdoing constitutes an imminent or serious threat to the public interest, such as a danger to public health or safety, environmental harm, or gross mismanagement.

In line with the principle of proportionality, these criteria do not aim to discourage public disclosures, but rather to ensure that whistle-blowers who disclose to the media or civil society are doing so in a manner that maximizes legal protection while minimizing potential harm to others.

Model Drafting Provisions for public disclosure

Chapter/Section X: Public disclosure

1. A person who makes a public disclosure qualifies as a whistle-blower and is entitled to be protected under the provisions of this [Law/Act]

facultative additional provisions:

2. if either of the following conditions are met:
   a. the person has first issued an internal and an external report, or has directly issued an external report in accordance with Chapters [XX and XX], but no appropriate action has been taken in response to the report within the period referred to in [Sections xx] or the person has suffered retaliation; or
   b. the person has reasonable grounds to believe that:
      i. the wrongdoing may represent an imminent or obvious danger to the public interest, such as where there is an emergency situation or a risk of irreversible harm; or
      ii. in the case of external reporting, there is a risk of retaliation or there is little likelihood that the wrongdoing will actually be remedied, due to the particular circumstances of the case, such as where evidence may be concealed or destroyed or where an authority may be colluding with the perpetrator of the wrongdoing or implicated in the wrongdoing.
3. This provision shall be without prejudice to any provisions protecting freedom of expression, freedom of the press, or the rights of journalists as set out [list of the existing laws and provisions related to this matter] and shall not limit any broader protections afforded under such frameworks.

Part V:
Competent authorities

5.1 Central coordinating authority

To ensure the consistent and effective implementation of a national whistle-blower protection framework, international good practices recommend the designation of a central coordinating authority. This body acts as the institutional anchor for the whistle-blower protection system, tasked with overseeing its functioning, supporting its implementation across sectors, and ensuring that whistle-blowers receive the protections they are entitled to under the law.

The central coordinating authority should have a broad mandate, including the responsibility to provide guidance, training, and technical support to workplaces, public institutions, and competent authorities on the establishment and operation of internal and external reporting channels as well as providing guidance and information to (potential) whistle-blowers on available reporting possibilities. It should also play a role in monitoring compliance, especially regarding obligations for entities to put in place reporting mechanisms and anti-retaliation measures.

To support enforcement of the mandatory legal provisions, the central coordinating authority may be vested with the power to issue administrative sanctions or other corrective measures against entities that fail to comply with legal obligations, such as not establishing internal reporting mechanisms, not protecting the identity of whistle-blowers, or failing to act on reports.

Importantly, the central coordinating authority should be able to receive and address complaints of retaliation submitted by whistle-blowers who have reported or were preparing to report, through internal, external, or public channels. Upon receiving such complaints, it should provide support and guidance to whistle-blowers and, when appropriate, assist them in navigating complex administrative or judicial procedures. The authority may also play a coordinating role to ensure that the different state institutions involved, such as Labor Courts, anti-corruption bodies, and law enforcement agencies, apply the whistle-blower protection framework consistently.

This institutional structure does not replace existing enforcement bodies. For instance, if a whistle-blower suffers workplace retaliation such as demotion or dismissal, the case may still be handled by the Labor Court or relevant administrative tribunal. However, the central coordinating authority can assist by informing the whistle-blower of their rights, referring them to appropriate services, or intervening in support of their claim, for instance by providing evidence or documents certifying that a whistle-blower has indeed submitted a report in accordance with applicable legislation.

5.2 Establishing a whistle-blower protection authority

In some jurisdictions, the central coordinating role is complemented or replaced by a specialized whistle-blower protection authority with enforcement powers. These bodies do not only provide oversight and coordination but also have the authority to take immediate, binding measures to protect whistle-blowers and prevent retaliation.

Such authorities may, for instance, issue orders equivalent to injunctive relief, impose administrative sanctions directly on those who retaliate, or even reinstate whistle-blowers to their positions. This model reflects the recognition that whistle-blowers often face urgent and serious risks and that effective protection must sometimes be delivered outside of traditional court proceedings.

