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P P L A A F

PLATEFORME DE PROTECTION DES LANCEURS D'ALERTE EN AFRIQUE

WHISTLEBLOWING IN WEST AFRICA

State of play of legal frameworks and
practices in ECOWAS member states and
Mauritania

Table of Contents

| | |
|---|-----------|
| Table of Contents..... | 1 |
| Preface by the Platform to Protect Whistleblowers in Africa..... | 4 |
| Preface by the OCWAR-M* Project..... | 6 |
| I. INTRODUCTION..... | 8 |
| • Context..... | 8 |
| • Analysis..... | 10 |
| II. COUNTRY REPORTS ON THE SITUATION OF WHISTLEBLOWERS..... | 12 |
| A. FRENCH-SPEAKING COUNTRIES..... | 12 |
| 1. SENEGAL..... | 12 |
| • Executive Summary..... | 13 |
| 1. ANALYSIS OF THE LEGAL FRAMEWORK..... | 14 |
| 2. ANALYSIS OF THE FACTS: WHISTLEBLOWER CASES..... | 23 |
| 3. RECOMMENDATIONS: WEAKNESSES AND NEEDED REFORMS..... | 23 |
| 4. KNOWLEDGE, SUPPORT, AND ACTION CENTRES:..... | 24 |
| 2. MALI..... | 27 |
| • Executive Summary..... | 28 |
| 1. ANALYSIS OF THE LEGAL FRAMEWORK..... | 28 |
| 2. ANALYSIS OF THE FACTS: WHISTLEBLOWERS CASES..... | 38 |
| 3. RECOMMENDATIONS: WEAKNESSES AND REFORMS..... | 40 |
| 4. KNOWLEDGE, SUPPORT, AND ACTION CENTRES..... | 41 |
| 3. COTE D’IVOIRE..... | 43 |
| • Executive summary..... | 44 |
| 1. ANALYSIS OF THE LEGAL FRAMEWORK..... | 44 |
| 2. ANALYSIS OF THE FACTS: WHISTLEBLOWER CASES..... | 54 |
| 3. RECOMMENDATIONS: WEAKNESSES AND NEEDED REFORMS..... | 54 |
| 4. KNOWLEDGE, SUPPORT, AND ACTION CENTRES:..... | 57 |
| 4. BURKINA FASO..... | 58 |
| • Executive summary..... | 59 |
| 1. ANALYSIS OF THE LEGAL FRAMEWORK..... | 60 |
| 2. ANALYSIS OF THE FACTS: WHISTLEBLOWER CASES..... | 73 |
| 3. RECOMMENDATIONS: WEAKNESSES AND NEEDED REFORMS..... | 73 |
| 4. KNOWLEDGE, SUPPORT, AND ACTION CENTRES..... | 74 |
| 5. NIGER..... | 75 |
| • Executive summary..... | 76 |
| 1. ANALYSIS OF THE LEGAL FRAMEWORK..... | 76 |
| 2. ANALYSIS OF THE FACTS: WHISTLEBLOWERS CASES..... | 87 |
| 3. RECOMMENDATIONS: WEAKNESSES AND REFORMS..... | 88 |
| 4. KNOWLEDGE, SUPPORT, AND ACTION CENTRES:..... | 90 |
| 6. TOGO..... | 92 |
| • Executive Summary..... | 93 |



| | |
|--|------------|
| 1. ANALYSIS OF LEGAL FRAMEWORK..... | 93 |
| 2. ANALYSIS OF THE FACTS: WHISTLEBLOWER CASES..... | 104 |
| 3. RECOMMENDATIONS: WEAKNESSES AND NEEDED REFORMS..... | 104 |
| 4. KNOWLEDGE, SUPPORT, AND ACTION CENTRES..... | 105 |
| 7. GUINEA CONAKRY..... | 107 |
| • Executive summary..... | 108 |
| 1. ANALYSIS OF THE LEGAL FRAMEWORK..... | 109 |
| 2. ANALYSIS OF THE FACTS: WHISTLEBLOWER CASES..... | 121 |
| 3. RECOMMENDATIONS: WEAKNESSES AND NEEDED REFORMS..... | 122 |
| 4. KNOWLEDGE, SUPPORT, AND ACTION CENTRES:..... | 122 |
| 8. BENIN..... | 125 |
| • Executive Summary..... | 126 |
| 1. ANALYSIS OF THE LEGAL FRAMEWORK..... | 126 |
| 2. ANALYSIS OF THE FACTS: WHISTLEBLOWER CASES..... | 137 |
| 3. RECOMMENDATIONS: WEAKNESSES AND NEEDED REFORMS..... | 137 |
| 4. KNOWLEDGE, SUPPORT, AND ACTION CENTRES..... | 138 |
| 9. MAURITANIA..... | 139 |
| • Executive Summary..... | 140 |
| 1. ANALYSIS OF THE LEGAL FRAMEWORK..... | 140 |
| 2. ANALYSIS OF THE FACTS: WHISTLEBLOWER CASES..... | 148 |
| 3. RECOMMENDATIONS: WEAKNESSES AND NEEDED REFORMS..... | 148 |
| 4. KNOWLEDGE, SUPPORT, AND ACTION CENTRES:..... | 149 |
| B. ENGLISH-SPEAKING COUNTRIES REPORTS..... | 150 |
| 1. NIGERIA..... | 150 |
| • Executive Summary..... | 151 |
| 1. ANALYSIS OF THE LEGAL FRAMEWORK..... | 152 |
| 2. ANALYSIS OF THE FACTS: WHISTLEBLOWER CASES..... | 159 |
| 3. RECOMMENDATIONS: WEAKNESSES AND NEEDED REFORMS..... | 161 |
| 4. KNOWLEDGE, SUPPORT, AND ACTION CENTRES..... | 162 |
| 2. GHANA..... | 165 |
| • Executive Summary..... | 166 |
| 1. ANALYSIS OF THE LEGAL FRAMEWORK..... | 167 |
| 2. ANALYSIS OF THE FACTS: WHISTLEBLOWER CASES..... | 175 |
| 3. RECOMMENDATIONS: WEAKNESSES AND NEEDED REFORMS..... | 176 |
| 4. KNOWLEDGE, SUPPORT, AND ACTION CENTRES..... | 178 |
| 3. SIERRA LEONE..... | 180 |
| • Executive Summary..... | 181 |
| 1. ANALYSIS OF THE LEGAL FRAMEWORK..... | 181 |
| 2. ANALYSIS OF THE FACTS: WHISTLEBLOWER CASES..... | 187 |
| 3. RECOMMENDATIONS: WEAKNESSES AND NEEDED REFORMS..... | 188 |
| 4. KNOWLEDGE, SUPPORT, AND ACTION CENTRES..... | 188 |
| 4. LIBERIA..... | 190 |

| | |
|---|------------|
| ● Executive summary..... | 191 |
| 1. ANALYSIS OF THE LEGAL FRAMEWORK..... | 192 |
| 2. ANALYSIS OF THE FACTS: WHISTLEBLOWER CASES..... | 199 |
| 3. RECOMMENDATIONS: WEAKNESSES AND NEEDED REFORMS..... | 199 |
| 4. KNOWLEDGE, SUPPORT, AND ACTION CENTRES..... | 200 |
| 5. THE GAMBIA..... | 202 |
| ● Executive Summary..... | 202 |
| 1. ANALYSIS OF THE LEGAL FRAMEWORK..... | 203 |
| 2. ANALYSIS OF THE FACTS: WHISTLEBLOWER CASES..... | 210 |
| 3. RECOMMENDATIONS: WEAKNESSES AND NEEDED REFORMS..... | 211 |
| 4. KNOWLEDGE, SUPPORT, AND ACTION CENTRES..... | 211 |
| III. GENERAL RECOMMENDATIONS..... | 213 |
| ● Recommendations to ECOWAS member states and Mauritania..... | 213 |
| ● Recommendations to ECOWAS and AU..... | 213 |
| ● Recommendations to the AfDB, World Bank, and IMF..... | 213 |
| ● Recommendations to the private sector..... | 214 |



Preface by the Platform to Protect Whistleblowers in Africa

West Africa is abundant in talent, cultural richness, and natural resources, but it also faces significant challenges in governance and transparency. Whistleblowers play an essential role in this complex landscape by raising their voices and exposing the truth on crucial issues. Their courage and contributions can be decisive in building a fairer and more transparent society.

Whistleblowers dare to confront difficult situations and defy the potentially severe consequences of their revelations. They often face opposition and intimidation from those seeking to hide the truth and protect personal interests. Yet, these determined individuals adhere to their principles and the conviction that the truth must be revealed.

Like across the entire African continent, whistleblowers face unique challenges in West Africa. Weak and corrupt political and legal systems make it difficult to ensure their safety. Retaliation and discrimination are commonplace, sometimes forcing them into exile or hiding. Nevertheless, they persist because they know their contribution is vital to preventing corruption, abuse of power, and human rights violations.

Whistleblowers shed light on fraudulent practices undermining democracy and hindering economic development. Their revelations expose corruption, embezzlement of public funds, and financial crime. They enable citizens to exercise their right to genuine democratic governance.

However, despite their undeniable role in improving governance, we observe a need for improvement in the legal framework throughout Africa, especially in West Africa, where only Ghana has a specific law protecting whistleblowers. Furthermore, there needs to be more public awareness of whistleblowing, which remains largely unknown to the general public.

Several dynamics in the West African region tend to lead to the adoption of specific laws protecting whistleblowers, but they face various obstacles. These include a lack of political will, manifested by the reluctance of influential politicians who do not want to protect those who may denounce them later. There is also a need for a sufficient understanding of whistleblowing, a lack of which contributes to confusion between whistleblowers and other informants already receiving some protection in certain countries.

It is worth noting that several laws in some countries in the region indirectly protect whistleblowers, including laws on the protection of witnesses and informants, freedom of the

press, and sectoral anti-corruption laws. However, these protections still need to be improved as they do not encompass all dimensions of whistleblowing, hence the need for specific laws protecting whistleblowers in line with international standards.

We also acknowledge that civil society, the media, and international organisations play a vital role in supporting whistleblowers in their quest for justice and protecting them against retaliation. Their actions and commitments to defending whistleblowers are essential in fostering a culture of transparency and accountability.

This report aims to provide an overview of the legal landscape in West African countries concerning whistleblower protection by highlighting laws that directly protect them, if they exist, or laws that indirectly protect them to raise awareness on how to protect whistleblowers in environments where specific protection laws do not yet exist. It also provides an overview of the legal situation regarding the fight against financial crime in West African countries.

Jimmy Kandé

West Africa and Francophone Director of PPLAAF

Preface by the OCWAR-M* Project

***Organised Crime West African Response to Money Laundering and Financing of Terrorism**

Money laundering, terrorism financing, and financing the proliferation of weapons of mass destruction are major offences of international financial crime. The fight against money laundering and terrorism financing is a European priority. The European Commission adopts a new list of countries with strategic deficiencies in their frameworks for combating money laundering and terrorism financing every year. Countries evaluated meet at least one of the following criteria:

- *They have a systemic impact on the integrity of the EU's financial system;*
- *The International Monetary Fund considers them as international offshore financial centres;*
- *They have economic relevance for the EU and strong economic ties with it.*

In West Africa, faced with the rise of organised crime and terrorism in particular, ECOWAS has organised itself to support its member states in combating money laundering and terrorism financing by creating GIABA, a regional organisation similar to the FATF, whose mission is to assist countries in complying with FATF international standards.

The European Union has mobilised through the 11th EDF to support this approach. The OCWAR-M project aims to contribute to the fight against money laundering and terrorism financing (AML/CFT) in the Economic Community of West African States (ECOWAS) and Mauritania. Financed by the European Union, OCWAR-M is one of three projects in the program to combat organised crime in West Africa, alongside OCWAR-T (Trafficking) and OCWAR-C (Cybersecurity). The objectives pursued by the project are:

- *robust legal and regulatory frameworks,*
- *trained and equipped national financial intelligence units,*
- *a reactive and operational criminal chain,*
- *organised and aware obliged entities,*

- *effective regional and international cooperation.*

Thus, The OCWAR-M project significantly supports all AML/CFT stakeholders, including civil society actors.

Among them, whistleblowers, first and foremost, can act as crime detectors and thus complement the AML/CFT criminal chain actors trained by the project in detection and investigations. However, these whistleblowers cannot act alone: investigative journalists, who can investigate and bring their denunciations to the public domain, and lawyers, who can ensure their protection, are essential for the actions of whistleblowers to result in prosecutions and convictions.

For this reason, OCWAR-M has integrated the strengthening of these two groups of actors into its action plan and has partnered with PPLAAF to offer them support. The training sessions already conducted by GIABA on audiences of journalists from print and broadcast media and online media from all covered countries have been taken into account.

This final report on the ECOWAS country reports established within the framework of the OCWAR-M project constitutes a snapshot, to date, of the progress made and remaining to be completed, as well as the challenges and risks specific to the region and certain countries within it, which constitute as many challenges to overcome. It is, therefore, expected to be evolutionary, set milestones, and serve as a witness, a sentinel.

The lack of independence of actors and corruption of systems are all obstacles to effectively combating organised crime: civil society is a vital lever to promote positive developments in these areas.

Our vigilance must remain strong, as expectations are high, and the scope for improvement is still significant, both for promoting a legal framework protecting whistleblowers and for creating the best conditions for independent and credible investigative journalism. Civil society networks, the "leaks," are the engines and allies of this new justice to continue to create against international financial crime in particular and against organised transnational crime in general.

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I. INTRODUCTION

● Context

In West Africa, financial crime has become a particularly concerning issue as it has entrenched itself in the economies of these countries. This financial crime - which includes corruption, money laundering, and terrorist financing - leads to severe economic instability. Social development is compromised, citizens' trust in their institutions and governments erodes, and economic growth slows down when it does not benefit the entire population. These elements pose significant threats to the general interest of citizens in this region.

In this context, whistleblowers play a crucial role in protecting the rule of law in West Africa. A whistleblower is defined by the Platform to Protect Whistleblowers in Africa (PPLAAF) as *"a person who discloses information about illegal, unlawful, or contrary-to-the-public-interest acts of which they have been witness, particularly in the course of their work, to bring them to an end and provoke change."*

By refusing to succumb to fear, oppression, threats, and state violence, whistleblowers expose activities contrary to the public interest. If disclosed appropriately (whether to competent authorities or directly to the public), their information can profoundly influence the collective perception of how those in power exercise their governance and strengthen the fight against impunity.

Whistleblowers have repeatedly demonstrated their importance in democratic societies. Their dedication to revealing the truth, exposing abuses, and defending justice is essential to balancing power and individual rights. Their courage enhances transparency, accountability, and justice within societies, thus preserving the very foundations of the rule of law.

In this sense, whistleblowers' revelations encourage those in power to respect laws and regulations because the mere possibility of exposure compels them to act in accordance with the law. Their revelations enlighten public opinion about abuses of power, thus fostering collective vigilance.



In Africa, whistleblowers' revelations have already led to several significant financial, political, and environmental scandals. These revelations have been consequential, resulting in demands for substantial changes within these societies.

In West Africa, a Malian whistleblower revealed a rosewood trafficking scheme benefiting Chinese companies operating along the borders of Mali and Senegal, involving major transportation companies. This scandal occurred despite the suspension of rosewood trade in 2022 by the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) throughout the West African region. The whistleblower's revelations led to investigations conducted by a consortium of Senegalese journalists, published in various national media outlets. These investigations helped raise awareness among the public about the dangers posed to biodiversity by this trafficking.

In South Africa, two whistleblowers disclosed information revealing how former President Jacob Zuma and his son favoured the interests of the Gupta family and their close allies to the detriment of the South African people. These revelations also highlighted the influence exerted by the Gupta family over public companies and politicians. As a result, a commission of inquiry led by Judge Zondo was established, leading to Jacob Zuma's resignation.

In the Democratic Republic of the Congo (DRC), revelations by several whistleblowers demonstrated the schemes a local bank and its clients used to conceal endemic corruption and kleptocracy prevailing under Joseph Kabila's presidency. These revelations also showed how embezzlement of public funds and natural resources allowed a group of individuals to enrich themselves at the expense of the population. Several investigations were opened following these revelations, including in France, Belgium, and Switzerland.

Thus, whistleblowers' revelations are essential for combating impunity and recovering African assets. They are the best tools to shed light on elements that would otherwise remain in obscurity, including essential evidence to fight financial crime and inherently clandestine offences.

Unfortunately, despite their invaluable contribution to the fight against financial crime in West Africa, individuals with the courage to denounce these wrongdoings often find themselves entirely on their own. Their lives, physical safety, careers, and the well-being and security of their families are threatened.

Whistleblowers remain inadequately protected in Africa. To date, of the 54 African countries, only about a dozen have specific laws to protect them. Even in countries with such laws, their implementation remains deficient at times. This situation makes whistleblowers particularly vulnerable and exposed to significant threats and retaliation.

A whistleblower protection law is considered satisfactory when it clearly defines the status of a whistleblower and the scope of reporting procedures, guarantees protection against reprisals and prosecution, punishes perpetrators of retaliation, and provides specific measures to ensure their safety and that of their families.

However, for comprehensive whistleblower protection to be in place, it is also necessary for the country to have effective laws combating financial crime, such as corruption and money laundering.

Moreover, laws guaranteeing freedom of expression and the press, as well as laws on access to public information, are essential. These laws create an environment conducive to a culture of whistleblowing, transparency, and the practice of reporting financial offences. They allow whistleblowers to safely denounce wrongful acts and journalists to publish them, using reliable documents to support their allegations. Thus, a specific whistleblower protection law alone is insufficient if other key laws are lacking in the country.

● **Analysis**

This report brings together the results of 14 studies on the state of whistleblower protection conducted in 13 countries of the Economic Community of West African States (ECOWAS) and in Mauritania as part of the OCWAR-M project, funded by the European Union. This project aims to strengthen the fight against money laundering and terrorist financing within ECOWAS and Mauritania. This general report aims to synthesise this information and take stock of the situation regarding whistleblower protection in these 14 countries. It explores the challenges they face, the progress made in protection, and proposes avenues for reflection and action to strengthen their rights further and promote the emergence of a whistleblowing culture.

The in-depth analysis of the 14 reports highlights several similarities and trends in whistleblower protection in West Africa. Among these, English-speaking countries are the

only countries with specific whistleblower protection laws. These countries stand out for the diversity of guarantees and levels of protection offered by their laws, but the question of the effectiveness of these laws arises in some cases. Moreover, these countries have laws on access to public information, which promote the availability of information of public interest and transparency.

In contrast, French-speaking countries present a different set of characteristics. Although they have adopted laws against financial crime and witness protection that could apply to whistleblowers, none currently have a specific law protecting these actors. Furthermore, the absence of laws on access to public information in some of these countries, and the ineffectiveness of these laws when they exist, hinder the availability of administrative documents and transparency. This can impede the work of journalists and civil society organisations, which can be powerful channels for whistleblowers' revelations.

The 14 countries studied have a constitutional and legislative framework to guarantee freedom of expression and the press. However, in practice, these freedoms are often subject to numerous restrictions, thus hindering the exercise of investigative journalism and sometimes leading to repression, intimidation, and silencing of the profession.

Regarding the fight against financial crime, the reports highlight the establishment of a legal framework to combat money laundering and terrorist financing in the 14 states studied. However, the effectiveness of applying these laws varies in the region. The independence and resources of authorities responsible for combating financial crime offences differ from country to country and, when insufficient, may deter whistleblowers from disclosing sensitive information.

In summary, the challenges and risks related to whistleblower protection in West Africa are linked to the lack of specific protection laws, effective implementation of anti-corruption laws, limited powers of authorities combating financial crime, restrictions on press freedom, and insufficient legislation on access to public information. These challenges often make it difficult for whistleblowers and can expose them to significant dangers when they disclose information about wrongful acts.

II. COUNTRY REPORTS ON THE SITUATION OF WHISTLEBLOWERS

A. FRENCH-SPEAKING COUNTRIES

1. SENEGAL

- **List of acronyms**

AML/CFT: Anti-Money Laundering/Countering the Financing of Terrorism

CENTIF: Financial Intelligence Unit

CNRA: National Audiovisual Regulation Council

CPI: Corruption Perception Index

CREI: Court of Repression of Illicit Enrichment

ECOWAS: Economic Community of West African States

FATF: Financial Action Task Force

GIABA: Intergovernmental Action group against money laundering in West Africa

IGE: General Inspectorate of state

MFWA: Media Foundation for West Africa

ML/FT: Money Laundering / Financing of Terrorism

NGO: Non-governmental organisation

OCWAR-M: Organised Crime, West African Response to money laundering and the financing of terrorism

OFNAC: Office for the Fight against Fraud and Corruption

ONRAC: National Office for the recovery of criminal assets

PCQPV: Publiez Ce Que Vous Payez

PJF: Financial judicial pool

PPLAAF: Platform to Protect Whistleblowers in Africa

RFM: Radio Futurs Medias

RSF: Reporters Sans Frontières

UMS: Union of Magistrates of Senegal

- **Legal sources**

[United Nations Convention against Corruption of 2005](#)

[African Union Convention on Preventing and Combating Corruption of 2003](#)

[Constitution](#)

[Law No. 65-60 of July 21, 1965, establishing the Penal Code](#)

[Law No. 2016-29 of November 8, 2016, amending the Penal Code and subsequent modifications](#)

[Law No. 97-17 of December 1, 1997, establishing the Labour Code](#)

[Law No. 2012-30 of December 28, 2012, establishing the National Office for the Fight against Fraud and Corruption \(OFNAC\)](#)

[Law No. 2012-22 of December 27, 2012, establishing the Code of Transparency in Public Finance Management](#)

[Law No. 2018-03 of February 23, 2018, on combating money laundering and the financing of terrorism](#)

[Law No. 81-53 of July 10, 1981, on the repression of illicit enrichment](#)

[Law No. 81-54 of July 10, 1981, establishing a Court for the Repression of Illicit Enrichment](#)

[Law No. 2017-27 of July 13, 2017, establishing the Press Code](#)

- **Executive Summary**

Although Senegal has ratified the [United Nations Convention](#) and the [African Union Convention](#) against Corruption, which provide tools to combat corruption, including in favour of whistleblowers, the country has not yet adopted a specific law to protect them.