Part VI:
Protective measures

6.1 Protection against unjustified treatments and sanctions for retaliation

The primary objective of any whistle-blower protection framework is to safeguard whistle-blowers from unjustified treatment. Unjustified treatment can be broadly defined as any direct or indirect act or omission that adversely affects the whistle-blower, or any other person entitled to protection under the law, particularly in their work environment or professional career. Ensuring robust protection is therefore essential to encourage persons to report wrongdoing without fear of reprisal.

A key element of the legal framework should be the explicit definition and enumeration of acts, omission or behavior considered, directly or indirectly, as unjustified treatment or retaliation. The law should clearly stipulate which behaviors, actions, or omissions are considered as forms of retaliation. However, it is equally important that this list is non-exhaustive, allowing for a case-by-case assessment of other forms of retaliation that may not be explicitly listed but have equivalent effects.

The following list contains examples of behaviors that whistle-blower protection laws are recommended to recognize as unjustified treatments and prohibit:

- Suspension, layoff, dismissal, termination of contract;
- Coercion, intimidation or harassment, including sexual harassment, of whistle-blowers (or relatives if they work in the same organization);
- Demotion or loss of opportunity for promotion;
- Transfer of duties, change of location of work;
- Reduction in wages or reduction of working hours;
- The imposition or administering of any discipline, reprimand or other penalty, including financial;
- Discrimination, disadvantaged or unfair treatment, including with a gender dimension;
- Physical or psychological violence, threats, harassment and action resulting in injury or other crime;
- The making of counter allegations against the whistle-blower which are innocuous or untrue;
- Reputational damage, including via social media;
- Damage to property;
- Blocklisting (a sector- or industry-wide agreement, formal or informal, that prevents an individual from finding alternative employment);
- providing inaccurate or untrue information in employment reference to prevent an individual from obtaining future employment or the refusal to provide a reference when requested to do so;
- Prosecution under civil or criminal law for breach of secrecy, libel and defamation;
- Retaliatory Investigations;
- Breach of confidentiality or identity exposure;
- Visa, clearance, or license interference;
- Failure to take steps to stop known retaliation;
- Any other unfair treatment or reprisal (threatened or actual) not otherwise covered by this list.

To give legal effect to these protections, the law must also include sanctions for acts of retaliation. Any person who retaliates against a whistle-blower should be held accountable under the law. This should extend to anyone who directed, enabled, condoned, or failed to stop the retaliation once they had a duty and power to act.

The legal framework should foresee both disciplinary measures, which may include dismissal, and criminal sanctions, where applicable. These sanctions should be complementary, meaning that the application of one type of sanction does not preclude the other. In addition, the person responsible for retaliation may be subject to civil actions for redress, including compensation for damages, and may be required to reinstate the whistle-blower.

Employers should be legally required to impose disciplinary measures on those responsible for retaliation, in line with internal workplace whistle-blowing policies, rules or codes of conduct.

Simultaneously, national law enforcement or judicial authorities should be empowered to investigate and prosecute acts of retaliation that constitute a criminal offence.

The availability of parallel administrative, disciplinary, and judicial remedies ensures a comprehensive system of deterrence and redress.

Workplaces that fail to protect whistle-blowers or engage in institutional retaliation should be held accountable under the law. It is recommended that legal frameworks expressly include legal persons within the scope of sanctions for retaliation. This ensures that responsibility is not limited to individual actors, but also applies to entities that permit, tolerate, or systematically retaliate against reporting persons.

Model Drafting Provisions for sanctions against retaliation

Section X: Definition

"Retaliation": any direct or indirect act, omission, behavior, treatment or threat, that has a causal link with a [report/protected disclosure] and that has an adverse effect on the persons covered by this [Law/Act] or that would dissuade a person from reporting based on reasonable ground or assisting the whistle-blower.