Furthermore, despite several legislative provisions and control bodies to combat corruption, their effectiveness seems limited regarding the few investigations, prosecutions, and convictions related to this offence.

Finally, regarding freedom of expression, press freedom, and media rights, Senegal, once considered a model in West Africa, has experienced some setbacks in recent years. Thus, Senegal faces the challenge of restoring its exemplary position by implementing all necessary measures to ensure the safety of journalists and facilitate the exercise of their profession.

1. ANALYSIS OF THE LEGAL FRAMEWORK

1.1 Whistleblower laws and policies

Whistleblower protection is a crucial aspect of the fight against financial crime. This section explores the laws, measures, and mechanisms implemented in Senegal to ensure the protection of whistleblowers. It examines the rights and guarantees afforded to whistleblowers, the protection mechanisms in place, and the persistent challenges related to this protection.

- **Absence of specific provisions regarding whistleblower protection in domestic law**

Senegal ratified the [United Nations Convention against Corruption](#) on December 14, 2005, underscoring the need to establish effective protection against retaliation, intimidation, and threats to witnesses, victims, or experts. The country also ratified the [African Union Convention on Preventing and Combating Corruption](#) on February 15, 2007. Under these treaties, Senegal should adopt legislative measures to protect whistleblowers against retaliation, but the country currently lacks any specific legislation.

More generally, before adopting a specific law on whistleblower protection, provisions in the criminal procedure code could effectively contribute to the protection of key witnesses, allowing for their deposition/testimony in anonymity, etc. These provisions are contemplated within a draft law prepared by the Ministry of Justice and transmitted to the head of Government. Furthermore, Senegal is also considering a draft law on whistleblowers that is currently being developed at OFNAC with the support of PPLAAF.

At this stage, in the absence of specific provisions adopted in Senegal, provisions regarding professional secrecy apply: secrecy is protected but not opposable to judicial authorities, thus allowing employees or key witnesses to testify before the authorities (see below).

The Preamble of the Senegalese [Constitution](#) affirms the attachment of the "Sovereign People of Senegal (...) to transparency in the conduct and management of public affairs as well as to the principle of good governance," yet this does not translate into concrete measures for whistleblowers in domestic law. Thus, Law No. 65-60 of July 21, 1965, establishing the

[Penal Code](#), contains no provisions for protecting these actors but condemns "the revelation of secrets." In this regard, Article 363 stipulates that healthcare personnel and "any other persons entrusted, by status, profession, or temporary or permanent functions, with secrets entrusted to them, who, except where the law obliges or authorises them to act as whistleblowers, have disclosed these secrets, shall be punished by imprisonment for one to six months and a fine of 50,000 to 300,000 francs CFA (...)."

Article 363 further specifies that "professional secrecy is never opposable to the judge for the needs of investigations (...), to judicial police officers and to agents of the General Directorate of Taxes and Domains acting within the framework of preliminary investigations conducted on written instructions from the Special Prosecutor at the Court of Repression of Illicit Enrichment (...)." The same code sanctions perjury under Articles 355 to 359 and slanderous accusations under Article 362.

According to the same approach, Law No. 97-17 of December 1, 1997, establishing the [Labour Code](#), in its Article L.56 specifies that "dismissals made without legitimate reasons, as well as dismissals motivated by the opinions of the worker, their trade union activity, their membership or non-membership in a specific union, in particular, are abusive." This provision indirectly protects any whistleblower, like any employee, from abusive dismissal sanctions in response to the disclosure of information.

- **Law No. 2012-30 of December 28, 2012: Establishing the National Office for the Fight against Fraud and Corruption (OFNAC)**

[Law No. 2012-30 of December 28, 2012](#), established the National Office for the Fight against Fraud and Corruption (OFNAC). It is an independent administrative authority with the objectives of preventing and combating fraud, corruption, related practices, and associated offences to promote integrity and probity in the management of public affairs (Article 2). OFNAC's mission includes "collecting, analysing, and making available to the judicial authorities responsible for prosecutions information relating to the detection and repression of acts of corruption, fraud, and related practices committed by any person exercising a public or private function" as well as "receiving complaints from individuals or legal entities relating to acts of corruption, related practices, or connected offences" (Article 3). OFNAC may, for the performance of its missions: "hear any person presumed to have taken part in the

commission of one of the acts provided for by law" and "collect any testimony, information, or document useful, without professional secrecy being able to be opposed to it."

In its [2021 activity report](#), the Complaints Office of OFNAC reported receiving 100 complaints and denunciations, bringing the total number of complaints recorded since the creation of OFNAC to 1750. In 2021, the President signed 90 orders to open investigations and notified the Investigation Department for execution. Anonymous complaints accounted for 35% of complaints in 2021, 5 points higher than the previous year (30.23%).

- **Law No. 2012-22 of December 27, 2012: Establishing the Code of Transparency in Public Finances Management**

In accordance with Law No. 2012-22 of December 27, 2012, establishing the Code of Transparency in Public Financial Management, public officials are required to report violations of the law to the judicial authorities. Article 7.3 of this law specifies that sanctions, in accordance with the principles of the rule of law, are provided against any person, whether elected or public official, who violates the rules regarding the use of public funds, and that "failure to report to the justice system any violation of these rules by a public official who has become aware of it is criminally sanctioned." However, there is currently no legal mechanism to protect public officials against potential workplace reprisals or civil and/or criminal proceedings in response to such potential disclosures.

1.2 Laws and measures related to combating financial crime

This section focuses on the measures taken by the Senegalese government to combat financial crime. It examines legislative reforms, policies, and initiatives aimed at promoting transparency, integrity, and accountability in the management of public affairs. While acknowledging the efforts made, it also highlights persistent challenges and prospects for improvement in the fight against financial crime in Senegal.

- **Fight Against Corruption**

According to a [survey](#) conducted between December 2020 and January 2021 by Afrobarometer, a pan-African research network, 75% of Senegalese people believe that corruption has increased in the country during the indicated period. The survey also reveals

the reluctance of Senegalese people to denounce these acts out of fear of reprisals. In its 2022 report on the [Corruption Perceptions Index \(CPI\) worldwide](#), Transparency International ranks Senegal 72nd out of 180 countries with a score of 43/100. However, Senegal has several institutions, a national [strategy, and laws dedicated to combating this phenomenon](#).

Thus, the Senegalese [Penal Code](#) severely punishes active and passive corruption by public officials and private actors under articles 159 to 163. Article 12 of [Law No. 2012-30 of December 28, 2012](#), allows the OFNAC to take up "any act of fraud, corruption, or any offence [...] of which it becomes aware" on its own initiative.

However, some members of Senegalese civil society, such as [Birahim Seck](#), coordinator of [Forum Civil](#), consider that "OFNAC is not an effective institution." In this regard, it seems that several reports from the institution have been transmitted to the public prosecutor, but no action has been taken, which is all the more problematic as Article 14 of Law No. 2012-30 specifies that "(...) the transmission of the report to the public prosecutor divests the OFNAC of jurisdiction." Some voices from civil society also deplore that the institution's activity reports are not systematically made public.

- **Law No. 81-53 and Law No. 81-54 of July 10, 1981: Creating the offence of illicit enrichment and the Court of Repression of Illicit Enrichment (CREI)**

The [Penal Code](#) also sanctions illicit enrichment under Article 163 bis. The offence of illicit enrichment occurs when "upon simple notice, one of the persons designated above is unable to justify the lawful origin of the resources that allow them to possess assets or lead a lifestyle unrelated to their lawful income." Article 163 bis specifies that the lawful origin of assets can be proven by any means. Therefore, [Law No. 81-54 of July 10, 1981](#), created the Court of Repression of Illicit Enrichment (CREI). Revived in 2012 by Macky Sall after a 30-year hiatus, the CREI has handed down only two convictions in eleven years and has become obsolete. It also faces numerous criticisms from human rights defenders due to the impossibility of appealing its decisions. On July 21 2023, deputies adopted the law amending the CPP and establishing the Financial Judicial Pool (PJF) with a specialised public prosecutor's office. The Minister of Justice believes that this PJF will modernise the fight against financial crime by addressing the human resources and specialisation issues encountered by the CREI.

- **Law No. 2012-22 of December 27, 2012: The obligation of asset declaration by holders of public authority**

The law establishing the [Code of Transparency in Public Financial Management](#) provides, in Article 7.1, that "holders of any public authority, elected officials, or public officials, shall declare their assets at the beginning and end of their term or function. A [specific law](#) specifies the conditions and scope of application of this principle and defines offences and sanctions for any illicit enrichment."

- **Decree No. 2007-809 of June 18, 2007: Regarding the General Inspectorate of State (IGE)**

In Senegal, the [General Inspectorate of State \(IGE\)](#), whose organisation is defined by [Decree No. 2007-809 of June 18, 2007](#), has among its attributions "the management of financial resources and accounting." It also has the power to conduct "investigations and inquiries into the regularity and transparency of the management of public funds, materials, and assets." The Forum Civil, which has already initiated the debate on the [credibility of this institution](#), advocates for the IGE to be endowed with the power [of self-referral](#) and the power to transmit its reports to prosecuting authorities regarding acts of corruption.

- **Law No. 2018-03 of February 23, 2018: Regarding the fight against money laundering and terrorist financing (AML/CFT)**

The AML/CFT law requires the country to establish a national AML/CFT framework covering several aspects, including the following:

1. The country must conduct its national risk assessment and identify vulnerabilities to money laundering (ML) and terrorist financing (TF).
2. Obligated entities (financial institutions and DNFBPs) must conduct their risk assessments.
3. Obligated entities must implement an effective AML/CFT framework to significantly mitigate ML/TF activities and submit suspicious transaction reports to the financial intelligence unit (CENTIF).

4. Obligated entities failing to meet their obligations must face administrative and disciplinary sanctions.
5. CENTIF must be autonomous, operational, and adequately resourced with technical, financial, and human resources to fulfil its missions. CENTIF is an independent administrative authority under the supervision of the Minister of Finance. Its mission includes processing and transmitting information for the fight against ML and TF. CENTIF also handles suspicious transaction reports and can oppose the execution of a transaction based on severe, consistent, and reliable information. When operations reveal facts that may constitute the offence of money laundering or terrorist financing, CENTIF submits a report to the Public Prosecutor, who must refer the case to the investigating judge.
6. The country must establish mechanisms to freeze the assets of terrorist individuals and organisations.
7. Both individuals and legal entities can be held criminally liable for offences related to money laundering and/or terrorist financing.
8. The country establishes mechanisms to seize, manage, and confiscate the assets of criminals. In this regard, Senegal has established the National Office for the Recovery of Criminal Assets (ONRAC) since Law No. 2021-34 of July 23, 2021. Notably, ONRAC conducted at least two auctions in 2023, with sales exceeding 500 million francs CFA.

Following the country's mutual evaluation by the Inter-Governmental Action Group against Money Laundering in West Africa (GIABA), the FATF placed the country on its "grey list" in February 2021, publicly listing countries with weak AML/CFT regimes and implementing enhanced monitoring, which is ongoing.

1.3 Media rights and freedom of expression

Freedom of expression, press freedom, and media rights play a crucial role in whistleblowing. These fundamental rights enable whistleblowers and journalists to disclose sensitive information safely, shed light on wrongdoing, and protect the public interest. Respecting

these rights promotes an environment conducive to transparency, accountability, and the disclosure of information in the public interest.

- **Legislation on Press Freedom and Media Rights**

The Senegalese [Constitution](#) guarantees freedom of opinion, freedom of expression, freedom of the press, and the right to pluralistic information in Article 8. Article 10 states: "Everyone has the right to express and disseminate freely their opinions by word, pen, image, peaceful demonstration, provided that the exercise of these rights does not infringe upon the honour and consideration of others, nor public order." Article 11 adds, "The establishment of a press body for political, economic, cultural, sports, social, recreational, or scientific information is free and is not subject to any prior authorisation." Finally, Article 13 specifies, "The secrecy of correspondence, postal, telegraphic, telephonic, and electronic communications is inviolable. Restrictions on this inviolability can only be ordered in accordance with the law."

Therefore, in Senegal, there is a genuine constitutional recognition of media rights, freedom of expression, and the right to information. This protection should theoretically promote the exercise of journalism. However, severe penalties, including imprisonment, are in force for press offences.

Thus, Article 261 of the [Penal Code](#) specifies that "defamation committed against individuals (...) shall be punishable by imprisonment from three months to two years and a fine of 100,000 to 1,000,000 francs CFA or one of these two penalties only (...)." For defamation against Courts and Tribunals, the Army and public administrations (Article 259), or any representative of public authority (Article 260), the penalty is even more severe, ranging up to two years imprisonment and a fine of 1,500,000 francs.

In 2017, Senegal adopted [Law No. 2017-27, establishing the Press Code](#). Article 194 of this new Code provides for very severe criminal sanctions, including up to two years imprisonment for acts of defamation or three years for the publication of "false news" likely to "undermine public morale" or "discredit public institutions," according to [Reporters Sans Frontières \(RSF\)](#). "The retention of numerous and very heavy custodial sentences for simple press offences (...) poses significant threats to journalism in Senegal," expressed Assane Diagne, then RSF's West Africa director.

- **Press freedom in Senegal: An alarming setback**

In 2021 during a radio program, journalist and editor of the newspaper "Le Quotidien," [Madiambal Diagne](#), asserted that the judge and president of the Union of Magistrates of Senegal (UMS), Souleymane Téliko, had been criticised in a report by the European Union for unduly claiming mission expenses for accommodation in Chad, even though the costs had been covered by the Chadian government. Judge Téliko, therefore, decided to sue the journalist for defamation. On 17 June 2021, the Dakar Criminal Court found the journalist guilty of the charges and sentenced him to six months imprisonment, including three months imprisonment, a fine of 600,000 CFA francs and ordered him to pay damages of 5,000,000 CFA francs. Several members of civil society, including the [NGO Article 19](#), found the sentence disproportionate and a serious attack on freedom of expression and of the press.

[The Media Foundation for West Africa \(MFWA\)](#) also expressed concern over this conviction, considering it "regressive for a journalist to face criminal charges and custodial sentences for defamation in the exercise of his duties, especially in a democratic country." MFWA urged the authorities to release the journalist and amend the legislative framework to decriminalise press offences.

Senegal is reputed to be one of the West African countries with the greatest respect for press freedom. However, over the past two years, Senegal has suffered an alarming decline in this regard, reflected in its score evolution in the RSF ranking: 49th in 2021, the country fell to 74th place in 2022, and to [104th place in 2023](#), a drop of 55 places in two years. This can be explained by the fact that 2022 was marked by an increase in arrests and violence against journalists, particularly by political actors. As RSF points out, "For the first time since 2004, an investigative journalist has spent nearly two months in prison, accused, among other things, of having divulged information likely to harm national defence and false news likely to discredit public institutions".

Over the past few years, Senegal faced a [series of violations of press freedom](#); Notably when, in March 2021, the prominent opposition leader to the president of the Republic, Ousmane Sonko, was arrested for the alleged rape of a massage parlour employee, leading to a popular uprising in his favour in several cities of the country. During these events, the National Audiovisual Regulation Council (CNRA) suspended the signal of the private television

channels [SenTv and WalfadjriTV](#) for 72 hours, accusing them of "irresponsible coverage of the situation" and "flagrant violations of regulations." RSF also specifies that the premises of the private radio RFM and the newspapers l'Observateur and Le Soleil were [attacked by individuals](#). During rallies in support of Ousmane Sonko, journalists were also injured by the police. Finally, disruptions were recorded regarding access to certain social networks such as YouTube, Facebook, and WhatsApp. During these demonstrations, fourteen people reportedly lost their lives, twelve of them due to gunfire from defence and security forces, according to [Amnesty International](#). In June 2022, the editing team of the [Television Futurs Médias \(TFM\)](#) was prevented from covering the preparations for an opposition rally in Dakar.

Since [March 2023](#), worrying signs have emerged, showing a significant increase in violations of freedom of expression and the press. Recurring episodes of tension between the government and the opposition, Ousmane Sonko, have marked the Senegalese political scene. After a lengthy legal battle, Sonko was apprehended in Dakar on July 31, 2023, while the government mentioned the intention to dissolve his political party. Demonstrations erupted, mainly among the opponent's supporters, resulting in violent clashes with law enforcement and, unfortunately, leading to numerous deaths in various regions of the country.

In response, the Senegalese authorities [suspended access to the internet via mobile data](#) for several days and banned the TikTok application due to "its use for the spread of hateful and subversive messages." A situation strongly condemned by [Amnesty Senegal](#).

In its annual report, [Freedom in the World 2023](#), Freedom House classified the Senegalese press as "partly free", with a score of 68/100.

1.4 The Access to Information Act and Secrecy Laws

In this section, we will discuss the importance of access to public information for whistleblowers and journalists. These individuals who expose illicit behaviours within the public administration require reliable information to support their disclosures. The right to access public information ensures transparency and accountability, providing enhanced protection to whistleblowers and journalists who can rely on concrete facts when disclosing sensitive information.

- **Lack of a law on access to public information**

The right to information is a right enshrined in the [Constitution](#) in Article 8 (right to pluralistic information). Still, Senegal does not have a specific law on access to public information. While several laws allow access to [specific information](#), to date, no text has been adopted that standardises all of these provisions.

However, in [2020](#), the terms of reference for the general law on access to information were shared between the Ministry of Justice and civil society. This law was supposed to be adopted in 2021, but despite [advocacy](#) efforts by NGOs such as Article 19, Forum Civil, and the Panos Institute, the situation has not progressed since 2020.

Adopting this law would concretise citizens' right to information, an essential element in promoting transparency, good governance, and the rule of law. Adopting such a law also has the potential to improve the working conditions of journalists, especially investigative journalists, and facilitate the practice of whistleblowing in Senegal.

2. ANALYSIS OF THE FACTS: WHISTLEBLOWER CASES

This section aims to list known and public cases of whistleblowers to assess the treatment afforded to whistleblowers in the country.

There are no known cases of public whistleblowers in Senegal.

3. RECOMMENDATIONS: WEAKNESSES AND NEEDED REFORMS

In this section, the focus will be on suggesting areas for improvement for the State regarding the protection of whistleblowers, current legislation against financial crime, the government's commitment to combating this problem, and the respect for individual liberties, including the right to information, freedom of the press and expression, as well as media rights.

- **Whistleblowing and the fight against corruption**

In Senegal, there is a lack of measures to protect whistleblowers, despite the country's commitment to integrating them into its legislation by adhering to the United Nations and African Union conventions against corruption.

- A specific law is necessary to establish an adequate framework for protecting whistleblowers.
- It would also be advisable for Senegal to develop and adopt a comprehensive and effective law on access to public information, aiming to promote transparency and reduce corruption.
- Finally, from the perspective of strengthening the fight against corruption, the powers of the OFNAC could be strengthened, and its authority expanded to allow individuals to report misconduct cases beyond corruption and fraud.
- **Preservation of individual freedoms**

Today, Senegal faces the challenge of preserving individual freedoms, including the right to information and freedom of expression and the press.

- It is essential that the country continues to be a model in West Africa in terms of stability and respect for the principles of the rule of law, particularly in a regional security context marked by the fight against terrorism and the increase in military coups.

4. KNOWLEDGE, SUPPORT, AND ACTION CENTRES:

In this section, we will explore the landscape of civil society organisations, NGOs, and citizen movements that actively engage in promoting good governance. These entities represent valuable sources of knowledge and expertise, playing a crucial role in strengthening democratic practices.

The Platform to Protect Whistleblowers in Africa (PPLAAF) has a representative office in Dakar, Senegal, called [*Maison de l'Alerte*](#). It is a central hub and a privileged space for African whistleblowers, as well as for individuals and organisations involved in raising awareness about whistleblowing. Maison de l'Alerte also serves as a platform for discussions on democratic issues, the fight against corruption, and money laundering. It is also a meeting place for a wide variety of stakeholders who can act as a citizen shield for whistleblowers.

In Senegal, PPLAAF has identified a significant deficit in the understanding of the concept of whistleblowing among the population and professionals. This was evidenced by a recent awareness training session on whistleblowing conducted by PPLAAF and [Expertise France](#) as part of the OCWAR-M project, funded by the European Union and intended for the Senegalese Bar Association. During a training session for lawyers in Senegal, held in February 2022, PPLAAF realised that even for these professionals, whistleblowing remains poorly understood. Therefore, urgent action is needed in this regard.

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[Forum Civil](#) is the Senegalese section of Transparency International. This NGO aims to contribute to the improvement of the legal, regulatory, and institutional framework for fighting corruption. It works with populations to strengthen their capacities, cooperates with the state and its bodies, particularly on proposed laws, and organises awareness-raising and advocacy activities for the improvement of public governance.

The [3D NGO](#) is an organisation that works for the promotion of human rights, local development, democracy, and good governance. Regarding the democracy and good governance component, the NGO has the following missions:

- To promote open governance at the national and local levels,
- To contribute to equitable and rational management of natural and financial resources,
- And to contribute to the quantitative and qualitative participation of citizens in elections and to better management of electoral processes.

The [Afrikajom Center](#) was founded in 2018 by Alioune Tine. It is a regional centre for training and research; a think tank that envisions the construction of a fairer and more equitable world. The Afrikajom Center places the promotion of good governance and the challenges of peace and security at the centre of its actions.

[Publiez ce que vous payez \(PCQVP\)](#) is a coalition of civil society organisations whose objective is to make the extractive sector more transparent and accountable so that the revenues from the oil, gas, and mining industries contribute to improving the living conditions of populations in resource-rich countries.

2. MALI

- **List of acronyms**

AMLCDF: Malian Association for the Fight against Corruption and Financial Crime

AMDH: Malian Association of Human Rights

BVG: Office of the Auditor General

ECOWAS: Economic Community of West African States

CENTIF: Financial Intelligence Unit

CSCPC: Confederation of Cotton Producers' Cooperative Societies

FAMA: Malian Armed Forces

FIDH: International Federation for Human Rights

FATF: Financial Action Task Force

CPI: Corruption Perceptions Index

AML/CFT: Anti-Money Laundering and Counter Financing of Terrorism

MFWA: Media Foundation for West Africa

OCLEI: Central Office for the Fight against Illicit Enrichment

OCWAR-M: Organised Crime, West African Response to Money Laundering and the Financing of Terrorism

NGO: Non-Governmental Organisation

OSIWA: Open Society Initiative for West Africa

PPLAAF: Platform to Protect Whistleblowers in Africa

RFI: Radio France International

RSF: Reporters sans Frontières

SAISA: Strategy for Access to Information within the Administration

UNCAC: United Nations Convention against Corruption

WAMU: West Africa Monetary Union

WAEMU: West Africa Economic and Monetary Union

- **Legal Sources**

[United Nations Convention against Corruption, 2005](#)

[African Union Convention on Preventing and Combating Corruption, 2003](#)

[Constitution of 1992](#)

Draft Constitution of the Republic of Mali, 2023

[Law No. 01-079 of August 20, 2001 on Penal Code](#)

[Law No. 92-020 of September 23, 1992 on Labour Code](#)

[Law No. 1982-40 of April 1, 1982 on the Repression of Corruption](#)

[Law No. 2016-008 of March 17, 2016 on the uniform Law on the fight against Money Laundering and Terrorism Financing](#)

[Law No. 2012-009 of February 8, 2012 repealing and replacing Law No. 03-30 of August 25, 2003, establishing the Auditor General](#)

[Law No. 00-046 of July 7, 2000 on the Press Regime and Press Offences](#)

[Law No. 2019-056 of December 5, 2019 on the repression of Cybercrime](#)

[Law No. 98-012 of January 19, 1998 governing relations between Administration and Users of Public Services](#)

[Decree No. 03-580 / P-RM of December 30, 2003 establishing the terms of Application of the Law Governing Relations between Administration and Users of Public Services](#)

- **Executive Summary**

Mali ratified the [United Nations Convention against Corruption](#), which provides for the integration of provisions protecting whistleblowers into its national legal framework. However, to date, no protective measures have been implemented by Malian legislation.

Furthermore, the efforts made by Malian authorities to combat corruption have seemingly not yet reached the desired level of effectiveness. Several factors may contribute to this, such as a possible lack of political will and the failure to update specific legislative instruments and control mechanisms.

These elements, combined with the challenges posed by the security crisis and a repressive climate towards journalists, are not conducive to the establishment of a legal framework for protecting whistleblowers.

1. ANALYSIS OF THE LEGAL FRAMEWORK

1.1 Whistleblowers laws and policies

Whistleblower protection is crucial to the fight against financial crime. This section explores Mali's laws, measures, and mechanisms to protect whistleblowers. It examines the rights and

guarantees afforded to whistleblowers, the protection mechanisms in place, and the persistent challenges related to this protection.

- **Ratification of International and Regional Conventions against Corruption**

At the international level, Mali ratified the [United Nations Convention against Corruption in 2003](#) on April 18, 2008. This convention, in its Articles 32 and 33, requires the State to establish effective protection for "witnesses, experts, or victims" against retaliation they may face as a result of their statements.

Mali also ratified the [African Union Convention on Preventing and Combating Corruption in 2003](#) on December 17, 2004. This convention also requires the State to adopt legislative measures to protect informants and witnesses of acts of corruption and related offences against retaliation.

Thus, at the international and regional levels, by ratifying these conventions, Mali committed to establishing protective legislation for individuals who disclose sensitive information or illegal acts. However, to date, the country lacks any legal framework in this regard.

- **Absence of National Legislation in Favour of Whistleblowers**

Domestically, the [Constitution](#) of 1992 does not specifically mention principles such as transparency or good governance. This text is expected to change as a [draft Constitution](#) was submitted to the desk of President of the transition, Colonel Assimi Goita, on October 11, 2022. The preamble of the draft indicates that the State "undertakes to take all necessary actions to combat corruption and illicit enrichment and promote transparent governance," and mentions "transparency" twice. The text was submitted to a referendum in March 2023 and was [approved](#) by Malians in June 2023. It is now hoped that these commitments will be translated into concrete actions by the Malian government.

At the legislative level, Law No. 01-079 of August 20, 2001, of the [Penal Code](#) does not provide for any provisions for the protection of whistleblowers. However, the same code dedicates a section to sanctioning the disclosure of secrets. Indeed, Article 130 is worded as follows: "All those who, being depositaries, by status or profession, of the secrets entrusted to them, except where the law obliges them to report, have revealed these secrets, shall be punished by imprisonment of six months to two years and optionally by a fine of 20,000 to

150,000 francs (...)." Article 130 further adds that the same penalties shall apply to members of all jurisdictions guilty of violating the secrecy of deliberations. When the perpetrator of such acts is a civil servant or an agent of the administration, the penalty is increased to imprisonment for three months to five years and a fine of 20,000 to 240,000 francs. Accompanying this is an additional penalty consisting of a prohibition to exercise any function or public employment for at least five years and at most ten years. Apart from these cases, any suppression or opening of correspondence addressed to third parties, done in bad faith, shall be punished by the same penalties.

Article 247 of the same code penalises false denunciation. It defines it as "the intentionally false denunciation of a false fact, likely to expose the subject to an administrative sanction or judicial proceedings."

Law No. 92-020 of the Labour Code of September 23, 1992, contains no provisions protecting whistleblowers. However, dismissal is considered abusive when it is motivated by the "opinions of the worker (...)" (Article L.51).

Article L.293 of Law No. 92-020 concerns labour inspectors and is worded as follows: "Labour inspectors and controllers swear to fulfil their duties well and faithfully and not to reveal, even after leaving their service, trade secrets and in general, the operating processes they may become aware of in the exercise of their functions. This oath is taken before the Court of Appeal for inspectors and the Court of First Instance for controllers. Any violation of this oath is punished in accordance with the provisions of the Penal Code. They must treat as confidential any complaint reporting a defect in the installation or a violation of legal or regulatory provisions."

- **The Central Office for the Fight against Illicit Enrichment (OCLEI) and Its Role in Receiving Reports of Illicit Enrichment**

Since 2001, Mali has established the [Central Office for the Fight against Illicit Enrichment \(OCLEI\)](#). It is an independent administrative authority with financial autonomy established by Decree No. 01-067/P-RM of February 12, 2001.

OCLEI's mission is to implement preventive, control, and anti-illicit enrichment measures at the national, sub-regional, regional, and international levels. According to Article 4 of the

decree establishing OCLEI, it is responsible for "(...) receiving complaints, reports, and complaints from individuals or legal entities relating to acts of illicit enrichment." OCLEI may, based on serious, consistent, and reliable information in its possession, refer the matter to the Prosecutor of the competent Economic and Financial Pole.

However, no protection measures against retaliation are provided for whistleblowers, and OCLEI does not have the power to sanction those guilty of acts of illicit enrichment directly.

- **Law on the Fight Against Money Laundering and Terrorism Financing and its Limited Protection for Informants**

Finally, Mali has also adopted [Law No. 2016-008 of March 17, 2016](#), on the uniform law against money laundering and terrorism financing (see 1.2). Article 83 of this law establishes specific protection against professional sanctions and civil and criminal proceedings for breach of professional secrecy to individuals or managers who make good faith suspicious activity reports. Article 95 of the law establishes protection for witnesses and anonymous testimony. However, this limited protection does not allow Mali to align with the standards of the UNCAC.

Therefore, Mali has no specific legislative provisions for the protection of whistleblowers.

1.2 Laws and measures related to combating Financial crime

This section focuses on the measures the Malian government took to combat financial crime. It examines legislative reforms, policies, and initiatives aimed at promoting transparency, integrity, and accountability in the management of public affairs. While acknowledging the efforts made, it also highlights persistent challenges and prospects for improvement in Mali's fight against financial crime.

- **Fight against corruption**

Malian society is said to be facing a concerning problem of corruption, which some even describe as "[endemic](#)," raising concerns about its effects on the functioning of society as a whole. In its 2022 [Corruption Perceptions Index](#) (CPI) worldwide, Transparency International ranked Mali 137th globally out of 180 countries, with a score of 28 points out of 100; a score almost similar to that of 2021 (29 points/136th), but a decrease compared to 2020 when the

country ranked 129th with 30 points. Corruption is penalised by the [Penal Code](#); in this regard, Articles VI (Articles 108 to 109) and VIII (Articles 120 to 123) sanction embezzlement, corruption of officials and employees of private companies, and influence peddling.

- **Law No. 82-40/AN-RM of April 1, 1982, on the Repression of Corruption**

The fight against corruption is also enshrined in [Law No. 82-40/AN-RM of April 1, 1982](#), on the repression of corruption. Although concise, this law penalises the corruption of officials and public servants, as well as the corruption of "any clerk, employee, servant, agent, worker, or remunerated in any form who, either directly or indirectly, has, without the knowledge and consent of his employer, has solicited or accepted offers or promises, or has solicited or received gifts, presents, commissions, discounts, or bonuses to perform or refrain from performing an act of his employment" (Article 2).

- **Office of the Auditor General (BVG)**

Regarding control authorities, Mali has established the [Office of the Auditor General](#) (BVG) instituted by Law No. 03-030 of August 25, 2003, which was repealed and replaced by [Law No. 2012-009 of February 8, 2012](#), defining its missions, status, and function. It is considered an independent administrative authority (Article 1), although the Auditor General is appointed by decree of the President of the Republic based on a call for applications procedure. Another decree by the President determines the modalities of the selection process (Article 3). Among other missions, it is tasked with "auditing the regularity and sincerity of the revenues and expenditures made by the institutions of the Republic, the civil and military administrations of the State, the local authorities, the public establishments" (Article 2).

Article 11 of the law specifies that the Auditor General is bound by professional secrecy and cannot comment on the files they have dealt with within the exercise of their functions, even at the end of their term. Article 12 specifies that "any natural or legal person who wishes a public structure and any other structure benefiting from financial assistance from the State to be subject to verification submits a written request to the Auditor General, providing him with the necessary information to conduct his investigation." The Auditor General must assess the seriousness of the information provided and decide on the next steps. They may also take up any matter falling within their jurisdiction on their initiative.

When, in the exercise of their functions, the Auditor General becomes aware of facts constituting offences under budgetary or financial legislation, they may refer the matter to the higher court of public finance control. When the facts are likely to constitute a crime or offence, the president of the aforementioned jurisdiction forwards the file to the Minister of Justice (Article 17). The Auditor is also empowered to prescribe conservatory measures for the safeguarding of public property and funds, excluding measures depriving liberty (Article 16). Thus, when the Auditor becomes aware of acts of corruption in public administrations, they are not empowered to penalise the officials.

- **Other Anti-Corruption Measures**

Furthermore, the [Constitution](#) of 1992 requires the President of the Republic to declare his assets upon assuming office (Article 37), a measure retained in the draft Constitution adopted this year (Article 56). This obligation also applies to the Prime Minister, Ministers, and other members of the government. It is enforced upon assuming office and requires annual updates. The President of the Supreme Court is empowered to verify the regularity and truthfulness of these declarations (Article 57).

In December 2021, Mali initiated the development of a [national strategy](#) for good governance and the fight against corruption. The Malian Association for the Fight against Corruption and Financial Crime ([AMLCDF](#)) "hopes that this new strategy will effectively combat corruption." The strategy is not available online to date.

- **Fight against money laundering and terrorism financing**

Like its neighbours, Mali has adopted [Law No. 2016-008](#) strengthening the fight against money laundering and the financing of terrorism.

On 2 July 2015, the Council of Ministers of the WAMU zone adopted the draft uniform law on the fight against money laundering and terrorist financing. The eight member countries of WAMU and WAEMU had six months to internalise the law into their domestic legal order. Internalisation took place in various countries between December 2015 and December 2018.

The 2015 Uniform Act, which replaced the previous 2008 Uniform Act, incorporated the new 2012 revisions of the FATF standards. The new law made it possible to merge the texts

relating to the fight against money laundering and terrorist financing and to take into account aspects relating to the proliferation of weapons of mass destruction.

Furthermore, the current law introduced the prohibition of cash transactions for amounts exceeding 10 million francs. It expanded the category of designated non-financial professional entities (DNFPEs), which are essentially non-financial institutions that could be used for money laundering or terrorism financing purposes due to their nature.

The AML/CFT law requires the country to establish a national AML/CFT framework covering several aspects, including:

1. The country must conduct its national risk assessment and identify vulnerabilities to money laundering (ML) and terrorist financing (TF).
2. Obligated entities (financial institutions and DNFBPs) must conduct their risk assessments.
3. Obligated entities must implement an effective AML/CFT framework to significantly mitigate ML/TF activities and submit suspicious transaction reports to the financial intelligence unit (CENTIF).
4. Obligated entities failing to meet their obligations must face administrative and disciplinary sanctions.
5. CENTIF must be autonomous, operational, and adequately resourced with technical, financial, and human resources to fulfil its missions. CENTIF is an independent administrative authority under the supervision of the Minister of Finance. Its mission includes processing and transmitting information for the fight against ML and TF. CENTIF also handles suspicious transaction reports and can oppose the execution of a transaction based on serious, consistent, and reliable information. When operations reveal facts that may constitute the offence of money laundering or terrorist financing, CENTIF submits a report to the Public Prosecutor, who must refer the case to the investigating judge.
6. The country must establish mechanisms to freeze the assets of terrorist individuals and organisations.
7. Both individuals and legal entities can be held criminally liable for offences related to money laundering and/or terrorist financing.

8. The country establishes mechanisms to seize, manage, and confiscate the assets of criminals.

Following the country's mutual evaluation conducted by the Intergovernmental Action Group against Money Laundering in West Africa (GIABA), the FATF placed the country on its "grey list" in October 2021. This list aims to publicly identify countries whose AML/CFT regimes are considered inadequate according to international standards and have implemented enhanced monitoring, which is still ongoing.

1.3 Media Rights and Freedom of Expression

Freedom of expression, press freedom, and media rights are crucial in whistleblowing. These fundamental rights enable whistleblowers and journalists to disclose sensitive information safely, shed light on wrongdoing, and protect the public interest. Respecting these rights promotes an environment conducive to transparency, accountability, and the disclosure of information in the public interest.

- **Constitutional and Legislative Framework on Freedom of Expression and the Press**

The 1992 [Constitution](#) guarantees freedom of expression (Article 4), the secrecy of correspondence (Article 6), freedom of the press, and access to information (Article 7). These rights are still included in the draft Constitution adopted by Mali in 2023 (Articles 14, 15, and 12).

At the legislative level, Mali [has Law No. 00-046/AN-RM of July 7, 2000](#), on the regime and press offences. This law provides for imprisonment sentences for press offences. For example, under Article 39, defamation is punishable by imprisonment ranging from eleven days to six months and a fine.

[Law No. 2019-056 on cybercrime](#) contains concerning provisions regarding privacy and online freedom of expression. Indeed, Articles 74 to 78 authorise the search and seizure of data in criminal procedures but do not establish a clear procedure regarding the storage, processing, and deletion of data collected or copied during these searches. This could jeopardise the protection of journalists' sources.

Furthermore, Articles 83 to 86 of the same law allow for real-time surveillance by intercepting communications. Communication service providers are required to cooperate with authorities to facilitate these interceptions. Providers are also required to implement control mechanisms for potentially illegal activities. Refusal to inform authorities about these activities is punishable by imprisonment ranging from six months to two years and a fine of 500,000 to 2,000,000 CFA francs. Thus, the interpretation and application of these articles could be abused by a government unconcerned about respecting individual freedoms and human rights, for example.

- **Restrictions and Violations of Freedom of Expression and the Press in Mali**

Mali is currently engulfed in [a security crisis due to jihadist insurgency](#); hence, the northern and central regions of the country remain particularly dangerous for journalists. This is illustrated by the abduction of French journalist [Olivier Dubois](#), who was [released in March 2023](#) after 23 months of captivity. Moreover, the country faces political instability, with two successive coups occurring in August 2020 and May 2021, as well as a foiled coup attempt in September 2023. Since these events, the country has been governed by a military junta led by Colonel Assimi Goita, who is currently the President of the Transition of the Republic of Mali. All these factors test the exercise of freedom of expression and the press.

In 2023, Mali ranked 113th out of 180 in the global ranking of [Reporters Sans Frontières \(RSF\)](#) on press freedom, representing a degradation of 14 places compared to 2020. Mali is considered "not free" according to Freedom House. In its annual report [Freedom in the World 2023](#), Mali scores 29/100, losing twelve points compared to 2020, during which it was considered "partly free."

The [Media Foundation for West Africa \(MFWA\)](#) and its partners have expressed concerns about the deterioration of freedom of expression in Mali and the rest of the Sahelian region. According to the MFWA, the safety of journalists has become a real cause for concern following recent terrorist attacks. Journalists regularly face reprisals (threats, intimidation, arrests, arbitrary detentions, fines) for their expressions or positions and for the publication of certain articles or reports. This situation has forced many journalists into self-censorship or to abandon their profession.

In this regard, journalist [Malick Konaté](#), editor-in-chief of Horon TV, a press organisation in Bamako, was assaulted in June 2022 by masked individuals who smashed the windows of his vehicle before fleeing. He believes the attack is related to his work and intended to intimidate him. Due to his positions, he believes that the supporters of the transition consider him an opponent in the pay of the West.

The suspension in March 2022 of the [RFI and France 24](#) channels in the country is also worth mentioning. Malian authorities accuse these channels of broadcasting "baseless allegations" after they disclosed the results of an investigation indicating that the Malian armed forces (FAMA) were involved in abuses against civilians. Malian authorities particularly accuse the French channels of "spreading hatred by ethnicising insecurity in Mali." In February 2022, Malian authorities expelled [Benjamin Roger](#), a French journalist from Jeune Afrique specialising in Sahel affairs for nearly a decade, less than 24 hours after his arrival.

- **The Fight Against Terrorism: An Obstacle to the Profession of Journalism in Mali**

The MFWA also points out that "terrorism and measures taken to counter it have led to fierce competition to gain the empathy and allegiance of the population, both from insurgents and the government. This results in extreme sensitivity of each party to media reports. Consequently, each party tends to pressure journalists to prevent any publication 'unfavourable' to them." Thus, there is widespread self-censorship of the conflict, especially online, as journalists fear being targeted by supporters or opponents of the current regime. It also appears that journalists face difficulties in verifying certain information or challenging certain official statements related to the insurgency, which contributes to the proliferation of misinformation. The MFWA also denounces the use of obsolete laws and the implementation of several army decrees to regulate journalism in Mali.

1.4 The Access to Information Act and Secrecy Laws

In this section, we will discuss the importance of access to public information for whistleblowers and journalists. These individuals who expose illicit behaviours within the public administration require reliable information to support their disclosures. The right to access public information ensures transparency and accountability, providing enhanced

protection to whistleblowers and journalists who can rely on concrete facts when disclosing sensitive information.

- **Law No. 98-012 of January 19, 1998: Limited Access to Administrative Documents**

[Law No. 98-012 of January 19, 1998, governing relations between the Administration and users of public services](#), although brief, allows access to certain administrative documents. Articles 12 to 21 of the law establish general rules for access to information and administrative documents. According to this law, access to nominative administrative documents is free (Article 12), subject to exceptions provided by it (Article 13).

Article 15 specifies that freedom of access to documents does not extend to documents whose consultation and communication may harm: "- the secrecy of government deliberations; - national defence or foreign policy; - the security of the state and public safety; - the conduct of proceedings before the courts or preliminary operations to such proceedings unless authorised by the competent authority; - the secrecy of private life, personal and medical files; - commercial and industrial secrecy; - the search for tax and customs offences; - or, in general, information protected by law. Administrative documents that cannot be disclosed to the public due to their nature or purpose bear, as appropriate, the following protective mentions: - very secret - defence; - secret - defence; - confidential defence; - confidential; - restricted distribution."

The refusal to disclose a document is subject to appeal before the administrative court (Article 17).

However, it appears that implementing this law has been difficult, hence the establishment of a [Strategy for Access to Information within the administration \(SAISA\)](#) in 2006 to highlight obstacles and find appropriate solutions to ensure better access to information. No information available online indicates whether there has been any progress in this regard.

2. ANALYSIS OF THE FACTS: WHISTLEBLOWERS CASES

This section aims to list known and public cases of whistleblowers to assess the treatment afforded to whistleblowers in the country.

- **Fadiala Coulibaly**

[Fadiala Coulibaly](#) is a Malian whistleblower supported and assisted by PPLAAF. As an accountant-auditor at the Confederation of Cotton Producers' Cooperative Societies (CSCPC), he exposed a vast network of allegedly embezzled funds intended for cotton-producing farmers in 2017. The Chairman of the Board of Directors of the CSCPC refused to grant the subsidy due to the farmers. When he discovered what he believed to be a mafia network, Fadiala reported it to his superiors. He even made proposals to the Chairman of the Board of Directors for a better use of resources.

Following his numerous reports, the CSCPC refused to take action and offered him the sum of 30 million CFA francs and to double his salary, an attempt believed to buy his silence. Despite intimidation and attempts to silence him, Fadiala refused to keep quiet and was dismissed in 2017 as a result.

He then approached judicial authorities, including the prosecutor in charge of the Economic and Financial Pole. This led to the arrest of the Chairman of the Board of Directors and his accomplices. Regarding his dismissal, the court recognised it as abusive, but the Court of Appeal only sentenced the CSCPC to five million CFA francs in damages without providing reasons for its decision. Fadiala Coulibaly has filed an appeal in cassation and hopes to obtain justice.