Section X: Prohibition of retaliation

1. **Any form of retaliation against the persons referred under [section X personal scope] is prohibited, including threats of retaliation and attempted retaliation, in particular in the following forms:**
   a. Suspension, layoff, dismissal, termination of contract;
   b. Coercion, intimidation or harassment, including sexual harassment, of whistle-blowers (or relatives if they work in the same organization);
   c. Demotion or loss of opportunity for promotion or training;
   d. Transfer of duties, change of location of work;
   e. Reduction in wages or reduction of working hours;
   f. The imposition or administering of any discipline, reprimand or other penalty, including financial;
   g. Discrimination, disadvantaged or unfair treatment, including with a gender dimension;
   h. Physical or psychological violence, threats, harassment and action resulting in injury or other crime;
   i. The making of counter allegations against the whistle-blower which are innocuous, misleading, or untrue;

j. Reputational damage, including via social media

k. Damage to property;

l. Blocklisting (a sector- or industry-wide agreement, formal or informal, that prevents an individual from finding alternative employment);

m. providing inaccurate or untrue information in an employment reference to prevent an individual from obtaining future employment or the refusal to provide a reference when requested to do so;

n. Prosecution under civil or criminal law for breach of secrecy, libel and defamation;

o. Retaliatory Investigations;

p. Breach of confidentiality or identity exposure;

q. Visa, clearance, or license interference;

r. Failure to take steps to stop known retaliation;

s. Any other unfair treatment or reprisal (threatened or actual) not otherwise covered by this list.

2. **Any such act shall be presumed to be retaliatory if it occurs after the making of a report, unless proven otherwise.**

Section X: Sanctions for retaliation

1. **Any person, whether acting in a public or private capacity, who engages in retaliation against a whistle-blower or a person protected under this [Law/Act] commits an offence and is liable to a fine of [xxx] or to imprisonment for a period of [xxx] or both.**

2. **Additionally, the person is subjected to:**

   a. Disciplinary measures, up to and including dismissal, imposed by the employer or relevant oversight body;

   b. Administrative penalties issued by the competent authority;

   c. Civil liability, including compensation for material and moral damages suffered by the whistle-blower, any person protected under this [Law/Act] or any other person otherwise connected with the whistle-blower that would have suffered from the retaliation;

3. **The application of disciplinary, administrative, civil, and criminal sanctions shall be complementary, and the imposition of one type of sanction shall not preclude the application of others.**

4. **sanctions, or refer the case to the relevant bodies, including labor tribunals or judicial authorities, where appropriate**

Section X: Liability of Legal Persons for Retaliation

The sanctions provided under [section X] are also applicable to legal persons who fail to protect whistle-blowers, engage in or allow retaliations.

6.2 Reversal of the burden of proof

To ensure effective protection of whistle-blowers, the international good practices recommend that national legal frameworks shift the burden of proof onto the person or entity accused of alleged retaliation. This approach reflects an evolving trend in employment law to rebalance procedural responsibilities and address the inherent power asymmetry between whistle-blowers and employers.

Under this model, the burden of proof is not fully reversed, but adjusted through a two-step process. First, the reporting person must present a prima facie case, by demonstrating that:

- They made a protected disclosure or took steps to prepare to make a protected disclosure; and
- They subsequently suffered or were threatened with some form of unjustified treatment.

Once this threshold is met, the burden shifts to the employer or person alleged to have retaliated, who must then prove that the action taken or threatened was not linked to the whistle-blowing report in any way.

This evidentiary presumption is a practical legal tool that prevents whistle-blowers from being required to prove retaliation motive as such evidence is often difficult or impossible to obtain. It also reinforces the accountability of employers to ensure transparency and fairness in their treatment of staff following a report.

In the International Study, States indicated a growing trend in employment laws to shift the "burden of proof" onto the person accused of harmful actions, particularly to protect individuals who report wrongdoing in their workplace or work-related environment.

Under this approach, reporting persons only need to establish that they made a report and suffered a detriment that is likely in correlation (a prima facie case of retaliation).

The employer is then required to demonstrate that any action taken was not retaliatory and would have occurred for legitimate reasons unrelated to the disclosure.

This approach does not fully reverse the burden of proof but complements the standard legal framework to enhance protection for reporting persons.

6.3 Protection of confidentiality

A fundamental component of any whistle-blower protection framework is the guarantee of confidentiality. States are encouraged to ensure that the identity of a whistle-blower is strictly protected at every stage of the reporting and follow-up process. This includes during the receipt of the report, the verification or investigation phase, and any subsequent administrative or judicial procedures.