Today, the whistleblower has become a reference and is involved in the fight against corruption in his country.

- **Amadou Traoré**

[Amadou Traoré](#), a Malian whistleblower supported by PPLAAF, denounced the alleged overexploitation and massive trafficking of rosewood in Mali. He worked for a Chinese company specialising in rosewood exportation as an interpreter and linguistic assistant for marketing sesame seeds and motorcycles. During a field visit, he was stunned to discover that the rosewood exported to China came from Mali, not from Ivory Coast, as the company claimed. He also witnessed the alleged destructive and exploitative practices that benefited a few individuals at the expense of local populations.

Traoré did not blow the whistle internally and preferred to make this information public while preserving his anonymity at the beginning. As he continued his research, he realised that several major maritime transporters, national companies, and authorities of Mali's neighbouring countries were believed to be involved in this trafficking. Currently in exile, Amadou Traoré is fully committed to environmental protection, especially the fight against deforestation.

The information and documents shared by Amadou Traoré led to the creation of a consortium of Senegalese journalists tasked with investigating this trafficking. This consortium was established following training on investigative journalism, financial crime, and whistleblowing organised by PPLAAF and [Expertise France](#) as part of the [OCWAR-M](#) project. Under the coordination of PPLAAF, journalists investigated this trafficking for over a year, and the [results of the investigation](#) are available on several Senegalese news channels.

3. RECOMMENDATIONS: WEAKNESSES AND REFORMS

In this section, the focus will be on suggesting areas for improvement for the State regarding the protection of whistleblowers, current legislation against financial crime, the government's commitment to combating this problem, and the respect for individual liberties, including the right to information, freedom of the press and expression, as well as media rights.

- **Strengthening Political Will for the fight against financial crime**

To create an environment conducive to a whistleblowing culture, the Malian State could consider strengthening its policy on combating corruption, money laundering, and terrorist financing, transparency, and good governance.

- An option is to establish an independent administrative authority with effective powers to combat financial crime.

- **Legislative and Institutional Reforms for Whistleblower Protection**

Although a signatory to the UNCAC, Mali currently lacks a legislative framework to provide effective and comprehensive protection to whistleblowers or to promote whistleblowing culture.

- It may be beneficial for Mali to enact specific legislation to protect these actors, as well as a more comprehensive and effective law allowing access to public information. Such measures would promote transparency and contribute to a more effective fight against corruption.
- **Preservation of Individual Freedoms in the Security Context**

The Transitional Government of Mali faces a significant challenge in preserving individual freedoms in a context marked by political instability and the fight against terrorism. In these circumstances, the State needs to take measures to protect journalists against any form of repression or attacks they may regularly face.

4. KNOWLEDGE, SUPPORT, AND ACTION CENTRES

This section explores the landscape of civil society organisations, NGOs, and citizen movements that actively promote good governance. These entities represent valuable sources of knowledge and expertise, playing a crucial role in strengthening democratic practices.

The [Malian Association for the Fight against Corruption and Financial Crime \(AMLCDF\)](#)

is an organisation based in Mali whose main objective is to fight against corruption and financial crime in the country. It works to promote transparency, integrity, and ethics in the management of public and private affairs.

Contact: +223 94 09 83 95

amlcdfmali@gmail.com

The [Malian Association of Human Rights \(AMDH\)](#) is a non-profit organisation dedicated to the defence of human rights, established in Bamako in December 1988. Affiliated with the International Federation of Human Rights Leagues (FIDH), AMDH operates through branches in various cities in Mali. Its objectives include to ensure respect for the rule of law and human rights and fighting against corruption and financial crime.

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Lastly, there is the [Association for Training and Support for Development \(AFAD\)](#), a non-profit organisation focused on developing strategies and capacities for community empowerment promoting peace, good governance and the fight against corruption. Since 2017, this association has been leading the "Concerted Actions to Combat Corruption in Mali" project, conducting studies on the state of anti-corruption efforts in Mali. AFAD also established a [coalition of civil society](#) organisations, comprising approximately fifty members in collaboration with the "Successful Decentralisation" network funded by the Open Society Initiative for West Africa (OSIWA). The coalition received training in anti-corruption measures, citizen oversight, and public engagement.

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3. COTE D'IVOIRE

- **List of acronyms**

AGRAC: Agency for the Management and Recovery of Criminal Assets

AML/CFT: Anti-Money Laundering and Countering the Financing of Terrorism

BCEAO: Central Bank of West African States

CENTIF: Financial Intelligence Unit

CPI: Corruption Perceptions Index

ECOWAS: Economic Community of West African States

FATF: Financial Action Task Force

GIABA: Inter-Governmental Action Group against Money Laundering in West Africa

IMF: International Monetary Fund

NGO: Non-Governmental Organisation

OCWAR-M: Organised Crime, West African Response to Money Laundering and the Financing of Terrorism

PPLAAF: Platform to Protect Whistleblowers in Africa

RSF: Reporters Sans Frontières

SPACIA: National Platform for the Prevention and Detection of Acts of corruption and related offences

WAMU: West African Monetary Union

WAEMU: West African Economic and Monetary Union

- **Legal sources**

[Constitution of Côte d'Ivoire](#)

[Labour Code](#)

[Penal Code](#)

[Law of June 13, 2018, on the Protection of Witnesses, Victims, Whistleblowers, Experts, and Other Concerned Persons](#)

[Law of December 27, 2017, on the Legal Regime of Audiovisual Communication](#)

[Law of December 14, 2004, on the Legal Regime of the Press](#)

[Law of December 23, 2013, on Access to Information of Public Interest](#)

[Law No. 2018-657 of June 13, 2018, on the Legal Regime of Freezing Illicit Assets](#)

[Ordinance No. 2013-660 of September 20, 2013, on the Prevention and Fight against Corruption and Related Offences](#)

[Decree No. 2022-349 of June 1, 2022, determining the powers, organisation, and functioning of the Agency for the Management and Recovery of Criminal Assets](#)

- **Executive summary**

In Côte d'Ivoire, whistleblowers are not explicitly protected by law. However, the law on the protection of witnesses, victims, whistleblowers, experts, and other concerned persons of June 13, 2018, seems to provide some protective measures. Although no one has used this law as a public whistleblower yet, it could apply to such a case.

In October 2021, the Ministry of Good Governance Promotion, Capacity Building, and Anti-Corruption expressed support for protecting whistleblowers, and draft laws were prepared. The ministry initiated work on adopting a whistleblower protection law and continues in collaboration with civil society. Subsequently, the bill will be presented to the National Assembly.

Freedom of expression and the media environment in Côte d'Ivoire have improved in recent years. The amended 2016 Constitution reaffirms that "freedom of thought and freedom of expression [...] are guaranteed to all." Journalists and opposition supporters are no longer subjected to the violent repression that characterised the first decade of the 21st century. However, the criminal sanctions applicable to defamation vary from one law to another, creating a potential bias in the prosecution of defamation cases.

1. ANALYSIS OF THE LEGAL FRAMEWORK

1.1 Whistleblower laws and policies

Whistleblower protection is a crucial aspect of the fight against financial crime. This section explores the laws, measures, and mechanisms implemented in Cote d'Ivoire to ensure the protection of whistleblowers. It examines the rights and guarantees afforded to

whistleblowers, the protection mechanisms in place, as well as the persistent challenges related to this protection.

- **Law on the Protection of Witnesses, Victims, Whistleblowers, Experts, and Other Concerned Persons (2018)**

Côte d'Ivoire does not have a specific law for the protection of whistleblowers. However, in 2018, Côte d'Ivoire enacted a [law on the protection of witnesses, victims, whistleblowers, experts, and other concerned persons](#). This law, adopted on June 13, 2018, provides for protective measures that may be claimed by individuals needing protection. It applies to witnesses, victims, whistleblowers, experts, or any other concerned person whose "physical integrity or property (...) is in danger due to their collaboration or willingness to collaborate in a judicial or extrajudicial procedure to seek the truth." This also includes family members of the witness or a close associate.

The text establishes a protection body, the National Bureau for the Protection of Witnesses, Victims, Whistleblowers, Experts, and Other Concerned Persons, responsible for implementing the necessary protection measures. A decree determining the composition, attributions, organisation, and functioning of the National Bureau for the Protection of Witnesses, Victims, Whistleblowers, Experts, and Other Concerned Persons [was adopted on December 9, 2020](#), in a Council of Ministers meeting.

- **Measures Implemented by the Law**

The measures available to this bureau to protect an individual are provided for by the 2018 law. These measures are distinguished into three categories: judicial, extrajudicial, and post-procedural measures. The complete list of measures can be found in Chapter 5 of the law.

Among the most notable judicial measures are guaranteed anonymity, facilitated access and appearance of the persons to be protected, and the possibility of electing domicile at the address of the police station, gendarmerie brigade, or even the public prosecutor's office. Extrajudicial measures include organising meetings in discreet and safe places, temporary relocation, changing the workplace, and possibly establishing a new temporary identity. Finally, post-procedural measures include psychosocial support, financial assistance, and, if

any other measure has proven ineffective, relocation and resettlement. The protective measures taken require the consent of the person to be protected.

In addition to the prescribed measures, persons to be protected are recognised as bearing several rights, including the right to protection against any form of harm to their physical and mental integrity, the right to protection of their identity, and the right to be informed of all ongoing procedures (Article 7).

Anyone who obtains information about the real identity of a protected person through participation in an investigation, judicial or extrajudicial procedure, is obliged to maintain confidentiality.

This law seems applicable to whistleblowers even if the notion does not appear in the body of the text. Theoretically, a whistleblower could approach the National Bureau of Witnesses, Victims, Whistleblowers, Experts, and Other Concerned Persons to request the application of certain protective measures according to their situation. As individuals collaborating or wishing to collaborate in a truth-seeking procedure, they fall within the scope of this law.

However, the application of this text and the establishment of the National Protection Bureau are not verified. No case of a whistleblower relying on this law or approaching this bureau is known to date.

- **National Platform for the Prevention and Detection of Acts of Corruption and Related Offences (SPACIA)**

A [decree](#) adopted by the Council of Ministers on April 13, 2022, established the National Platform for the Prevention and Detection of Acts of Corruption and Related Offences ([SPACIA](#)). This institution, officially launched on July 11, 2022, allows citizens to report an act of corruption by phone or by mail. The information is processed and, if necessary, transmitted to the competent authorities upon referral from SPACIA.

- **Protection under Labour Law**

The [Labour Code](#) provides for reporting any serious and imminent danger to the life or health of the employee or others by the employee to the employer and the occupational health and safety committee. No protection measures are provided for the employee who reports a

danger. They are simply protected against disciplinary sanctions and dismissal when, as a result of this danger, they have left their workplace.

Outside of this scenario, the code does not provide for reporting or protection for whistleblowers. Legitimate reasons for dismissal are ambiguous and include personal reasons such as "professional incompetence" or "misconduct" for indefinite-term contracts; therefore, it is difficult to determine if whistleblowing can be considered a legitimate reason for dismissal. While all forms of "psychological harassment" are prohibited, harassment as retaliation for reporting or disclosing information is not specifically addressed.

- **Ordinance of September 20, 2013: On the prevention and fight against corruption and related offences**

An obligation to report cases of corruption is provided for by the [ordinance of September 20, 2013](#), on the prevention and fight against corruption and related offences. According to this ordinance, individuals who become aware of facts that could constitute an act of corruption risk up to five years imprisonment and a fine of five million CFA francs. The same ordinance states that whistleblowers, witnesses, experts, victims, informants, and their relatives benefit from special protection from the state against possible acts of retaliation or intimidation. The details of this protection are not provided in this text and are to be specified in a decree. It is not indicated if the law of June 13, 2018, which provides for the protection of witnesses, victims, whistleblowers, experts, and other concerned persons, is the text to which the ordinance wishes to refer.

Finally, the supreme text, the Ivorian [Constitution](#), provides for the freedom to express and disseminate one's ideas. These freedoms "are exercised subject to respect for the law, the rights of others, national security and public order". The Constitution was approved by referendum in October 2016 and consolidated in 2020.

- **Process of drafting a specific law for the protection of whistleblowers**

In Côte d'Ivoire, the process of drafting a law for the protection of whistleblowers is underway, initiated by the [Ministry of Good Governance Promotion and the Fight against Corruption](#). PPLAAF has provided expertise and technical assistance in the drafting of this law. Since 2022, awareness-raising activities on the concept of whistleblowing initiated by

the Ministry have also taken place and are intended for law enforcement officials and journalists.

1.2 Laws and measures related to combating financial crime

This section focuses on the measures taken by the government of Cote d'Ivoire to combat financial crime. It examines legislative reforms, policies, and initiatives aimed at promoting transparency, integrity, and accountability in the management of public affairs. While acknowledging the efforts made, it also highlights persistent challenges and prospects for improvement in the fight against financial crime in Cote d'Ivoire.

• Contextual elements on the state of corruption in Côte d'Ivoire

According to the [France 24](#) news channel, in Côte d'Ivoire "corruption plagues most public services: public procurement, customs clearance, civil service recruitment competitions, etc." President [Alassane Ouattara](#) announced that he would make the fight against corruption one of the priorities of his new term of office in October 2020.

In its [2022 Corruption Perceptions Index \(CPI\)](#) report, Transparency International ranked Côte d'Ivoire 99th out of 180 countries with a score of 37/100. Côte d'Ivoire gained one point compared to 2021 but remains in the red zone despite the existence of several legal and institutional mechanisms to fight corruption.

• Laws and measures related to the fight against corruption

[Ordinance No. 2013-660](#) established the [High Authority for Good Governance](#). It is an entity within the framework of the prevention and fight against corruption and related offences. This framework is part of the implementation of the National Plan for Good Governance and the Fight against Corruption. Among other tasks, this body is responsible for drawing up the national anti-corruption strategy, coordinating, supervising, and monitoring the implementation of anti-corruption prevention and control policies, investigating corrupt practices, identifying alleged perpetrators and their accomplices, collecting, centralising and exploiting reports and complaints referred to it, receiving asset declarations from all public officials, and referring cases to the Public Prosecutor.

It is also worth noting [Law No. 2018-573 of 13 June 2018](#) on the legal regime for freezing illicit assets. This law defines illicit assets as "all tangible or intangible, movable or immovable property as well as all legal deeds or documents attesting to the ownership of such property or rights relating thereto, acquired or suspected of having been acquired through acts of corruption or similar offences". Article 3 of this law states that the President of the High Authority for Good Governance is competent to order, by administrative decision, the freezing of illicit assets of persons suspected of having participated in acts of corruption or similar offences. The following articles detail the procedure for freezing illicit assets. Any holder or manager of illicit assets who hinders the execution of an asset freeze order duly notified to him shall be punished by "imprisonment of between 1 and 5 years and a fine of between 1,000,000 and 5,000,000 francs" (Article 14).

- **Fight against money laundering and terrorist financing**

[Law No. 2016-992 of November 14, 2016, relating to the fight against money laundering and terrorist financing](#), aims to prevent and suppress money laundering, terrorist financing, and the proliferation of weapons of mass destruction in Côte d'Ivoire (Article 2). It also aims to facilitate investigations and prosecutions by the relevant authorities.

On 2 July 2015, the Council of Ministers of the WAMU zone adopted the draft uniform law on the fight against money laundering and terrorist financing. The eight member countries of WAMU and WAEMU had six months to internalise the law into their domestic legal order. Internalisation took place in various countries between December 2015 and December 2018.

The 2015 Uniform Act, which replaced the 2008 Uniform Act, incorporated the 2012 revisions of the FATF standards. The new law made it possible to merge the texts relating to the fight against money laundering and terrorist financing and to take into account aspects relating to the proliferation of weapons of mass destruction.

Furthermore, the current law introduced the prohibition of cash transactions for amounts exceeding 10 million francs. It expanded the category of designated non-financial professional entities (DNFPEs), which are essentially non-financial institutions that could be used for money laundering or terrorism financing purposes due to their nature.

The AML/CFT law requires the country to establish a national AML/CFT framework covering several aspects, including:

1. The country must conduct its national risk assessment and identify vulnerabilities to money laundering (ML) and terrorist financing (TF).
2. Obligated entities (financial institutions and DNFBPs) must conduct their risk assessments.
3. Obligated entities must implement an effective AML/CFT framework to significantly mitigate ML/TF activities and submit suspicious transaction reports to the financial intelligence unit (CENTIF).
4. Obligated entities failing to meet their obligations must face administrative and disciplinary sanctions.
5. CENTIF must be autonomous, operational, and adequately resourced with technical, financial, and human resources to fulfil its missions. CENTIF is an independent administrative authority under the supervision of the Minister of Finance. Its mission includes processing and transmitting information for the fight against ML and TF. CENTIF also handles suspicious transaction reports and can oppose the execution of a transaction based on serious, consistent, and reliable information. When operations reveal facts that may constitute the offence of money laundering or terrorist financing, CENTIF submits a report to the Public Prosecutor, who must refer the case to the investigating judge.
6. The country must establish mechanisms to freeze the assets of terrorist individuals and organisations.
7. Both individuals and legal entities can be held criminally liable for offences related to money laundering and/or terrorist financing.
8. The country establishes mechanisms to seize, manage, and confiscate the assets of criminals. In this regard, Côte d'Ivoire has established the Agency for the Management and Recovery of Criminal Assets (AGRAC) since Decree No. 2022-349 of June 1, 2022.

The country's mutual evaluation was conducted by the International Monetary Fund (IMF) in late 2022-early 2023, and the evaluation report was discussed at the GIABA plenary in May 2023. The decision to include the country on the FATF grey list will be announced in 2024 or 2025.

1.3 Media rights and freedom of expression

Freedom of expression, press freedom, and media rights play a crucial role in whistleblowing. These fundamental rights enable whistleblowers and journalists to disclose sensitive information safely, shed light on wrongdoing, and protect the public interest. Respecting these rights promotes an environment conducive to transparency, accountability, and the disclosure of information in the public interest.

- **Legislation on Press Freedom and Media Rights**

Two laws regulate the media: [the law on the legal regime of the press](#) and [the law on the legal regime of audiovisual communication](#). These texts provide for the protection of journalists' sources of information as well as their right to access public interest information and public documents. The press law has abolished custodial sentences for offences committed through the press. These offences are now punishable by the payment of a fine.

The press law maintains the offence of insulting the President of the Republic, which is punishable by a fine of up to 5 million CFA francs.

Although the abolition of prison sentences for journalists is applauded, the penalties provided for in the legislation remain considerable, limiting journalists' freedom of expression. The financial penalties for professional misconduct are hefty, up to 10 million CFA francs, and can force media companies to close down if convicted.

The Penal Code provides for stiffer penalties for defamation, with up to 10 years imprisonment for defamation on the grounds of race, ethnic group, or religion, and the penalties are doubled if the offence is committed through the press. Slanderous accusations addressed to any authority capable of prosecution or the employer of the person accused may be punishable by up to five years imprisonment. The publication of false news that may lead to disobedience or the discrediting of national institutions is punishable by up to three years

imprisonment and a fine, with authors, publishers, vendors, and distributors liable. The discrepancy between the criminal code and media laws creates an ambiguity in which journalists are potentially punishable by unfair and unequal penalties.

Journalists reporting sensitive information are sometimes arrested for publishing false information, insulting the president, or defamation. The most famous case of a journalist being detained occurred in 2015 when the editor of the [newspaper *Aujourd'hui*](#) was held for a week after publishing accusations that the president was complicit in the 2015 electoral fraud conspiracy. The newspaper was also suspended for one month.

Two bills on the regulation of telecommunications media were passed by the government in March 2022. These bills provoked [strong reactions from civil society](#) and Internet users. In particular, they provide for bloggers, web activists, and influencers to be subject to the legal regime governing the press and audiovisual communication. They would be subject to the same strict ethical rules as journalists.

While the government is defending these plans, emphasising the importance of regulating social networks, civil society fears that the intention is to censor information providers on social networks. The text still has to be discussed and approved by the National Assembly.

- **Freedom of the press in Côte d'Ivoire: Between progress and persistent challenges**

In 2023, [Reporters Sans Frontières \(RSF\)](#) ranked Côte d'Ivoire 54th out of 180 countries, notably highlighting that "investigative journalists are often targeted by attempts at corruption, intimidation, or arrests, and their editorial offices can be subject to attacks...". This ranking represents a drop of 17 places compared to the 2022 ranking, in which the country ranked 37th, after a year marked by improved security conditions for journalists who had not faced any judicial convictions in 2021.

According to RSF, the media landscape remains closely linked to the political landscape. One of the best-known television channels is Radiodiffusion Télévision Ivoirienne, which, before 2021, held a monopoly on private channels in Côte d'Ivoire. There are now three, all owned by close associates of the government.

The [Freedom House 2023 ranking](#) considers Côte d'Ivoire as "partly free" and assigns the country a score of 49/100. Freedom House notes improvements in the working conditions of the press and a decrease in severe attacks on journalists compared to 2021.

Despite some improvements, journalists continue to be victims of abuse, threats, and intimidation. Several press violations marked the 2020 electoral period. In August 2020, while covering an opposition demonstration, [Julien Adayé](#) from Deutsche Welle was assaulted by police officers and had his work equipment confiscated. André Sylver Konan, founder of the online news site Afriksoir, as well as Félix Diby Boni, a journalist at abidjan.net, faced [threats and verbal attacks](#) from political leaders due to their coverage of political events.

More recently, in June 2022, an Ivorian investigative journalist was placed in custody after refusing to reveal his sources. Despite the abolition of imprisonment penalties and the protection of sources, [Noël Konan](#) was questioned for several hours by police officers. Faced with his refusal and after a second interrogation, the journalist was detained until the following day.

1.4 The Access to Information Act and Secrecy Laws

In this section, we will discuss the importance of access to public information for whistleblowers and journalists. These individuals who expose illicit behaviours within the public administration require reliable information to support their disclosures. The right to access public information ensures transparency and accountability, thereby providing enhanced protection to whistleblowers and journalists who can rely on concrete facts when disclosing sensitive information.