The legal framework should clearly stipulate that no person who receives or processes a report, whether within an organization, a competent authority, or as part of an investigation, shall disclose, whether intentionally, inadvertently, or negligently, the identity of the whistle-blower, or any information that could reveal their identity, unless such disclosure is required by law and subject to appropriate safeguards, including the express consent of or advance notice to the whistle-blower.

To ensure the effective protection of confidentiality, it is essential that the law provides a broad and clear definition of "identity" in the context of whistle-blower protection. While the identity

of a whistle-blower stricto sensu refers to their name, the concept should be understood more expansively. It should also include, inter alia:

- Home and work addresses;
- Telephone numbers, including direct office extensions;
- Email addresses, whether professional or personal;
- Job title, unit, or department, especially when disclosure could lead to identification within a small team or specialized role;
- Metadata and digital identifiers, such as computer IP addresses, login credentials, or website visit logs;
- The gender of the whistle-blower is also increasingly considered as an element of their identity that should be kept confidential as much as possible.

This broad definition ensures that indirect identification, through circumstantial or contextual clues, is also covered by confidentiality obligations.

In line with good practices, national legal frameworks should provide for criminal, civil, or administrative sanctions for any intentional or negligent breach of the confidentiality of a whistle-blower's identity. Sanctions should be proportionate to the harm caused and serve as a strong deterrent against unauthorized disclosure.

In addition, international good practices on the protection of whistle-blowers, recommend that legal frameworks recognize and allow the possibility to report anonymously. Anonymous reporting shall provide whistle-blowers with the same level of protection as confidential reporting.

6.4 Non validity of confidential clauses and non-disclosure agreements

It is considered as good practice for whistle-blower protection frameworks to explicitly ensure that legal or contractual obligations, such as confidentiality clauses or non-disclosure agreements (NDAs), or any written or oral orders banning or discouraging lawful disclosures, cannot be invoked to prevent or punish protected lawful disclosures of wrongdoing.

The Resolution 10/8 indeed encourages States Parties to guarantee that whistle-blowers who report information concerning corruption-related offences to competent authorities are not subject to sanctions or denied protection for having reported information.

To this end, legal frameworks should render such confidentiality and non-disclosure clauses as well as any written or oral orders, null and void when used to deter or punish reporting, or integrate the interdiction within broader immunity provisions shielding reporting persons from civil, criminal, or disciplinary liability. [11] This safeguard is particularly relevant in sectors where NDAs and confidentiality agreements are frequently used, including both the public and private sectors.

In addition, legal protection from such clauses should be comprehensive, applying not only to private-sector whistle-blowers but also to civil servants and public officials, especially where national laws impose a duty to report criminal conduct encountered in the course of professional activity.

11 See model provision below under 6.5 immunity from civil, administrative and criminal liability.

6.5 Immunity from civil, administrative and criminal liability

Protecting against civil, administrative and criminal liability

International good practices increasingly recognize the importance of explicitly protecting whistle-blowers from civil, administrative, and criminal liability for making a protected disclosure. This principle is essential to ensure that individuals who report wrongdoing are not deterred by the risk of legal action.

Legal frameworks should therefore provide clear and extensive immunity to whistle-blowers for the act of reporting or disclosing information, provided that they had reasonable grounds to believe the information was true at the time of reporting and the disclosure was made in accordance with the law. This protection should also extend to disclosures made publicly, in cases where public disclosure is permitted under the law.

Such immunity should not be limited to the act of reporting but should be extended to the way the information reported was acquired unless the acquisition of information represents a "self-standing" criminal offence.[12]

Where immunity is not granted, the fear of legal consequences, such as lawsuits for defamation, breach of confidentiality, or even criminal charges, can undermine the effectiveness of the entire protection framework.

In addition to immunity, legal frameworks should include procedural safeguards such as the possibility for early dismissal or non-admissibility of legal proceedings filed in retaliation for whistle-blowing. Courts should have the authority to determine whether a lawsuit is manifestly abusive or unfounded, particularly when the defendant is a whistle-blower.

These provisions serve as a concrete application of the principle of liability protection and help to minimize the burden, cost, and distress associated with defending against retaliatory legal claims.