- **Legislation on access to information and confidentiality**

Article 270 of the Ivorian [Penal Code](#) provides for imprisonment of three months to one year for individuals who, without authorisation or authority, make a copy of an administrative document held secret or confidential. The disclosure of military information related to national defence is punishable by imprisonment of up to 20 years under the Ivorian Penal Code. The prison sentence varies according to the intent of the perpetrator.

Revealing secrets entrusted by a "state or profession" is punishable by up to six months imprisonment. This penalty is accompanied by a fine of up to 500,000 CFA francs. Article 383 of the Criminal Code reads as follows: "Any person entrusted by status or profession or by temporary or permanent function with a secret entrusted to him, who, except in cases where the law obliges or authorises him to act as a whistleblower, reveals this secret, shall be punished by imprisonment of between one and six months and a fine of between 50,000 and 500,000 francs (...)". This provision is somewhat vague as it does not specify the professions or functions concerned by this prohibition, nor does it define what constitutes a "secret" within the meaning of the law.

Non-disclosure of an act of espionage or treason is punishable by up to 20 years imprisonment, subject to the obligation of professional secrecy.

A [law on access to information](#) allows public documents and "information of public interest" to be shared. However, "only the person concerned" has the right to access information relating to their behaviour, which could be harmful if shared more widely. Similarly, disclosures that breach the secrecy of government deliberations, national defence, foreign policy, monetary policy, legal proceedings, and commercial matters are prohibited. There are no imprisonment penalties for sharing non-disclosable information.

2. ANALYSIS OF THE FACTS: WHISTLEBLOWER CASES

This section aims to list known and public cases of whistleblowers to assess the treatment afforded to whistleblowers in the country.

There are no known cases of public whistleblowers in Cote d'Ivoire.

3. RECOMMENDATIONS: WEAKNESSES AND NEEDED REFORMS

In this section, the focus will be on suggesting areas for improvement for the State regarding the protection of whistleblowers, current legislation against financial crime, the government's commitment to combating this problem, and the respect for individual liberties, including the right to information, freedom of the press and expression, as well as media rights.

- **Reflection on potential areas of improvement**
- **The Law of June 13, 2018**

The Law of June 13, 2018, while offering many protective measures, does not fully meet all the specific expectations regarding whistleblower protection. By enacting a law dedicated to protecting whistleblowers, Côte d'Ivoire could enhance their protection and encourage disclosures of public interest.

However, it appears that the government is aware of the need to protect these actors better, as evidenced by the [workshop held in October 2021 in Abidjan in collaboration with the United Nations Office on Drugs and Crime](#), focusing on whistleblower protection in the fight against corruption. During this workshop, the former Chief of Staff of the Ministry of Promotion of Good Governance, Capacity Building, and the Fight against Corruption, [Amadou Koné](#), [reiterated the importance of whistleblowers](#) and emphasised that the issue of their protection has been at the forefront of debates in recent years, both in Europe, America, and Africa.

This workshop enabled participants to identify international best practices in whistleblower protection, analyse the current system related to it, and highlight the shortcomings of current legislative and regulatory provisions to ensure their effective protection.

Recognising the issue's importance, the Ministry of Promotion of Good Governance, Capacity Building, and the Fight against Corruption is currently working on a draft law for the protection of whistleblowers, which will be presented to Parliament soon.

- **To better protect whistleblowers, several aspects of the Law of June 13, 2018 need to be reformed:**

The context in which this law is framed and the provisions it contains suggest that the legislator had whistleblower protection in mind when drafting it. Unfortunately, the term does not appear anywhere. This omission raises doubts about the applicability of the law to whistleblowers. To ensure the application of the protective measures provided in this text, it would be preferable to expressly mention them and define them precisely.

No provision of this law provides for the independence of the Bureau for the Protection of Witnesses, Victims, Whistleblowers, Experts, and other persons concerned. It is placed under the supervision of the Ministry of Justice. This oversight raises questions about the autonomy and independence of the national bureau and raises concerns about possible interventions by the Ivorian government regarding individuals who may benefit from protection measures. Ideally, a provision should ensure the institution's independence.

The text does not provide immunity or legal irresponsibility for the person providing information, nor does it condemn acts of retaliation against them. In the event of a report to the Bureau, the whistleblower remains criminally and civilly liable for the information provided – even though it is necessary for an investigation. This liability can deter whistleblowing as the whistleblower continues to fear prosecution. Provisions providing for criminal convictions should include the condemnation of acts of retaliation.

Similarly, the absence of provisions condemning acts of retaliation leaves whistleblowers vulnerable to those whose actions they denounce as contrary to the general interest.

Finally, to facilitate and encourage whistleblowing, the reporting process should be clarified. The law should specify the steps a whistleblower must take to comply with the current law.

This text thus offers significant potential protection for whistleblowers and their families but needs strengthening. It would also be appropriate for the State to guarantee the resources needed to apply the protection.

SPACIA

- Similarly, certain aspects of SPACIA could be improved. This platform, which has received several hundred reports since its launch, appears to be too dependent on the executive. Of the fourteen members of its steering committee, eight are government representatives. The coordinator who heads the platform's management unit is appointed by decree by the Council of Ministers.
- To strengthen this tool in the fight against corruption and encourage individuals to use it, it would be preferable to ensure the independence of this institution. Too much of the executive's presence could suggest that acts of corruption committed by a member

of this power could be ignored and that individuals reporting corruption could be subject to reprisals.

- **Media Rights and Journalists' Rights and Access to Information**

Finally, the repression faced by journalists and internet users weakens the efforts deployed to fight corruption.

- To establish genuine protection for whistleblowers, the rights of the media and journalists, as well as access to information, could be strengthened.

4. KNOWLEDGE, SUPPORT, AND ACTION CENTRES:

In this section, we will explore the landscape of civil society organisations, NGOs, and citizen movements that actively promote good governance. These entities represent valuable sources of knowledge and expertise, playing a crucial role in strengthening democratic practices.

In Côte d'Ivoire, the NGO "[Initiative for Social Justice, Transparency, and Good Governance](#)" ([Social Justice](#)), set up in November 2009, aims to fight corruption, work to eradicate poverty in rural areas, promote transparency and the popularisation of the national budget, and encourage good governance and transparency in natural resources and raw materials. To achieve this, the NGO engages in significant advocacy work.

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4. BURKINA FASO

- **List of acronyms**

ADP: Assembly of People's Deputies

AML/CFT: Anti-Money Laundering/ Countering the Financing of Terrorism

AN: National Assembly

ANAGRASC: National Agency for the Management and Recovery of Seized or Confiscated Assets

ANAIP: National Authority for Access to Public Information

ASCE-LC: Supreme State Audit and Anti-corruption Authority

BCEAO: Central Bank of West African States

CNT: National Transitional Council

CPI: Corruption Perception Index

ECOWAS: Economic Community of West African States

FATF: Financial Action Task Force

GIABA: Intergovernmental Action Group against Money Laundering in West Africa

JNRC: National Day for The Rejection of Corruption

MFWA: Media Foundation for West Africa

OCWAR-M: Organised Crime: West African Response to Money Laundering and the Financing of Terrorism

NGO: Non-Governmental Organisation

UNODC: United Nations Office on Drugs and Crime

OSC: Civil Society Organisation

PPLAAF: Platform to Protect Whistleblowers in Africa

RBILI: Burkinabe Network of Young Leaders for Integrity

REN-LAC: National Anti-Corruption Network

RFI: Radio France International

RSF: Reporters sans Frontières

WAEMU: West Africa Economic and Monetary Union

WAMU: West Africa Monetary Union

- **Legal sources**

[Constitution](#)

[United Nations Convention against Corruption of 2005](#)

[Law No. 004-2015/CNT on the prevention and repression of corruption in Burkina Faso](#)

[Law No. 025-2018/AN on the Penal Code](#)

[Law No. 044-2019/AN amending Law No. 025-2018/AN of May 31, 2018, on the Penal Code](#)

[Law No. 033-2018/AN amending Law No. 004-2015/CNT of March 3, 2015, on the prevention and repression of corruption in Burkina Faso](#)

[Law No. 28-2008/AN of May 13, 2008, on the Labour Code](#)

[Law No. 56-93/ADP of December 30, 1993, on the Information Code](#)

[Law No. 057-2015/CNT of December 4, 2015, on the legal regime of the written press](#)

[Decree No. 2008-891/PRES/PM/MEF of December 31, 2008, on the remuneration of the Prime Minister, Presidents of institutions, and government members](#)

[Law No. 016-2016/AN on the fight against money laundering and the financing of terrorism in Burkina Faso](#)

[Law No. 051-2015/CNT on the right of access to public information and administrative documents](#)

Decree No. 2023-0263/PRES-TRANS/PM/MEFP/MJDHRI of March 21, 2023, approving the statutes of the National Agency for the Management and Recovery of Seized or Confiscated Assets (ANAGRASC)

- **Executive summary**

Burkina Faso ratified the [United Nations Convention against Corruption](#), committing to incorporate protective legislation for whistleblowers into its national law. While the country has a legal framework that could apply to whistleblowers, efforts to make it effective are largely insufficient.

Indeed, the [law on the prevention and repression of corruption](#) is a relevant instrument in the fight against corruption and promoting good governance. The [willingness to establish a draft law on the protection of whistleblowers](#) is also an encouraging development.

Unfortunately, the contexts of democratic and security transition since the successive military coup in January and September 2022 have negatively impacted certain public freedoms, such

as freedom of the press, and are not conducive, in this first semester of 2023, to the introduction of a system for protecting whistleblowers.

1. ANALYSIS OF THE LEGAL FRAMEWORK

1.1 Whistleblower laws and policies

Whistleblower protection is a crucial aspect of the fight against financial crime. This section explores the laws, measures, and mechanisms implemented in Burkina Faso to ensure the protection of whistleblowers. It examines the rights and guarantees afforded to whistleblowers, the protection mechanisms in place, as well as the persistent challenges related to this protection.

- **Protection under laws and mechanisms related to the fight against corruption**

Burkina Faso ratified the [United Nations Convention against Corruption](#) on October 10, 2006, whose Articles 32 and 33 establish the need for effective protection against reprisals, intimidation, and threats to witnesses, victims, or experts, notably through the establishment of a comprehensive and effective internal legal framework to ensure this protection.

In 2015, the Burkinabe government adopted [Law No. 004-2015/CNT on the prevention and repression of corruption](#). This law guarantees protection against reprisals for witnesses, experts, whistleblowers, and victims, which is detailed in Section 2, Article 76, and Article 77.

In this regard, Article 76 states that “no person may be excluded from a recruitment procedure or from access to an internship or period of training in a company, no employee may be penalised, dismissed or subjected to a direct or indirect discriminatory measure, in particular with regard to remuneration, training, reclassification, assignment, qualification, classification, professional promotion, transfer or renewal of contract for having reported or witnessed, either to his employer or to the judicial or administrative authorities, facts qualified as an offence within the meaning of this Law, qualification, classification, professional promotion, transfer or renewal of contract for having reported or testified, either to his employer or to the judicial or administrative authorities, to facts qualified as an offence

within the meaning of this law of which they became aware in the exercise or on the occasion of the exercise of their duties.”

Article 77 protects against acts of reprisal that use physical or moral violence, revenge, intimidation, and threat without detailing the modalities for implementing this protection. Thus, any person who is guilty of such acts is punishable by imprisonment for six months to five years and a fine of five hundred thousand (500,000) to two million (2,000,000) CFA francs. Furthermore, any person who reveals the identity or address of a witness is punishable by the same penalties.

Article 78 of Law No. 004-2015/CNT, however, condemns any slanderous or abusive denunciation of corruption by stating: "Anyone who knowingly, and by any means whatsoever, makes a slanderous or abusive denunciation of offences provided for by this law is punishable by imprisonment for six months to five years and a fine of five hundred thousand (500,000) to two million (2,000,000) CFA francs."

Through Organic Law No. 082-2015/CNT of November 24, 2015, Burkina Faso established the [Supreme State Audit and Anti-Corruption Authority \(ASCE-LC\)](#), which replaces the Supreme State Audit Authority. This administrative authority is considered independent, has financial autonomy, and is tasked with preventing and combating corruption and related offences. The ASCE-LC is also responsible for overseeing public services and is empowered to receive complaints and reports on actions or practices contrary to current laws, including cases of corruption and misappropriation of public funds.

Burkina Faso is currently drafting a bill on the protection of whistleblowers and has requested support from the United Nations Office on Drugs and Crime (UNODC) to aid in the drafting process through the organisation of a national workshop. PPLAAF was invited to participate in this workshop, which was held in July 2023.

The objectives of this national workshop were to discuss the concept of whistleblower protection and the international standards applicable to the definition of "whistleblowers," analyse the ongoing draft bill, define the scope of the future law, and engage in discussions and exchanges regarding the practical implementation of reporting and protection measures.

- **Protection under other legal instruments**

The Burkinabe [Constitution](#) enshrines freedoms of opinion, press, and the right to information by affirming that "every person has the right to express and disseminate their opinions within the framework of laws and regulations in force" (Article 8). Article 138 specifies that the High Court of Justice has jurisdiction over acts of embezzlement of public funds committed by the President of Burkina Faso in the exercise of his functions as well as by members of the government, but does not mention the sanctions provided in case of commission of these acts.

The [Penal Code](#) contains provisions that may apply to whistleblowers. Indeed, it dedicates a section to denunciations (Articles 335-6 and 335-7) and another to the protection of witnesses, experts, and victims (Articles 335-6 to 335-9). Regarding denunciations, Article 335-6 of the Penal Code provides for imprisonment and a fine for "any person, who, by virtue of their function or profession, permanent or temporary, has knowledge of one or more offences provided for in chapters 1 to 4 of Title III of Book III of this code, and does not inform the competent public authorities in a timely manner." However, Article 335-7 penalises any slanderous or abusive denunciation by any means. Finally, Article 335-9 establishes the protection of whistleblowers, witnesses, experts, and victims against any form of reprisal and retaliation.

Law No. 28-2008/AN of May 13, 2008, establishing the [Labor Code](#), does not provide any provisions for whistleblowers. However, Article 71 stipulates that dismissal is abusive "(...) 5. when motivated by the filing of a complaint by the worker or any recourse against the employer and/or administrative authorities."

[Law No. 004-2015/CNT on the prevention and repression of corruption](#), in its Article 76, also establishes protection for employees and trainees against sanctions, dismissal, discriminatory measures of any kind for having reported or testified to their employer or judicial or administrative authorities about offences provided for by law, of which they would have become aware in the exercise of their functions.

- **Protection under laws and mechanisms to combat money laundering and terrorism financing**

[Law No. 016-2016/AN on the fight against money laundering and terrorism financing](#) in Burkina Faso provides certain protection against civil and criminal proceedings for breach of professional secrecy to individuals or executives who make good faith suspicious activity reports. Indeed, Article 83 of the law states: "Persons or executives (...) who, in good faith, have transmitted information or made any declaration, in accordance with the provisions of this law, are exempt from any sanctions for breach of professional secrecy (...)." Article 95 of the law establishes protection for witnesses and anonymous testimony: "The investigating judge may, ex officio or at the request of a witness or a private party aggrieved, decide that: 1. certain identity data will not be mentioned in the minutes of the hearing, if there is a reasonable presumption that the witness could suffer serious harm following the disclosure of certain information; 2. the identity of a witness will remain confidential if the competent authority concludes that the witness, a member of their family, or one of their associates could reasonably be endangered by the testimony (...)."

1.2 Laws and measures related to combating financial crime

This section focuses on the measures taken by the government of Burkina Faso to combat financial crime. It examines legislative reforms, policies, and initiatives aimed at promoting transparency, integrity, and accountability in the management of public affairs. While acknowledging the efforts made, it also highlights persistent challenges and prospects for improvement in the fight against financial crime in Burkina Faso.

- **Fight against corruption**
 - **Influence of recent political developments in the fight against corruption**

In Burkina Faso, corruption has been on the rise since 2017, according to a survey by the [National Anti-Corruption Network \(REN-LAC\)](#) in its [2020 report](#). Since 2017, actors have explained this progression for [four reasons](#): impunity, insufficient means and resources of structures, lack of political will, and the inadequacy of laws that refer to decrees that have mostly never been adopted.

The former government of President Roch Marc Christian Kaboré, in power from December 2015 to January 2022, did not take sufficiently strong measures to eradicate corruption even though he had announced a "zero tolerance" policy against it shortly after his election. Indeed, in the last three years, numerous corruption scandals have disrupted the management of public affairs, including the [case of magistrates accused of corruption by the Supreme Judicial Council](#), [the fine coal scandal](#), [fraudulent recruitments in the public service](#), etc.

Upon seizing power on September 30, 2022, through a military coup and after removing his predecessor, Lieutenant Colonel Paul-Henri Sandaogo Damiba, who also came to power through the use of force, [Captain Ibrahim Traoré promised to tackle corruption](#). He particularly accused the country's elites of being responsible for Burkina Faso's situation and affirmed that the economic battle manifested in the fight against corruption. Upon assuming power, Captain Traoré instructed the ASCE-LC to audit the management of around a hundred public administration structures, including the Army.

In its 2022 activity report, the ASCE-LC claims to have achieved positive results in the fight against corruption and related offences despite the situation faced by Burkina Faso. This was accomplished through "the completion of several control missions, awareness-raising activities, follow-up on recommendations, and the questioning of political and administrative authorities about measures to conform public management to the standards governing them." The ASCE-LC and the judiciary also indicated that they have implemented ["actions that have led to the questioning of actors from various backgrounds, at various levels of responsibility without complacency or regard for rank."](#) The Minister of State in charge of public service, Bassolma Bazié, even stated that the government gave "a blank check to the ASCE-LC to track down those involved in mismanagement of public finances, whether they are ministers or [deputies](#)."

These recent events seem to reflect a willingness on the part of the new authorities in power to pursue and sanction perpetrators of acts of corruption. This willingness will only be confirmed when concrete actions are taken in the fight against corruption.

In its [2022 report](#) on the Corruption Perceptions Index, Transparency International ranks Burkina Faso 77th out of 180 countries surveyed, with a score of 42/100.

- **Anti-corruption laws**

However, Burkina Faso benefits from a legal and institutional framework related to the repression of corruption and related offences. Indeed, [Law °004/2015/CNT on the prevention and repression of corruption](#), in its Articles 42 to 70, addresses and punishes cases of corruption and misappropriation of public funds.

In Articles 44 and 77, the Burkinabe Constitution requires the President of Faso and other public figures (government members, presidents of institutions established by the Constitution, etc.) to declare their assets at the beginning and end of their mandate. The declaration of interest and assets is governed by Law No. 004-2015/CNT of March 3, 2015, on the prevention and repression of corruption and its amending [Law No. 033-2018/AN of July 26, 2018](#). The [Penal Code](#) condemns the failure or false declaration of interest or assets in Articles 332-26.

The Penal Code unequivocally condemns corruption by devoting an entire Title to the corruption of public officials, providing a broad definition of a public official. The Penal Code also condemns the laundering of proceeds from corruption and related offences (Articles 331-2 to 332-25). It provides additional penalties in cases of corruption and related offences under Article 335-3, such as the prohibition from holding public functions or positions for a maximum period of five years and the prohibition from receiving any distinction or decoration awarded by the State or its agencies.

- **Fight against Money Laundering and Terrorism Financing**

The fight against money laundering and terrorism financing has been strengthened with [Law No. 016-2016/AN on the fight against money laundering and terrorism financing](#) in Burkina Faso. The law outlines measures to identify and prevent money laundering and terrorism financing. Its objective is also to facilitate investigations and prosecutions by the relevant authorities.

On 2 July 2015, the Council of Ministers of the WAMU zone adopted the draft uniform law on the fight against money laundering and terrorist financing. The eight member countries of WAMU and WAEMU had six months to internalise the law into their domestic legal order. In

fact, internalisation took place in various countries between December 2015 and December 2018.

The 2015 Uniform Act, which replaced the previous 2008 Uniform Act, incorporated the new 2012 revisions of the FATF standards. The new law made it possible to merge the texts relating to the fight against money laundering and terrorist financing and to take into account aspects relating to the proliferation of weapons of mass destruction.

Furthermore, the current law introduced the prohibition of cash transactions for amounts exceeding 10 million francs, and expanded the category of designated non-financial professional entities (DNFPEs), which are essentially non-financial institutions that could be used for money laundering or terrorism financing purposes due to their nature.

The AML/CFT law requires the country to establish a national AML/CFT framework covering several aspects, including:

1. The country must conduct its national risk assessment and identify vulnerabilities to money laundering (ML) and terrorist financing (TF).
2. Obligated entities (financial institutions and DNFBPs) must conduct their risk assessments.
3. Obligated entities must implement an effective AML/CFT framework to significantly mitigate ML/TF activities and submit suspicious transaction reports to the financial intelligence unit (CENTIF).
4. Obligated entities failing to meet their obligations must face administrative and disciplinary sanctions.
5. To fulfil its mission, CENTIF must be autonomous, operational, and adequately resourced with technical, financial, and human resources. CENTIF is an independent administrative authority under the supervision of the Minister of Finance. Its mission includes processing and transmitting information for the fight against ML and TF. CENTIF also handles suspicious transaction reports and can oppose the execution of a transaction based on serious, consistent, and reliable information. When operations reveal facts that may constitute the offence of money laundering or terrorist financing,

CENTIF submits a report to the Public Prosecutor, who must refer the case to the investigating judge.

6. The country must establish mechanisms to freeze the assets of terrorist individuals and organisations.
7. Both individuals and legal entities can be held criminally liable for offences related to money laundering and/or terrorist financing.
8. The country establishes mechanisms to seize, manage, and confiscate the assets of criminals. In this regard, Burkina Faso has established, since decree No. 2023-0263/PRES-TRANS/PM/MEFP/MJDHRI of March 21, 2023, a National Agency for the Management and Recovery of Seized or Confiscated Assets (ANAGRASC).