Such safeguards can include:

- The right for whistle-blowers to file a motion to dismiss based on their protected status;
- An obligation for courts to assess the protected nature of the disclosure at an early stage;
- Legal presumptions recognizing such lawsuits as retaliatory in nature, subject to refutation by the claimant.

Addressing Strategic Lawsuits Against Public Participation (SLAPPs)

A growing area of concern is the use of Strategic Lawsuits Against Public Participation (also known as SLAPPs). They represent legal actions that are not aimed at resolving a legal issue, but at intimidating, silencing, or punishing individuals for exposing wrongdoing. SLAPPs are frequently used against whistle-blowers, journalists, and civil society actors who speak out on matters of public interest.

According to the Office of the United Nations High Commissioner for Human Rights (OHCHR), SLAPPs are characterized by "lawsuits or threats of legal action which use abusive litigation tactics with the aim or effect of suppressing public participation and critical reporting on public interest matters."[13]

12 Typically, "self-standing" criminal offences include acts that are not necessary for acquiring the information such as assault, vandalism, or sabotage. .

13 See OHCR publication "The impact of SLAPPs on human rights and how to respond": https://www.ohchr.org/sites/default/files/documents/publications/briefer-the-impact-slapps-hr-how-resond.pdf

To address this risk, international good practices recommend that whistle-blower protection frameworks either integrate anti-SLAPP measures or be harmonized with dedicated anti-SLAPP legislation, ensuring that whistle-blowers are not subjected to abusive court proceedings.

In the International Study, States highlighted as a good practice the adoption of measures to protect reporting persons from abusive or retaliatory legal actions.

One measure increasingly incorporated into legal frameworks for the protection of whistle-blowers and persons reporting in their professional or work-related environment is immunity from civil and criminal liability for the reporting persons.

Model Drafting Provisions for immunity from abusive legal proceedings

Section X: protection from civil, administrative and criminal liability

1. No person shall be subject to civil, administrative, or criminal liability for making a [report/ protected disclosure] in accordance with this [Law/Act], provided that the person had reasonable grounds to believe that the information disclosed was true at the time of reporting.
2. Whistle-blowers shall not be held liable for:
   a. Any breach of confidentiality, including professional or contractual confidentiality provided that the disclosure of such information was necessary to report the wrongdoing;
   b. Defamation, libel, or similar offences;
   c. The acquisition of the information disclosed, unless such acquisition constitutes a self-standing criminal offence.
3. Employers shall not require, adopt, or enforce any agreement, policy, directive, or practice that limits, discourages, or conditions [reports/protected disclosure] or participation in related proceedings.
4. Courts shall have the authority to declare a claim or proceeding inadmissible or abusive where it is determined that:
   a. The defendant is a whistle-blower or any person acting within the scope of protection provided by this [Law/Act]; and
   b. The claim appears to be manifestly unfounded or intended to silence or penalize the reporting;
5. Any person who initiates abusive proceedings against a whistle-blower or any person protected by this [Law/Act] as per [Section/Article(s) X – personal scope] may be subject to
   a. An order for early dismissal of the case;
   b. An obligation to compensate for costs and damages;
   c. Sanctions for misuse of judicial processes, including costs and penalties.

6.6 Preventive and Compensatory Protective Measures

To both deter retaliation and mitigate its impact when it occurs, legal frameworks should mandate interim relief measures as part of whistleblower protection mechanisms. These measures allow actions to be taken swiftly, while investigations are ongoing or legal claims are pending, and that help restore the whistleblower's position or minimize losses.

Recommended interim measures include, for instance:

- Provisional (or definitive) reinstatement to previous role;
- Temporary (or permanent) transfer to a similar position, possibly with a different supervisor or team;
- Other swift corrective actions designed to minimize harm caused by retaliation (e.g. restoring responsibilities, benefits, status).

Workplaces should offer these measures through their internal mechanisms, and failure to do so should trigger sanctions and be considered a breach of protective obligations. When a whistleblower protection authority exists, it should have explicit power to order these measures. If a central coordinator is designated instead, they should assist the whistleblower in obtaining them.

Should these early remedies fail or be unavailable, the legal framework must enable whistleblowers to pursue civil or labor claims and to receive damages for losses suffered, including loss of income, reputation, or emotional suffering.