Following the country's mutual evaluation conducted by the Intergovernmental Action Group against Money Laundering in West Africa (GIABA), the FATF placed the country on its "grey list" in February 2021. This list aims to publicly list countries whose AML/CFT regimes are considered weak and have implemented ongoing enhanced monitoring.

1.3 Media rights and freedom of expression

Freedom of expression, press freedom, and media rights play a crucial role in whistleblowing. These fundamental rights enable whistleblowers and journalists to disclose sensitive information safely, shed light on wrongdoing, and protect the public interest. Respecting these rights promotes an environment conducive to transparency, accountability, and the disclosure of information in the public interest.

- **Laws regarding freedom of expression**

In Burkina Faso, the right to freedom of expression and freedom of the press is protected by Article 19 of the [International Covenant on Civil and Political Rights](#) and by Article 9 of the [African Charter on Human and Peoples' Rights](#), which the country ratified in 1984 and 1999 respectively.

The right to freedom of expression, freedom of the press, and the right to information are guaranteed by Article 8 of the [Constitution](#).

[Law No. 56/93/ADP of December 30, 1993, establishing the Information Code](#) in Burkina Faso, enshrines the right of professional journalists to have free access to sources of information (Article 49). However, the law specifies that journalists may be refused access to information if it "undermines the internal and external security of the State, if it discloses a military or economic secret of strategic interest, if it thwarts, deflects or compromises an investigation or legal proceeding actually under way, if it undermines the dignity or privacy of a citizen" (Article 51).

The adoption of a [new Press Code](#) in 2015 modifies the penalty incurred by journalists in the case of defamation offences. Defamation no longer leads to imprisonment but is punishable by heavy fines.

[Law No. 057-2015/CNT of September 4, 2015, on online press](#), defines the status of professional journalists (Article 33), guarantees the protection of journalists' sources, and the right of access to information (Article 47). This law lists the penalties incurred for committing offences through the written press, including defamation and the publication of information covered by military secrecy.

[Article 40 of Law No. 004-2015/CNT on the prevention and repression of corruption](#) guarantees "effective access by the media and the public to information concerning corruption, subject to the protection of the privacy, honour, dignity of individuals, and reasons of national security, public order, as well as the secrecy of the investigation".

- **Press freedom: a concerning situation**

According to Reporters Sans Frontières (RSF), Burkina Faso was considered until recently as one of the successes in the African continent regarding press freedom. However, the rise of insecurity and political instability linked to the military coups in January and September 2022 pose serious risks to journalists regarding security and access to information.

Burkina Faso enjoys a dynamic, professional, and plural media landscape; RSF counts 80 newspapers, 185 radios, 32 television channels, and 161 online press sites, noting that "the culture of investigative journalism is quite widespread" there. However, RSF notes an

increase in self-censorship and pressure due to the deterioration of the security context. In [2023](#), the organisation ranked the country at 58th, representing a significant deterioration compared to the year 2022, when it was positioned 41st.

In its [2023 report](#), Freedom House considers Burkina Faso as "not free", with a score of 30/100. This represents an alarming deterioration compared to previous years. This is explained by the two successive military coups, the suspension of the Constitution, and the dissolution of the National Assembly.

In previous years, the country was classified as "partly free": the 2022 and 2021 annual reports scored it 53 and 54/100. Some events negatively influenced the score, such as [the restriction on internet](#) connectivity operated for eight days in November 2021 by the government in the context of popular protests. Journalists also face security risks due to terrorist attacks, as evidenced by the tragic fate of [Spanish and Irish journalists killed in April 2021](#) by terrorists on Burkinabe territory.

In 2019, the Parliament reviewed a bill amending the Penal Code aimed at regulating social networks and online press and notably targeting cyber-activists. Certain media outlets in Burkina Faso have voiced criticism against the bill, viewing it as [draconian and a significant regression for press freedom](#), freedom of expression, and citizens' access to information. This bill has led to amendments to the Penal Code, which now criminalises the dissemination of information on military operations (Article 312-13, Article 312-14, Article 312-15). Amnesty International has also called for [the rejection of this bill](#) by the National Assembly. The organisation has particularly highlighted the risk of criminalising the activities of human rights defenders, journalists, social media actors, or anyone else disseminating such information. The organisation notably asserts that the fight against armed groups should not come at the expense of individual liberties.

To illustrate the difficulties activists face in the country, one can consider the example of Naim Touré. This activist, deeply involved in issues related to mismanagement and corruption, has revealed a number of scandals involving Burkinabé authorities and is often subjected to intimidation and threats. In 2019, for example, [Naim Touré was abducted from his home](#). On June 7, 2022, he was sentenced by the Ouagadougou High Court to 12 months'

imprisonment for [defamation](#) for accusing the director-general of the National Health Insurance Fund on his Facebook page of misappropriating funds from the organisation.

[The Media Foundation for West Africa \(MFWA\)](#) expressed concern over heavy penalties imposed on the media and called on authorities to preserve press freedom against attempts to muzzle it. Media outlets reporting on corruption are regularly sued for defamation and face criminal penalties and/or fines.

On December 3, 2022, the Burkina Faso government ordered the [suspension of Radio France International \(RFI\) programs nationwide](#), following its neighbour Mali's example. According to RSF, the government accuses RFI of disseminating "a message of intimidation to the populations attributed to a terrorist leader" and of spreading "false information that the transitional president, Captain Ibrahim Traoré, claimed to have been targeted by a coup attempt." This suspension is strongly criticised by observers in Burkina Faso and occurs against a backdrop of increased threats against journalists in the country, even though the junta had claimed to be committed to ensuring press freedom.

1.4 The Access to Information Act and Secrecy Laws

In this section, we will discuss the importance of access to public information for whistleblowers and journalists. These individuals who expose illicit behaviours within the public administration require reliable information to support their disclosures. The right to access public information ensures transparency and accountability, providing enhanced protection to whistleblowers and journalists who can rely on concrete facts when disclosing sensitive information.

- **Law n°051-2015/CNT on the right of access to public information and administrative documents**

[Law No. 051-2015/CNT on the right of access to public information and administrative documents](#) regulates the right to access information in Burkina Faso. Its objective is to make the right of access to public information and administrative documents effective, to create mechanisms and procedures to ensure the effectiveness of the right of access and to contribute to transparency, accountability, and good governance (Article 2).

Access to public information and administrative documents is free (Article 6), except for information relating to "national defence; state security; the security of persons; freedoms and fundamental rights enshrined in the Constitution; deliberations of the Council of Ministers regarding the exceptions mentioned above." Also excluded are information whose disclosure causes harm "to foreign policy; to industrial property rights, copyright, and related rights; to sources of information" (Article 31).

Information or administrative documents that cannot be immediately disclosed due to their nature or purpose are subject to classification for a specified period (Article 32). However, "no information or administrative document may be classified when the investigation concerns violations of fundamental human rights or crimes against humanity" (Article 33), and likewise, "no reservation may be invoked when the requested information relates to violations of human rights or is relevant to investigating, preventing, or avoiding violations of these rights" (Article 34).

Some documents and information may be disclosed after a specified period as determined by law (Article 35): "fifty years from the date of retirement of the person concerned for personal files; - fifty years from the date of the act for documents containing industrial and commercial secrets; - fifty years from the date of census or survey for documents, statistics containing personal information; - twenty years from the date of closure for judicial investigation files; - fifteen years from the date of the act for documents relating to monetary policy and credit."

Information, objects, documents, data, or files related to national defence, state security, and foreign policy are subject to classification measures to restrict their dissemination or access. They include three levels of protection: "- very secret defence; - secret defence; - confidential defence" (Article 36). These pieces of information become communicable fifty years later for those classified as very secret defence, forty years later for those classified as secret defence, and thirty years later for those classified as confidential defence (Article 40).

According to this law, "information or documents that do not have, by their nature and purpose, an administrative character and information whose disclosure may compromise the proper functioning of the administration" are not communicable (Article 47). Similarly, those

that concern "activities falling under the sovereign powers of the State and involve the general interest" (Article 48).

A public service organisation may refuse to disclose information it holds if it is likely to "impede the progress of a procedure before a person or structure exercising judicial functions; - impede a future, ongoing, or suspended investigation; - reveal an investigative method (...); - jeopardise the safety of a person; - cause harm to the person who is the author of the information or who is the subject of it; - reveal the components of a communication system intended for use by a person responsible for ensuring compliance with the law; - reveal information transmitted in confidence by a police body (...); - facilitate the escape of a detainee; - infringe upon a person's right to be judged impartially" (Article 49).

The State General Inspectorate may refuse to confirm the existence of information or disclose information the disclosure of which would likely "impede the progress of an audit operation; - reveal a program or plan of audit activity; reveal a confidential source of information relating to an audit; - undermine the control power granted to the State General Inspectorate" (Article 50).

Article 51 of the Act specifies that information and documents that may not be disclosed also include any public information whose disclosure is prohibited by legislative provisions.

- **National Authority for Access to Public Information (ANAIP)**

Law No. 051-2015/CNT on the right of access to public information and administrative documents establishes the National Authority for Access to Public Information (ANAIP), a regulatory body tasked with implementing the right of access to information and administrative documents. It has the status of an independent administrative authority. Among its responsibilities, it has the power to resolve disputes related to the right of access to information through negotiation, conciliation, or mediation.

[It is clear that this law struggles to become operational, as journalists and civil society actors already pointed out in 2020.](#) deciding to develop an advocacy strategy to improve the situation. To date, no information is available online to determine whether the law's measures are being effectively implemented.

2. ANALYSIS OF THE FACTS: WHISTLEBLOWER CASES

This section lists known and public cases of whistleblowers to assess the treatment afforded to whistleblowers in the country.

There are no known cases of public whistleblowers in Burkina Faso.

3. RECOMMENDATIONS: WEAKNESSES AND NEEDED REFORMS

In this section, the focus will be on suggesting areas for improvement for the State regarding the protection of whistleblowers, current legislation against financial crime, the government's commitment to combating this problem, and the respect for individual liberties, including the right to information, freedom of the press and expression, as well as media rights.

- **Strengthening legislation protecting whistleblowers**

Burkina Faso benefits from a legal and institutional framework to combat corruption, money laundering, terrorist financing, and illicit financial flows. However, its effectiveness is subject to the political will to implement it.

Moreover, Burkina Faso has established a legislative arsenal that can be applied to whistleblowers, but specific measures to protect them could be beneficially introduced into its legislation.

- It is appropriate to continue the work initiated in this direction in 2023.
- **Preservation of individual freedoms and press freedom in a tense political and security context**

The current political and security context presents challenges for the preservation of individual freedoms and press freedom. The emergence of a whistleblower culture requires an environment that guarantees these freedoms.

- In this regard, the state must enhance the freedom of expression of journalists and cyber-activists by protecting these actors against repression and the attacks they face

daily. This could facilitate the establishment of an environment conducive to whistleblowing.

4. KNOWLEDGE, SUPPORT, AND ACTION CENTRES

This section will explore the landscape of civil society organisations, NGOs, and citizen movements that promote good governance. These entities represent valuable sources of knowledge and expertise, playing a crucial role in strengthening democratic practices.

The [National Network for Anti-Corruption \(REN-LAC\)](#) is a non-governmental organisation created by about twenty civil society organisations. Its mission is to ensure good morality and transparency in the management of public affairs in Burkina Faso.

It organises awareness-raising campaigns on corruption, monitors the application of existing legislation in this regard, receives and investigates complaints from citizens who are victims of acts of corruption, and ensures the adoption by the State of any measures aimed at combating this phenomenon.

Each year, the NGO presents a report on corruption in the country. Since 2003, it has also organised a national campaign called the "National Day for the Rejection of Corruption (JNRC)". This day aims to raise public awareness of the scourge of corruption.

The primary mission of the [Burkinabe Network of Young Leaders for Integrity \(RBJLI\)](#) is to promote integrity among young people and to fight against corruption. The RBJLI works mainly to raise awareness and denounce corruption.

[Balai Citoyen](#) is a civil society movement whose objectives are to "ensure the responsible and conscious involvement of the people in the management of public affairs, the accountability of those in power to the people and the principle of democratic alternation". The movement's preferred means of action are mobilisations.

Finally, the [Semfilms Burkina](#) Association aims to promote human rights and freedom of expression through film screenings. It organises an annual film festival, the Festival Ciné Droit Libre.

5. NIGER

- **List of acronyms**

AML/CFT: Anti-Money Laundering/ Countering the Financing of Terrorism

ANLC: Nigerien Association for the Fight Against Corruption

BAGRI: Agricultural Bank of Niger

BIR/LCTI: Information, Complaints and Anti-Corruption Bureau

CENTIF: Financial Intelligence Unit

CENOZO : Cellule Norbert Zongo for Investigative Journalism in West Africa

CODDHD: Collective of Human Rights and Democracy Defense Organizations

CNSP: Conseil National pour la sauvegarde de la patrie

FATF: Financial Action Task Force

FINCEN: Financial Crime Enforcement Network

GI-TOC: Global Initiative against Transnational Organised Crime

HALCIA: High Authority for the fight against corruption and related offences

ICIJ: International Consortium of Investigative Journalists

IMF: International Monetary Fund

MFWA: Media Foundation for West Africa

NGO: Non-Governmental Organisation

OCWAR-M: Organised Crime, West African Response to money laundering and the financing of terrorism

PPLAAF: Platform to Protect Whistleblowers in Africa

RSF: Reporters Sans Frontières

WAEMU: West African Economic and Monetary Union

WAMU: West African Monetary Union

- **Legal sources**

[Constitution of November 25, 2010](#)

[Penal Code](#)

[United Nations Convention against Corruption \(2003\)](#)

[African Union Convention on Preventing and Combating Corruption](#)

[Protocol on the Fight against Corruption of the Economic Community of West African States](#)

[Law No. 2016-33 of October 31, 2016, on the fight against money laundering and the financing of terrorism](#)

[Law No. 2016-44 of December 6, 2016, on HALCIA](#)

[Ordinance No. 2010-35 of June 4, 2010, on the regime of press freedom](#)

[Law No. 2019-33 of July 3, 2019, on the repression of cybercrime in Niger](#)

[Law No. 2012-45 of September 25, 2012, on the Labour Code](#)

[Ordinance No. 2011-22 of February 23, 2011, on the charter of access to public information and administrative documents](#)

- **Executive summary**

Niger has ratified the [United Nations Convention against Corruption](#) and other regional conventions that commit it to incorporate tools to combat financial crime into its legislation, particularly in favour of protecting whistleblowers. However, to date, no Nigerien text explicitly refers to whistleblowing.

On the other hand, Niger has adopted several legislative provisions to combat financial crime and has set up bodies to monitor and fight it. Despite these advancements, financial crime, including corruption, persists.

Freedom of expression and media rights are regularly restricted in Niger. This is now a significant challenge for the country in a security context marked by political instability and the fight against terrorism.

1. ANALYSIS OF THE LEGAL FRAMEWORK

1.1 Whistleblower laws and policies

Whistleblower protection is a crucial aspect of the fight against financial crime. This section explores the laws, measures, and mechanisms implemented in Niger to ensure the protection of whistleblowers. It examines the rights and guarantees afforded to whistleblowers, the protection mechanisms in place, as well as the persistent challenges related to this protection.

- **Ratification of international and regional conventions on the fight against corruption and the protection of whistleblowers**

Niger has ratified several international and regional conventions that, while not using the term "whistleblower," protect individuals who may be considered as such.

At the international level, Niger ratified the [United Nations Convention against Corruption of 2003](#). In Article 32, the Convention requires State parties to take "appropriate" measures to protect "witnesses, experts, or victims" from acts of retaliation or intimidation they may face due to their statements. The Convention also includes an article dedicated to the "Protection of persons reporting information" (Article 33).

Furthermore, the [African Union Convention on Preventing and Combating Corruption of 2003](#), ratified by Niger, states in Article 5 that parties to the Convention undertake to "adopt legislative and other measures to protect informants and witnesses in cases of corruption and related offences, including their identity," but also to "adopt measures to ensure that citizens report cases of corruption, without potentially fearing retaliation."

At the regional level, Niger ratified in 2006 [the Protocol on the Fight against Corruption of the Economic Community of West African States \(2001\)](#). According to this protocol, establishing laws or measures aimed at effectively and adequately protecting any person who provides, in good faith, information on acts of corruption constitutes a preventive measure against corruption and money laundering. Indeed, even if the concept of whistleblowing is not explicitly used, there seems to be an indirect obligation on the part of the States parties, including Niger. Furthermore, Article 8, "Protection of witnesses", requires States parties to implement measures to protect witnesses against any form of retaliation or intimidation in the context of judicial proceedings. This protection also extends to family members and any other close associates of the witnesses.

Thus, by ratifying these international and regional texts, Niger has formally committed to implementing effective protection for whistleblowers who play an essential role in the fight against financial crime.

- **Limited protection for whistleblowers in national legislation**

At the legislative level, the [Penal Code](#) does not provide any provisions for the protection of whistleblowers, but it does penalise slanderous accusations under Article 220. In this regard, this article states that "anyone who, by any means whatsoever, makes a slanderous accusation against one or more individuals to administrative or judicial police officers, or to any other competent authority, or to the hierarchical superiors or employers of the denounced, shall be punished by imprisonment from six months to five years and a fine of 50,000 to 500,000 francs."

Article 221 of the same code sanctions the disclosure of secrets and applies to healthcare personnel and "to all other persons entrusted, by status or profession or by temporary or permanent functions, with the secrets entrusted to them." Thus, "persons listed in this present article who have disclosed secrets shall be punished by imprisonment from two months to one year and a fine of 10,000 to 200,000 francs, or by one of these two penalties, except where the law obliges or authorises them to act as informants."

The Labor Code contains no provisions protecting whistleblowers; however, [Article 78 of Law No. 2012-45 of September 25, 2012, on the Labor Code](#) states that "the following shall not constitute legitimate grounds for dismissal: - the fact of having lodged a complaint or participated in proceedings brought against an employer for alleged breaches of its obligations, or lodged an appeal with the competent administrative authorities."

- **Law on Anti-Money Laundering and Combating the Financing of Terrorism and its Protection for Whistleblowers**

Niger also has [Law No. 2016-33 of 31 October 2016 on the fight against money laundering and the financing of terrorism](#), which grants protection against civil and criminal proceedings for breach of professional secrecy to persons or managers who make reports of suspicions in good faith, declared "exempt from all penalties for breach of professional secrecy" (Article 83). Article 95 of the same law enshrines the protection of witnesses and anonymous testimony.

- **Limited protection for whistleblowers under the High Authority for the Fight against Corruption and Related Offences (HALCIA) Law**

[Law No. 2016-44 of December 6, 2016, on HALCIA](#) provides protection that can apply to whistleblowers. Article 23 states that HALCIA "may be seized by any person for dated and signed denunciations concerning acts of corruption or related offences." This article allows any citizen who witnesses illicit acts to seize this institution to sound an alarm. However, there is no guarantee of anonymity in the transmission of denunciations.

Article 27 of this law is also important, as it ends with the following positive obligation: "The State ensures the protection of witnesses, experts, and whistleblowers in cases of corruption and related offences." This article expressly enshrines the protection of "whistleblowers" in cases of corruption and related offences. However, details need to be given regarding the nature of the protection granted or its implementation modalities or deadlines.

1.2 Laws and measures related to combating financial crime

This section focuses on the measures taken by the Nigerien government to combat financial crime. It examines legislative reforms, policies, and initiatives aimed at promoting transparency, integrity, and accountability in the management of public affairs. While acknowledging the efforts made, it also highlights persistent challenges and prospects for improvement in the fight against financial crime in Niger.

- **Fight against corruption**

"Corruption is widespread and deeply rooted in Niger": this is the conclusion of a [2019 report by the International Monetary Fund \(IMF\)](#). The report specified that "the customs administration, taxes, the police, and the services responsible for public procurement were considered the most corrupt."

In his [inaugural speech](#) in 2021, President Mohamed Bazoum promised to combat corruption vigorously and denounced a mentality "not always in line with the values of the rule of law and its requirements regarding the primacy of law." [On July 26, 2023](#), the armed forces of Niger overthrew President Mohamed Bazoum, citing the worsening security situation due to jihadist violence, corruption, and economic difficulties in this uranium-rich country. General

Abdourahmane Tchiani now heads the National Conseil National pour la sauvegarde de la patrie (CNSP), the military junta that took power.

The preamble of the 2010 Nigerien [Constitution](#) asserted an "absolute opposition to corruption and arbitrariness." As this Constitution was [suspended by the military junta](#), it is likely that it will be amended in the future.

Corruption is also severely punished in the [Penal Code](#). In this regard, Sections IV (Articles 121 to 123), V (Articles 124 to 128), and VII (Articles 130 to 133) deal with embezzlement by public officials, bribery, corruption and trading in influence.

In its [2022 report on the Corruption Perceptions Index \(CPI\)](#) worldwide, Transparency International ranks Niger 123rd out of 180 countries with 32 points out of 100.

- **High Authority for the Fight against Corruption and Related Offences (HALCIA)**

Niger does, however, have anti-corruption legislation and national institutions specialising in preventing and combating corruption, such as [HALCIA](#), which was set up in 2016. The HALCIA, which reports to the President of the Republic, was set up as part of the national anti-corruption strategy. Its mission is to prevent and combat corruption and related offences. In the interests of efficiency, it has been given many powers defined in [Law No. 2016-44 of 6 December 2016 on the HALCIA](#).

Among other things, it can carry out investigations, as the law provides it with judicial police officers and agents, and its investigations can be conducted even when the matter has already been referred to the courts (Article 24). It may request the production of banking, financial or commercial documents that have been used or intended for use in committing the offences under investigation without the principle of banking secrecy being invoked or opposed to it (Article 25). It is authorised to carry out searches in accordance with the provisions of the Code of Criminal Procedure (Article 26).

In his [speech on the occasion of the International Anti-Corruption Day](#) in 2022, the President of the HALCIA indicated that during the period 2012-2022, 323 complaints and denunciations had been recorded. Of these 323 complaints, 197 were retained for processing,

after which 50 reports were submitted to the President of the Republic and the competent prosecutors. However, it is necessary to question the follow-up given to these cases.

- **Information, Complaints, and Anti-Corruption Bureau (BIR/LCTI)**

In addition to HALCIA, the [Information, Complaints and Anti-Corruption Bureau \(BIR/LCTI\)](#) was established by Order No. 0056/MJ/GS/PPG of August 2, 2011 (not available online to date). Also known as the "Green Line," the BIR/LCTI is a department of the Ministry of Justice responsible for implementing the government's strategy to combat corruption in the judiciary sector. The powers of the BIR/LCTI are limited: it can only receive complaints and reports from citizens regarding acts of corruption within the judiciary. Moreover, the anonymity of complaints is not guaranteed. Following its investigations, if there is any evidence that could lead to prosecution, the BIR/LCTI prepares reports to transmit to the Public Prosecutor. The Bureau is limited in its independence, as the State provides its administrative and financial management.

The BIR/LCTI also suffered from a lack of effectiveness in the years following its establishment in 2011. According to [Karimou Haladou](#), Coordinator of the Green Line, the BIR/LCTI's activities were slowed by the abandonment of certain institutional players. It was not until a decree was passed by the Council of Ministers in 2019 that the Line was relaunched and democratised.

- **Obligation to Declare Assets for the President and Government Members**

The 2010 Nigerien [Constitution](#) (currently suspended) requires the President and government members (Prime Minister and Ministers) to declare their assets at the beginning and end of their terms, as stipulated in Articles 51 and 78. The Court of Auditors is responsible for monitoring asset declarations. Article 79 specifies that any inaccurate or false declaration of assets exposes its author to prosecution in accordance with the provisions of the Penal Code.

- **Fight against money laundering and terrorist financing**

The fight against money laundering and terrorist financing (AML/CFT) has been strengthened by [Law No. 2016-33](#) (see box).

On 2 July 2015, the Council of Ministers of the WAMU zone adopted the draft uniform law on the fight against money laundering and terrorist financing. The eight-member countries of WAMU and WAEMU had six months to internalise the law into their domestic legal order. Internalisation took place in various countries between December 2015 and December 2018.

The 2015 Uniform Act, which replaced the previous 2008 Uniform Act, incorporated the new 2012 revisions of the FATF standards.

The new law made it possible to merge the texts relating to the fight against money laundering and terrorist financing and to take into account aspects relating to the proliferation of weapons of mass destruction.

Furthermore, the current law introduced the prohibition of cash transactions for amounts exceeding 10 million francs. It expanded the category of designated non-financial professional entities (DNFPEs), which are essentially non-financial institutions that could be used for money laundering or terrorism financing purposes due to their nature.

The AML/CFT law requires the country to establish a national AML/CFT framework covering several aspects, including the following:

1. The country must conduct its national risk assessment and identify vulnerabilities to money laundering (ML) and terrorist financing (TF).
2. Obligated entities (financial institutions and DNFBPs) must conduct their risk assessments.
3. Obligated entities must implement an effective AML/CFT framework to significantly mitigate ML/TF activities and submit suspicious transaction reports to the financial intelligence unit (CENTIF).
4. Obligated entities failing to meet their obligations must face administrative and disciplinary sanctions.
5. To fulfil its missions, CENTIF must be autonomous, operational, and adequately resourced with technical, financial, and human resources. CENTIF is an independent administrative authority under the supervision of the Minister of Finance. Its mission

includes processing and transmitting information for the fight against ML and TF. CENTIF also handles suspicious transaction reports and can oppose the execution of a transaction based on severe, consistent, and reliable information. When operations reveal facts that may constitute the offence of money laundering or terrorist financing, CENTIF submits a report to the Public Prosecutor, who must refer the case to the investigating judge.

6. The country must establish mechanisms to freeze the assets of terrorist individuals and organisations.
7. Both individuals and legal entities can be held criminally liable for offences related to money laundering and/or terrorist financing.
8. The country establishes mechanisms to seize, manage, and confiscate the assets of criminals.

1.3 Media rights and freedom of expression

Freedom of expression, press freedom, and media rights are crucial in whistleblowing. These fundamental rights enable whistleblowers and journalists to disclose sensitive information safely, shed light on wrongdoing, and protect the public interest. Respecting these rights promotes an environment conducive to transparency, accountability, and the disclosure of information in the public interest.

- **Constitutional and Legislative Framework on Press Freedom**

Articles 30 and 31 of the 2010 [Constitution](#) (currently suspended) enshrines the right to freedom of thought, opinion, expression, conscience, religion and worship and to information held by public services (under conditions determined by law).

In addition, since [Ordinance no. 2010-35 of 04 June 2010 on the freedom of the press](#), press offences have been decriminalised. Former imprisonment penalties have been replaced by fines, and preventive detention has been abolished. This ordinance also outlines the conditions for professional journalism activities and offences against freedom of the press and communication.

In 2019, the country adopted [Law No. 2019-33 of July 3, 2019, on the repression of cybercrime](#) in Niger. The main purpose of this law appears to be initially related to the need to regulate illicit practices using new digital technologies. However, associations have feared its misappropriated and abusive use, particularly its Article 31 on the dissemination of false news, which states: "Anyone who produces, makes available to others, or disseminates data likely to disrupt public order or undermine human dignity through an information system shall be punishable by imprisonment for six months to three years and a fine of one to five million CFA francs."

Furthermore, certain articles of the law grant extensive search powers to the public authority and may infringe upon privacy, freedom of expression, and media rights.

Article 42 provides that the examining magistrate or the judicial police officer may access stored computer data or a data storage medium. Under Article 44, computer data may even be collected in real-time and recorded by the examining magistrate or the judicial police officer "when the needs of the investigation or information require it." Article 45 allows for the interception of data when the penalty incurred is equal to or greater than two years' imprisonment. Moreover, this interception decision is not subject to any appeal as it is considered non-jurisdictional.

- **Persistent Threats to Press Freedom in Niger**

Despite the existence of protective constitutional and legislative provisions, attacks on freedom of expression and media rights remain a significant challenge for Niger today. In the months following the adoption of [Law No. 2019-33 of July 3, 2019, on the repression of cybercrime](#) in Niger, associations noted an increase in the number of arbitrary arrests. In May 2020, [Amnesty International](#) condemned the abusive and intrusive use of the law by the government, aiming to muzzle anyone who criticised its management of the health crisis. Nigerien journalist [Mamane Kaka Touda](#) was arrested in March 2020 after posting on Facebook about a possible case of COVID-19 contamination in a hospital in the capital.

In recent years, several journalists have been arbitrarily arrested and media outlets suspended. In 2022, Moussa Aksar, a renowned Nigerien investigative journalist and editor of the newspaper "L'Èvènement," was sued for defamation for his revelations on [financial mismanagement at the Ministry of Defense](#). This investigation is based on reports of

suspicious activities from the U.S. Treasury Department's Intelligence Unit and the Financial Crime Enforcement Network called "FinCEN." It was carried out as part of the international investigation project called "FinCEN Files," which brought together journalists from nearly 90 countries under the coordination of the International Consortium of Investigative Journalists (ICIJ) based in Washington. [Civil society and several international media outlets](#) have denounced judicial harassment and a deliberate attempt to intimidate the journalist.

Also in 2022, Moussa Aksar and Samira Sabou, a freelance journalist, were sentenced to suspended prison terms for reproducing in May 2021 an investigation into corruption in Niger produced by the [Global Initiative Against Transnational Organized Crime \(GI-TOC\)](#). This document portrayed Niger as a "nerve centre" for hashish trafficking in the region and denounced the close links between traffickers and parts of the Nigerien political and military class. [Reporters Sans Frontières \(RSF\)](#) denounced "completely unjustified convictions that send a dramatic signal about the state of justice and the fight against corruption in the country." Moussa Aksar's case and those of other journalists are glaring examples of the threats facing investigative journalism in Niger.

In 2023, Niger ranked 61st out of 180 countries in [RSF's World Press Freedom Index](#). However, following the military coup on July 26, 2023, RSF expressed [concerns](#) about the fate of journalists in Niger and feared a deterioration in press freedom.

Niger is considered "[partly free](#)", according to Freedom House's annual report for 2022. The country scored 51 out of 100, dropping three places compared to 2021, when it scored 48 out of 100. However, the recent coup could potentially affect this score.

Thus, in the current regional security context marked by the fight against terrorism and the recurrence of military coups, media rights, as well as freedom of expression and information, could face further challenges in Niger. These potential restrictions could impact the fight against corruption and, consequently, the protection of the public interest.

1.4 The Access to Information Act and Secrecy Laws

This section will discuss the importance of access to public information for whistleblowers and journalists. These individuals who expose illicit behaviours within the public administration require reliable information to support their disclosures. The right to access

public information ensures transparency and accountability, thereby providing enhanced protection to whistleblowers and journalists who can rely on concrete facts when disclosing sensitive information.

- **The provisions of the Penal Code: A strict framework for the disclosure of classified information**

The Nigerian Penal Code is very strict regarding the disclosure of "defence secrets." Under Article 64, "any Nigerien who delivers to a foreign power or its agents (...) information, object, document, or process that must be kept secret in the interest of national defence (...) shall be guilty of treason and punishable by death." Furthermore, under Article 66: "any Nigerien or foreigner who, with the intention of delivering them to a foreign power, gathers information, objects, documents, or processes whose collection and exploitation are likely to harm national defence shall be punished by life imprisonment."

According to Article 70 of the Penal Code, "any Nigerien or foreigner who, without the intention of treason or espionage, has brought to the attention of an unqualified person or the public military information not made public by the competent authority and whose disclosure is clearly likely to harm national defence shall be punished by imprisonment of one to five years."

- **The ordinance on access to public information in Niger: Between legal guarantees and persistent obstacles**

[Ordinance No. 2011-22 of February 23, 2011](#), establishes the general rules for access to public information and administrative documents. According to this ordinance, access to information is free, subject to the exceptions and deadlines provided by law (Article 4).

Article 13 of the ordinance specifies that the following information or administrative documents cannot be consulted or disclosed, particularly if their disclosure would harm: the secrecy of government deliberations and the authorities responsible under the executive branch; national defence secrets; the conduct of Niger's foreign policy; state security, public safety, or the safety of individuals; currency or public credit; the course of proceedings before the courts or preliminary operations to such proceedings unless authorised by the competent

authority. The article specifies that this restriction applies to any public information whose disclosure is prohibited by specific legislative and regulatory provisions.

Article 28 of the ordinance states that the "Mediator of the Republic is the institution responsible for ensuring respect for the right of access to public information." When a citizen encounters difficulties in accessing information, he or she can refer the matter to the Mediator (Article 29). In his annual public report to the President of the Republic, the Mediator must highlight the difficulties citizens encounter in exercising their right of access to public information (Article 30).

Regarding sanctions, the ordinance stipulates that any administrative authority or official who refuses to provide or obstruct public information and communicable administrative documents incurs sanctions as provided by current legislation and regulations and is required to redress the damage suffered (Article 32). Any official or administrative authority found guilty of disseminating non-communicable information is liable to disciplinary sanctions without prejudice to the sanctions provided for by current laws (Article 33).

Article 33 specifies that "persons who have disseminated or reported acts constituting an offence, a breach of a legal obligation, a miscarriage of justice, or serious acts of negligence in the management of a public administration must be protected and immune from any judicial, administrative, or professional sanction." It seems that this ordinance, to some extent, enshrines protection for whistleblowers.

Despite the existence of this ordinance, the [Media Foundation for West Africa \(MFWA\)](#) asserts that "the provisions of this ordinance are not applied in practice and access to administrative sources remains a real obstacle course for journalists."

2. ANALYSIS OF THE FACTS: WHISTLEBLOWERS CASES

This section aims to list known and public cases of whistleblowers to assess the treatment afforded to whistleblowers in the country.

- **Falamata Aouami**

[Falamata Aouami](#) denounced multiple irregularities she had noticed while employed at the Agricultural Bank of Niger (BAGRI). [PPLAAF](#) also issued a press release on the matter in 2017.

Falamata Aouami, who holds a Master's degree in audit and management control from Dakar, was Director of Audit and Inspection at BAGRI. She was dismissed in 2015 after raising internal alarms about her employer's fraudulent practices. In her capacity as director, Falamata Aouami discovered multiple irregularities, including a discrepancy between equity and share capital, the granting of loans without minimum legal guarantees, and cash discrepancies.

Faced with these irregularities, Falamata Aouami conducted an inspection and drafted an audit report and recommendations on the bank's management. The report was suppressed to conceal irregularities from the Banking Commission of the West African Monetary Union, an external supervisory body.

The whistleblower was ultimately dismissed on May 29, 2015, for "serious misconduct." After long months of legal proceedings, Falamata Aouami finally obtained justice in January 2017. BAGRI was ordered to pay her the sum of 13 million CFA francs in compensation for dismissal and damages.

3. RECOMMENDATIONS: WEAKNESSES AND REFORMS

This section suggests areas for improvement for the State regarding the protection of whistleblowers, current legislation against financial crime, the government's commitment to combating this problem, and the respect for individual liberties, including the right to information, freedom of the press and expression, as well as media rights.

- **Increase awareness and access to corruption reporting procedures**

A [May 2018 report](#) from the National Institute of Statistics national survey on corruption in the judiciary and other social phenomena reveals that only 10% of citizens surveyed are aware of procedures for reporting corruption to the relevant authorities. This situation,

combined with a high perception of corruption, could constitute an obstacle to the fight against this phenomenon, as citizens may be less inclined to report illicit acts due to a lack of confidence in their judicial institutions.

- It, therefore, seems important for the Nigerien State to take measures to improve the confidence of Nigeriens in their judicial institutions, in particular by strengthening the application of laws already in force in this regard.

- **Strengthening the Independence of HALCIA**

HALCIA's lack of independence is a problem. Indeed, this body is attached to the Presidency, raising questions about its autonomy and possible government interventions.

- It is appropriate to take measures to ensure the independence of this vital institution with significant powers.

- **Security challenges and the preservation of individual freedoms in Niger**

Finally, the state can face the challenges associated with terrorism while ensuring that certain individual freedoms are preserved, particularly freedom of expression and freedom of the press.

The current political and security context presents challenges in terms of preserving individual liberties and press freedoms. However, the emergence of a culture of whistleblowing requires an environment that guarantees these freedoms.

- In this regard, it would be beneficial for Niger to strengthen the freedom of expression of journalists and cyber-activists while protecting these actors and striving to put an end to attempts to muzzle and intimidate them. This could foster the establishment of an environment conducive to whistleblowing.

4. KNOWLEDGE, SUPPORT, AND ACTION CENTRES:

In this section, we will explore the landscape of civil society organisations, NGOs, and citizen movements that promote good governance. These entities represent valuable sources of knowledge and expertise, playing a crucial role in strengthening democratic practices.

The [Collective of Human Rights and Democracy Defense Organizations \(CODDHD\)](#) is a group of organisations whose aim is to protect, promote and defend human rights and democracy in Niger. CODDHD strives to combat degrading and humiliating social practices, impunity and corruption. The collective is made up of more than 44 associations and organisations.

The actions of this collective consist of organising national and international meetings, conducting training sessions on civil and political rights in schools, and organising public conferences and seminars.

The [Network of Organizations for Transparency and Budget Analysis \(ROTAB Niger\)](#) is a collective of organisations, NGOs, and unions that have decided to pool their expertise to participate in the global campaign "Publish What You Pay"; this initiative is based on transparency in the extractive industry.

Among other things, the collective is working to promote transparency and good governance throughout the chain of activities related to the extractive industries and to influence, in favour of the people, the national policies and laws drawn up and implemented by the government in this area. The overall objective is to promote real transparency in this sector to contribute to the consolidation of democracy and good governance.

There is also the [Nigerien Association for the Fight Against Corruption \(ANLC\)](#), which is a non-political, non-profit association established in 2001. Its main objective is to fight against corruption by promoting reforms aimed at transparency in public and private management, committing to denounce and combat any act of corruption it becomes aware of in public and private management, and the emergence of an ethic aimed at promoting the moral integrity of citizens.

The association's activities include producing reports, observing elections, raising awareness of corruption in electoral matters and investigating corruption. It has regional branches, and its actions are relayed at the local level by anti-corruption clubs.

6. TOGO

- **List of acronyms**

AML/CFT - Anti-Money Laundering/Countering the Financing of Terrorism

Alliance-Togo - National Alliance of Consumers and Environment (Togo)

CENTIF - Financial Intelligence Unit

CPI - Corruption Perceptions Index

CSFPPP - Committee for Monitoring Price Fluctuations of Petroleum Products

CSO - Civil Society Organisation

ECOWAS - Economic Community of West African States

FATF - Financial Action Task Force

GIABA - Inter-Governmental Action Group against Money Laundering in West Africa

HAPLUCIA - High Authority for the Prevention and Fight against Corruption and Related Offences

HAAC - High Authority of Audiovisual Communication

NGO - Non-Governmental Organisation

OTR - Togolese Revenue Office

PPLAAF - Platform to Protect Whistleblowers in Africa

RAC-Togo - Togo Anti-Corruption Network

RSF - Reporters sans frontières

SRCIC - Central Service for Criminal Research and Investigations

UNCAC - United Nations Convention against Corruption

WAMU: West Africa Monetary Union

WAEMU - West African Economic and Monetary Union

- **Legal Sources**

[United Nations Convention against Corruption of 2005](#)

[Constitution](#)

[Law on the fight against corruption and related offences](#)

[Uniform law on the fight against money laundering and terrorism financing in the member states of the West African Monetary Union \(WAMU\)](#)

[Cybersecurity Law \(2018\)](#)

[Penal Code](#)

[Labour Code](#)

[Law on access to information](#)

[Law governing declarations of assets and liabilities of senior officials](#)

[Press and Communication Code](#)

- **Executive Summary**

Although Togo has ratified the [United Nations Convention against Corruption](#), which contains numerous provisions aimed at promoting the establishment of effective reporting tools, this country lacks any legal framework regarding the protection of whistleblowers.

The adoption of a new [Constitution](#) in 2019 and the [Declaration of assets and liabilities of high-level personalities and public officials](#) in 2020, coupled with the development of the National Anti-corruption Strategy, have been positive signals regarding good governance.

However, several challenges remain, such as ensuring freedom of expression, especially for journalists, the effective enforcement of existing national laws, overlapping responsibilities among government bodies, and limited implementation of ratified international standards. These elements can constitute obstacles to progress toward a democratic society.

1. ANALYSIS OF LEGAL FRAMEWORK

1.1 Whistleblower laws and policies

Whistleblower protection is a crucial aspect of the fight against financial crime. This section explores the laws, measures, and mechanisms implemented in Togo to ensure the protection of whistleblowers. It examines the rights and guarantees afforded to whistleblowers, the protection mechanisms in place, and the persistent challenges related to this protection.

- **Absence of specific legislative protection for whistleblowers in Togo: Analysis of gaps and challenges**

Togo ratified the [United Nations Convention against Corruption](#) (UNCAC) in 2003, whose Articles 32 and 33, respectively, emphasise the need for effective protection against potential acts of retaliation or intimidation against witnesses, experts, or victims, as well as the

importance of adopting an internal legal framework including appropriate measures to ensure this protection.

The Togolese [Constitution](#) provides for freedom of expression and dissemination of opinions. However, this freedom is exercised "within the limits defined by law" (Article 26), while Article 46 asserts the criminalisation of acts of embezzlement of public funds, corruption, and misappropriation; however, no provisions specifically related to whistleblowing are provided.

The Togolese [Labor Code](#) does not provide any protection for whistleblowers. The statement of legitimate reasons for dismissal in Article 77 does not clarify whether whistleblowing can be considered as such. Article 60 deems dismissals without legitimate reasons as "abusive," as well as dismissals motivated by the opinions of the worker. Furthermore, according to Article 184, labour inspectors are bound by professional secrecy, even after leaving their service. Thus, they must keep confidential any complaints reporting a defect in the facilities or a violation of legal or regulatory provisions.

The [Penal Code](#) contains no specific provisions for the protection of whistleblowers. Its Articles 357 and 358 indicate that the breach of professional secrecy is punishable by one to three years in prison and a fine of one to three million francs, but specifies that these penalties do not apply to "cases where the law requires or authorises disclosure." However, Article 518 of the Penal Code states that "any person who, outside the cases where they are bound by professional secrecy, refuses to testify in court, is liable to a fine of one hundred thousand to one million CFA francs." The Code also punishes false accusations more severely (Article 364).

- **Limited protection of whistleblowers under the law establishing the High Authority for the Prevention and Fight against Corruption and Related Offences (HAPLUCIA)**

[Law No. 2015-006 of July 28, 2015](#), establishing the HAPLUCIA, grants this authority the power "to collect any information concerning acts of corruption or other related offences and to transmit them, with discernment, to the competent judicial authorities, while maintaining the confidentiality, under penalty of criminal prosecution, of the identity of whistleblowers if they so request, while ensuring respect for the presumption of innocence" (Article 3). In other

words, individuals have the possibility to inform HAPLUCIA about cases of corruption or related offences.

Article 3 also specifies that HAPLUCIA "ensures the protection of any person who, in good faith, reports to the competent authorities all facts concerning established offences." Although the law provides for protection, the procedures and modalities for its implementation are not explicitly defined.

Finally, the article specifies that "the confidentiality and anonymity of the whistleblower may not be guaranteed if it is a false accusation."

Although the term "whistleblower" is not explicitly used in this law, this provision may be applicable to an individual acting as a whistleblower.

- **Limited protection of witnesses under the law in fighting against money laundering and terrorist financing**

Article 95 of [Law No. 2018-004 on fighting against money laundering and terrorist financing](#) guarantees partial or total anonymisation of data concerning witnesses in cases of risk of "serious harm" or "endangerment" to them.