Crucially, to address financial hardship during delays, frameworks should offer administrative financial compensation that can be activated immediately, without court action, to cover income gaps or costs arising from retaliation. The central coordinator or whistle-blower protection authority should be empowered to trigger this procedure within a very short timeframe.

In the International Study, States highlighted the importance of establishing administrative procedures for the provision of remedies, avoiding the necessity for the reporting persons to have to go through a long judicial process.

Protection provided at technical level and by the workplace has also been proven to be efficient to prevent irreparable damage resulting from retaliation.

Model Drafting Provisions for preventive and compensatory protective measures

Section X – Interim Relief Measures

1. **Whistleblowers or any other person protected under this [Law/Act] alleging retaliation are entitled, pending investigation or the resolution of legal claims, to interim relief, which may include:**
   a. Provisional reinstatement;
   b. Temporary transfer to an equivalent position;
   c. Other corrective measures to restore status or reduce harm.
2. **Employers must offer such measures through internal reporting mechanisms. Failure to do so exposes them to sanctions under [section X] and the [Authority-ies X] shall order relief.**

Section X – Right to Damages

1. Where retaliation has occurred or interim measures have been delayed or denied, whistleblowers or any other person protected under this [Law/Act] may initiate civil or labor proceedings. Competent jurisdictions shall award compensatory damages, including:
   a. Lost income and benefits;
   b. Emotional distress or reputational harm;
   c. Legal costs and other financial losses.

Section X – Administrative Financial Compensation

1. A financial compensation scheme shall be available for whistleblowers and any other person protected under this [Law/Act] suffering from loss of income or cost burdens due to retaliation. This scheme:
   a. Is accessible without court order;
   b. Can be activated by the [Authority-ies X] within [a short legally defined period];
   c. Provides provisional payment to mitigate economic hardship while further remedies are pursued.

6.7 Access to legal advice and psychological support

In addition to legal protection, whistle-blowers should have access to practical support mechanisms to help them navigate the emotional, professional, and legal consequences of reporting. The legal framework should provide whistle-blowers with free and confidential access to legal advice, to help them understand their rights and responsibilities as well as free legal aid to allow them to have adequate legal representation and support throughout the process. Where necessary, psychological support services should also be made available, particularly in cases involving stress, isolation, or trauma.

Moreover, whistle-blowers should be able to seek assistance from independent support bodies, both within and outside their workplace. Internally, this may include ethics officers, trade unions, ombudspersons, or regulatory authorities. Externally, it may include civil society organizations, professional associations, or a designated whistle-blower protection authority or the central coordinator, where such a body exists.

Ensuring access to these services reinforces a culture of protection and accountability, reduces the risk of retaliation, and strengthens the whistle-blower's ability to follow through with the reporting process.

In the International Study, States identified highlighted the importance of providing legal assistance and psychological support to reporting persons throughout the reporting process. Such system helps to ensure their protection and well-being.

Model Drafting Provisions for legal advice and psychological support

Section X: Access to support services

1. Whistle-blowers and any other person protected under this [Law/Act], are entitled to confidential and independent support, including:
   a. Free legal advice, provided through *[publicly funded services or accredited organizations];*
   b. Psychological support, where required due to retaliation-related stress or trauma;
   c. Assistance from *[internal support structures such as ethics officers, trade unions, or ombudspersons];*
   d. Support from *[external bodies, including civil society organizations or a designated whistleblower protection authority].*
2. These services must be readily accessible, confidential, and adequately resourced, with clearly defined referral pathways within workplace and public-sector systems.

6.8 Protection against physical harm

The international good practices recommend that whistle-blower protection frameworks include explicit safeguards against physical harm, threats, and violence, recognizing that retaliation can extend beyond workplace consequences into personal security risks. These safeguards should not be addressed in isolation but integrated into existing national witness protection mechanisms wherever possible, to allow for a coordinated and effective response to serious threats.

The legal framework should clearly recognize physical and psychological violence as forms of unjustified treatment to ensure that all retaliation risks, including life-threatening or psychologically destabilizing actions, are explicitly prohibited and actionable under the law.

In addition, the law should grant the central coordinator or whistle-blower protection authority the mandate to refer the whistle-blower at risk to the national witness protection programme or unit, when such programme or unit exists in the country.

Jurisdictions that already have a legal framework for witness protection in place should consider expanding its scope to cover a broader category of individuals who may face risks of physical retaliation for their role in defending the public interest. This includes not only whistle-blowers, but also investigative journalists, human rights defenders, and civil society actors whose activities contribute to transparency and accountability.

Model Drafting Provisions for protection against physical harm

Section X: Extension of Witness Protection Law

1. The [national witness protection framework] shall be interpreted and applied to all persons protected under this [Law/Act] when they face threats linked to their protected disclosure.

Section X: Referral to Witness Protection Programme

1. Where a whistle-blower or any other person protected under this [Law/Act] faces credible threat or risk, the [Authority-ies X] should refer them to the national witness protection programme without delay.

Part VII:
Rewards, honors and awards

While the core purpose of whistle-blower protection frameworks is to prevent and remedy retaliation, States may also consider introducing reward or recognition schemes as a means of incentivizing reporting and acknowledging the public value of whistle-blowers' actions.

A financial reward scheme is typically provided to whistle-blowers who contributed to the successful recovery of assets or the prosecution of wrongdoing. In many models, the reward is calculated as a percentage of recovered funds, and is granted only after the case is concluded, subject to certain conditions, such as the substantial contribution of the whistle-blower to the outcome.

Before adopting such a scheme, it is strongly recommended that States undertake a feasibility assessment to evaluate the potential benefits, risks, and resource implications. Considerations should include the administrative capacity required, the availability of funds, the potential impact on whistle-blower motivations, and how rewards might affect public perceptions or inadvertently create unsafe expectations. In some jurisdictions, large reward promises have been found to raise false hopes or encourage risky behavior by those unaware of the complexity and duration of investigative processes. Such system has also, in some cases, led to increased retaliation rates as employers became more distrustful of their workers raising issues internally.

If only limited financial resources are available, it is advisable to prioritize funding mechanisms for immediate financial compensation as above mentioned, before establishing a reward scheme.

As an alternative or complement to financial rewards, non-financial incentives may be used to promote a culture of integrity. These include public recognition, such as certificates, medals, national honors, or civic awards, which can be issued to individuals who have raised concerns about wrongdoing affecting the public interest.

Model Drafting Provisions for reward and other incentives

Section X – Whistle-Blower Rewards

1. A reward scheme shall be established at destination of whistle-blowers whose disclosures, made in accordance with this law, result in the recovery of public funds or assets based on the conviction of the wrongdoing thus reported.
2. Whistle-blowers shall be eligible for financial rewards under the following conditions:
   a. Rewards shall be granted only after the case is closed and the recovery is confirmed;
   b. The reward amount shall reflect a percentage of the recovered funds, [usually ranging from 2.5% to 30%], based on the quality, credibility, and impact of the information provided.
3. The operation of the reward scheme shall not reduce, delay, or compromise funding allocated for emergency relief or interim financial compensation for whistle-blowers subjected to retaliation or any other protection measures provided for under this law.

Section X – Non-Financial Recognition of Whistle-Blowers

1. A whistle-blower or any person included under [chapter/section X – personal scope] may be granted non-financial recognition.
2. Forms of non-financial recognition may include, but are not limited to:
   a. Official commendations, letters of appreciation, or certificates of recognition issued by a competent authority;
   b. National or civic honors, including medals, awards, or honorary titles;
   c. Public acknowledgement through official communications or reports, subject to the whistle-blower's informed consent.
3. The procedure for granting non-financial recognition shall be determined by regulation and shall:
   a. Be based on objective and transparent criteria;
   b. Ensure that recognition does not compromise the confidentiality or safety of the whistle-blower or any other person, unless they have explicitly waived their right to anonymity or confidentiality.
   c. Be implemented in a manner that complements, but does not replace or delay, any protective or compensatory measures to which the person may be entitled under this law.
3. The [Authority-ies X] shall maintain a record of recognized disclosures and may publish, on an annual basis, anonymized summaries of cases in which such recognition was granted.