Article 97 of the same law recalls that no prosecution for breach of professional secrecy can be brought against persons who, in good faith, have transmitted information or made statements of suspicion provided for by Article 79 of this law or when they have communicated information to the National Financial Information Processing Unit (CENTIF), in application of Article 60.

1.2 Laws and Measures Related to Combating Financial Crime

This section focuses on the measures taken by the Togolese government to combat financial crime. It examines legislative reforms, policies, and initiatives aimed at promoting transparency, integrity, and accountability in the management of public affairs. While acknowledging the efforts made, it also highlights persistent challenges and prospects for improvement in the fight against financial crime in Togo.

- **Fight against Corruption**

In 2022, the [Corruption Perception Index \(CPI\)](#), the leading global indicator of corruption in the public sector issued by Transparency International, ranked Togo 130th out of 180 with a score of 30/100.

The [Penal Code](#) dedicates a complete section to corruption in Articles 594 to 621. These provisions are designed to repress corruption involving national public officials, foreign public officials, and international civil servants. The Penal Code also penalises corruption in the private sector, as well as all offences assimilated to corruption, such as influence peddling, abuse of office, and illicit enrichment.

A civil society [report](#) prepared by the [National Alliance of Consumers and Environment \(ANCE-Togo\)](#) on the implementation of Chapters 2 and 4 of the UNCAC highlights the country's progress in terms of transparency in the management of public affairs but mainly underscores weaknesses in terms of performance, quality of public service, and the enforcement of sanctions for acts of corruption. The legal framework of Togo is considered in this report as "incomplete and non-harmonised" as it is characterised by "a lack of clarity and blatant overlaps" in the roles and responsibilities of each control body.

- **High Authority for the Prevention and Fight against Corruption and Related Offences (HAPLUCIA)**

The establishment of the High Authority for the Prevention and Fight against Corruption and Related Offences (HAPLUCIA) in 2015 via [Law No. 2015-006](#) constitutes the first step towards the establishment of an independent administrative institution responsible for promoting and strengthening the prevention and fight against corruption and related offences in administrations, public establishments, private companies, and non-governmental organisations.

Togo has gradually applied sanctions against perpetrators of corruption, prosecuting magistrates and convicting numerous officials for tax fraud. In this regard, in August 2019, [five agents of the Togolese Revenue Office](#) (OTR) were sentenced to 7 years' imprisonment and a fine of 17 billion CFA francs to be paid to the OTR as damages. In November 2019, [two judges were sanctioned](#) for corruption. In the same perspective, in 2020, 225 law

enforcement and security agents (88 police officers and 137 gendarmes) were sanctioned by the government for lack of discipline, personal recklessness, negligence, desertion, theft, extortion, and corruption.

Great hopes are placed in HAPLUCIA, which is expected to undergo restructuring. On January 24, 2023, Judge [Aba Kimelabalou](#) was appointed to head HAPLUCIA. Aba Kimelabalou is a first-grade magistrate; he was the Director-General of the Intergovernmental Action Group against Money Laundering in West Africa ([GIABA](#)) and a judge at the [African Court on Human and Peoples' Rights](#).

- **Obligation to declare assets and National Strategy to fight against Corruption**

In 2020, Togo adopted [Organic Law 2020-003](#), establishing the conditions for declaring assets and liabilities of high-ranking officials, senior civil servants, and other public officials as an essential measure in preventing corruption and related offences. This law aims to "strengthen good governance, promote transparency in the exercise of public functions and duties, guarantee the integrity of state servants, fight against corruption and related offences, prevent illicit enrichment among high-ranking officials, senior civil servants, and public agents, and reinforce public trust in the institutions of the Republic, public administrations, and public authorities."

Article 3 provides that "the declaration of assets and liabilities of high-ranking officials, senior civil servants, and other public agents is made at the beginning and end of their mandates or functions. It must be renewed annually, on the anniversary date, between the beginning and end of the mandate or functions."

On October 13, 2022, Togo validated its [national strategy to fight against corruption and related offences](#). The development of this strategy lasted two years and was led by HAPLUCIA. The validation session was attended by Togolese Minister of Human Rights, Citizenship Training, and Relations with Republic Institutions, Christian Triuma. It is not available online at the date of publication of this report. Still, it is formulated around three axes: strengthening the legal and institutional framework for fighting against corruption, the need to mobilise all national actors in the fight against corruption, and strengthening integrity, transparency, and the quality of public administration.

● **Fight against Money Laundering and Terrorist Financing**

The fight against money laundering and terrorist financing has been further strengthened with the adoption of [Law 2018-004](#) (see below) on the fight against money laundering and terrorist financing in the member states of the West African Monetary Union (WAMU).

On 2 July 2015, the Council of Ministers of the WAMU zone adopted the draft uniform law on the fight against money laundering and terrorist financing. The eight member countries of WAMU and WAEMU had six months to internalise the law into their domestic legal order. Internalisation took place in various countries between December 2015 and December 2018.

The 2015 Uniform Act, which replaced the previous 2008 Uniform Act, incorporated the new 2012 revisions of the FATF standards. The new law made it possible to merge the texts relating to the fight against money laundering and terrorist financing and to take into account aspects relating to the proliferation of weapons of mass destruction.

Furthermore, the current law introduced the prohibition of cash transactions for amounts exceeding 10 million francs, and expanded the category of designated non-financial professional entities (DNFPEs), which are essentially non-financial institutions that could be used for money laundering or terrorism financing purposes due to their nature.

The AML/CFT law requires the country to establish a national AML/CFT framework covering several aspects, including:

1. The country must conduct its national risk assessment and identify vulnerabilities to money laundering (ML) and terrorist financing (TF).
2. Obligated entities (financial institutions and DNFBPs) must conduct their risk assessments.
3. Obligated entities must implement an effective AML/CFT framework to significantly mitigate ML/TF activities and submit suspicious transaction reports to the financial intelligence unit (CENTIF).
4. Obligated entities failing to meet their obligations must face administrative and disciplinary sanctions.
5. CENTIF must be autonomous, operational, and adequately resourced with technical, financial, and human resources to fulfil its missions. CENTIF is an independent

administrative authority under the supervision of the Minister of Finance. Its mission includes processing and transmitting information for the fight against ML and TF. CENTIF also handles suspicious transaction reports and can oppose the execution of a transaction based on serious, consistent, and reliable information. When operations reveal facts that may constitute the offence of money laundering or terrorist financing, CENTIF submits a report to the Public Prosecutor, who must refer the case to the investigating judge.

6. The country must establish mechanisms to freeze the assets of terrorist individuals and organisations.
7. Both individuals and legal entities can be held criminally liable for offences related to money laundering and/or terrorist financing.
8. The country establishes mechanisms to seize, manage, and confiscate the assets of criminals.

1.3 Media Rights and Freedom of Expression

Freedom of expression, press freedom, and media rights play a crucial role in whistleblowing. These fundamental rights enable whistleblowers and journalists to disclose sensitive information safely, shed light on wrongdoing, and protect the public interest. Respecting these rights promotes an environment conducive to transparency, accountability, and the disclosure of information in the public interest.

- **Legal Framework Regarding Freedom of Expression and the Press**

Press offences have been decriminalised in Togo since 2004, and professional journalist organisations are empowered to mobilise and defend the press when it is under attack.

In Togo, the right to freedom of expression is protected by Article 19 of the [International Covenant on Civil and Political Rights](#) and Article 9 of the [African Charter on Human and Peoples' Rights](#), which Togo has ratified.

[The Press and Communication Code](#) guarantees the exercise of freedom of information and audiovisual press. However, the law specifies that this freedom must not constitute abuse. Therefore, the exercise of this freedom must not infringe on privacy and the right to the

image of others, nor consist of the dissemination of defamatory, insulting, or outrageous statements, nor violate professional secrecy, trade secrets, and defence secrets that prohibit the publication and disclosure of certain information.

This law also restricts potential investigative subjects. Furthermore, it allows for heavy fines on journalists for insulting the President of the Republic, parliamentarians, and government members. Media reporting on corruption are regularly prosecuted for libel and are subject to criminal penalties and/or fines. Moreover, by excluding social networks from its scope of application (Article 3), the Press Code appears to be significantly incomplete.

Freedom of expression and the press are guaranteed by the [Constitution](#) in Articles 25 and 26, but these freedoms do not seem to be respected in practice. In this sense, the [cybersecurity law \(2018\)](#) restricts online freedom of expression and grants greater authority to the police to conduct electronic surveillance.

- **Repression and Imprisonment of Critical Journalists in Togo: A Hostile Climate for Press Freedom**

[L'Alternative and Fraternité](#), two newspapers critical of the government, were suspended in February 2021 for four months by the High Authority for Audiovisual Communication (HAAC). The sanction against L'Alternative followed a complaint from the Minister of Urban Development, Koffi Tsolenyanu, regarding an article alleging that he had falsified documents. In March 2020, this newspaper was suspended for two months following a complaint from the [former French ambassador to Togo, Marc Vیزی](#). Fraternité was suspended in March 2020 for two months following an article denouncing the suspension of two other newspapers.

In the same year, 2021, [two journalists were imprisoned](#): (1) Ferdinand Ayité, editor-in-chief of L'Alternative, was placed in pre-trial detention after his hearing, for "defamation" (Article 290 of the Togolese Penal Code) and "outrage to authorities" (Article 490 of the Togolese Code of Criminal Procedure) held during an online broadcast, and (2) Joël Egah, editor of the weekly Fraternité participating in the same broadcast, was also incarcerated. Their statements about the Minister of Justice, Pius Agbétomey, and the Minister of Commerce, Kodjo Adedze, whom they allegedly mocked for their dual role as ministers and pastors in evangelical churches, were the cause.

[Reporters Sans Frontières](#) (RSF) strongly condemned these arrests as "illegal", "arbitrary", and "dangerous" and called for their immediate release. [Amnesty International](#) also denounced this arbitrary detention as "confirmation of the intention to silence dissenting voices, an infringement of freedom of expression". Their request for provisional release was rejected on December 14, 2021, by the investigating judge. On [December 31, 2021](#), the request was finally accepted, subject to very strict judicial control. They are deprived of their passports and banned from leaving the territory pending their trial.

A third journalist, Isidore Kouwonou, was also questioned in this case and placed under judicial supervision. The lawyer for the three journalists, [Mr. Elom Kpade](#), denounced "the lack of legal basis, and a legal vacuum in this case".

In 2020, Ferdinand Ayité was prosecuted after denouncing [acts of corruption in the importation of oil into Togo](#). He was sued for libel by the coordinator of the Committee for Monitoring Fluctuations in Oil Prices (CSFPPP), revealing how officials of this structure responsible for negotiating oil imports into Togo allegedly managed to divert hundreds of millions of euros through an opaque tendering system, while Togo has had a [decree on the code of ethics and conduct for public procurement](#) since 2019. On November 4, 2020, the Lomé Court of First Instance fined investigative journalist Ferdinand Ayité and the newspaper he works for, L'Alternative, 2 million CFA francs after finding them [guilty of defamation under Articles 160 and 163 of the Press Code](#).

In January 2021, [Carlos Kétohou](#), journalist and editor of the Togolese weekly "Indépendant Express," was arrested by the Central Service for Criminal Investigations and Research (SRCIC) under the pretext of a summons. He was summoned following the publication of [an article](#) on the front page of his newspaper on December 29, 2021, entitled "End-of-year scoop: Women ministers arrested for stealing golden spoons," reporting on the theft of golden spoons by two Togolese Ministers during a reception.

In March 2023, [Ferdinand Ayité](#) went missing a few hours before being summoned by the gendarmerie. He was supposed to appear in court on March 8th before the Lomé Tribunal, as he has been under investigation since December 2021 for "outrage to authority" and "spreading false information on social media" following complaints from two ministers about statements made in a YouTube broadcast. He reportedly surfaced on his Facebook page on

Wednesday, March 8, indicating that he would be "more or less safe from danger for now" and specifying that he would provide more details later.

- **Freedom House and RSF Rankings: Persistent Challenges for Press Freedom in Togo**

In [2023](#), Togo was designated as "partly free" in the report on press freedom published by [Freedom House](#) with a score of 42/100. According to Freedom House, Togo's many unfavourable factors include the lack of political independence of HAPLUCIA and the ineffective application of the legal framework regarding the conviction of officials for corruption. There is also a lack of transparency regarding state tenders.

In its World Press Freedom Index 2022, [Reporters Sans Frontières](#) (RSF) ranks Togo as the 100th country out of 180, a decline of 26 places compared to 2021. In [2023](#), RSF ranked Togo 70th, a significant improvement from 2022. Although the media landscape is pluralistic in Togo, RSF highlights the profound lack of diversity in the topics covered. The NGO specifies that the work of journalists is thus hindered "by pressures, prosecutions, and even sanctions imposed by the regulatory body (HAAC), which lacks independence". HAAC's repressive policy seems to be a significant obstacle to the culture of investigative journalism in Togo, which regularly faces sanctions.

In this regard, on February 3, 2023, the newspaper [Liberté](#) was suspended by HAAC for three months over an article dating back to September 2022 that contained inaccurate information, for which it apologised. RSF denounces a "procedural defect in a disproportionate decision and requests its cancellation".

The [bi-monthly Tamba](#) Express has also been reported to have been suspended for three months. Togolese journalists observe and are concerned about increasing suspensions in several newspapers and media outlets. The Togolese Press Employers' Association (PPT) considers these sanctions excessive and "appeals to the national and international public opinion about the great risks facing the critical Togolese press and reserves the right to take major actions, because, when silenced, the critical Togolese press is in danger of extinction".

1.4 The Access to Information Act and Secrecy Laws

This section will discuss the importance of access to public information for whistleblowers and journalists. These individuals who expose illicit behaviours within the public administration require reliable information to support their disclosures. The right to access public information ensures transparency and accountability, providing enhanced protection to whistleblowers and journalists who can rely on concrete facts when disclosing sensitive information.

- **The law on freedom of access to information and public documentation**

[Law No. 2016-006 of March 30, 2016, on freedom of access to information and public documentation](#), regulates the right to access information in Togo. Under this law, several government agencies publicise their activity reports and publish other laws, decrees, orders, and other administrative documents on various state web pages. However, information related to national security and defence, the secrecy of authorities' deliberations under the executive branch and the state's foreign policy, instructions pending before courts, health, privacy, or private interests are not communicated.

In this regard, Articles 50 and 51 of this law deal with the sanctions applicable in case of disclosure of non-communicable information. Article 50 states that "without prejudice to the sanctions incurred under other legal or regulatory provisions; any person using information in violation of the provisions of this law (...) is liable to a fine of - three hundred thousand (300,000) to one million (1,000,000) CFA francs when the information has been used for non-commercial purposes; - five hundred thousand (500,000) to two million (2,000,000) CFA francs when the information has been used for commercial purposes." In addition to the fine, the offender may be prohibited from using the information for a maximum period of two years or five years in case of recidivism.

Article 51 adds that "any employee of a public body who provides a requester with confidential or non-communicable information commits an offence and is liable to administrative sanctions without prejudice to other sanctions provided for by current legislation."

- **Cybersecurity Law**

Finally, according to [Amnesty International](#), on December 7, 2018, the Togolese National Assembly adopted a [cybersecurity law \(2018\)](#) that "strongly restricts freedom of expression." It punishes, in particular, the dissemination of false information with a sentence of up to three years in prison for offences against public morality with a sentence of up to two years in prison, as well as the production, dissemination, or sharing of data that violate "order, public security or human dignity."

Furthermore, the law contains "vague provisions relating to terrorism and treason, which provide for heavy prison sentences of up to 20 years, and could easily be used against whistleblowers and other individuals denouncing human rights violations. It also grants additional powers to the police, particularly in terms of surveillance of communications or computer equipment, without adequate judicial control."

2. ANALYSIS OF THE FACTS: WHISTLEBLOWER CASES

This section aims to list known and public cases of whistleblowers to assess the treatment afforded by whistleblowers in the country. There are no known cases of public whistleblowers in Togo.

3. RECOMMENDATIONS: WEAKNESSES AND NEEDED REFORMS

This section focuses on areas for improvement for the State regarding the protection of whistleblowers, current legislation against financial crime, the government's commitment to combating this problem, and the respect for individual liberties, including the right to information, freedom of the press and expression, as well as media rights.

- **Strengthening the fight against financial crime to facilitate whistleblowing**

As evidenced by Togo's current score in Transparency International's Corruption Perceptions Index, many weaknesses persist in the country. In this context, the environment is not conducive to whistleblowing, which requires citizens to trust their institutions and their ability to defend the public interest.

- To bolster this trust, several measures could be taken. The Togolese State could consider guaranteeing independence and strengthening the powers of HAPLUCIA. It would also be beneficial to enhance the effectiveness of existing measures to fight against corruption, money laundering, terrorism financing, and illicit financial flows in order to promote an environment conducive to whistleblowing.
- **Establishment of a comprehensive and effective legal framework for whistleblower protection**

Although Togo has ratified the [United Nations Convention against Corruption](#), which contains many provisions aimed at promoting the establishment of effective reporting tools, this country has no legal framework for whistleblower protection.

- It would, therefore, be opportune for the country to comply with the commitments made under the UNCAC by introducing measures in its legislation to ensure the protection of whistleblowers against retaliation and intimidation, both in the public and private sectors, as well as immunity from criminal and/or civil proceedings.

4. KNOWLEDGE, SUPPORT, AND ACTION CENTRES

In this section, we will explore the landscape of civil society organisations, NGOs, and citizen movements that actively promote good governance. These entities represent valuable sources of knowledge and expertise, playing a crucial role in strengthening democratic practices.

The association "[Veille Citoyenne Togo](#)" was created in 2019 and is engaged in citizen monitoring of public policies impacting the lives of populations. This association promotes citizen oversight of public action (citizen monitoring of transparency in public procurement, promoting transparency in the national and local budgetary process, fighting against corruption and impunity, and denouncing cases of embezzlement and mismanagement of public resources).

"Veille Citoyenne Togo" also intervenes in advocacy, dialogue, and negotiation. The association regularly organises training sessions and awareness-raising workshops and facilitates thematic groups and citizen participation cells.

There is also the association "[RAC-Togo](#)," which was created in 2015. Its objectives include supporting the establishment and operationalisation of a platform of CSOs in the fight against corruption. It also informs citizens and communities about the negative impacts of corruption on development. It also strengthens the capacities of various actors (public officials, private sector, and civil society organisations) on national and international anti-corruption instruments. The network also supports legal and institutional reforms in the fight against corruption and the enforcement of anti-corruption laws through investigative activities, operations/arrests, and legal and judicial assistance.

7. GUINEA CONAKRY

- **List of acronyms**

AGT: Guinean Association for Transparency

ANAGRASC: Agency for the Management and recovery of seized and confiscated assets

ANLC: National Anti-Corruption Agency

AGPD: Acting for Peace and Development in Guinea

CAIP: Commission for Access to Public Information

CENTIF: Financial Intelligence Unit

CHF : Club Humanitaire sans Frontières

CNRD: Comité National du rassemblement pour le développement

CPI: Corruption Perception Index

CRIEF: Court for the Repression of Economic and Financial Offences

FDG: Foundation for Democracy and Governance

FATF: Financial Action Task Force

FNDC: National Front for the Defense of the Constitution

HAC: High Authority of Communication

IPI: International Press Institute

AML/CFT: Anti-Money Laundering/Countering the Financing of Terrorism

NGO: Non-Governmental Organisation

UNODC: United Nations Office on Drugs and Crime

CSO: Civil Society Organisation

RSF: Reporters Sans Frontières

SPPG: Guinean Press Professionals Union

- **Legal sources**

[United Nations Convention against Corruption of 2005](#)

[United Nations Convention against Transnational Organised Crime of 2003](#)

[Constitution of 2010](#)

[Constitution of 2020](#)

[Law No. L/2014/072/CNT on the Labour Code](#)

[Law No. 98/036 of December 31, 1998, on the Penal Code](#)

[Law L/2016/059/AN of October 26, 2016, on the new Penal Code](#)

[Law No. 2020/0027/AN on the right of access to public information](#)

[Law L/2010/02/CNT of June 22, 2010, on freedom of the press](#)

[Law L/2010/003/CNT/ of June 22, 2010, on the powers, organisation, composition, and functioning of the High Authority for Communication](#)

[Law L/2016/037/AN on cybersecurity and personal data protection](#)

[Press Release 012/CNRD/2022](#)

[Law No. 2021/0024/AN on the fight against money laundering and the financing of terrorism](#)

[Decree D/2020/072/PRG/PGG establishing the declaration of assets, property, or wealth of personalities referred to in Article 36 of the Constitution](#)

[Ordinance No./2021/0007/PRG/CNRD/SGG, on the creation, jurisdiction, organisation, and functioning of the Court for the Repression of Economic and Financial Offences](#)

[Ordinance No./2021/0008/PRG/CNRD/SGG amending Ordinance No.](#)

[2021/07/PRG/CNRD/SGG dated December 2, 2021, relating the Court for the Repression of Economic and Financial Offences](#)

[Decree D/2017/219/PRG/PGG promulgating Law L/2017/041/AN on the Prevention, Detection, and Repression of Corruption and Related Offences](#)

- **Executive summary**

Guinea has ratified the [United Nations Convention against Corruption](#), which commits it to introducing protective legislation for whistleblowers into its national law. The country has a legal framework that can be applied to whistleblowers, but efforts to make it effective have been largely insufficient.

Despite the existence of legislative provisions to combat corruption, the country remains in 147th place out of 180 in Transparency International's 2022 Corruption Perceptions Index.

Unfortunately, the contexts of democratic and security transition since the coup of September 2021 have negatively impacted certain public freedoms, such as press freedom. As of 2023, this context is not conducive to the emergence of a whistleblower culture in Guinea.

1. ANALYSIS OF THE LEGAL FRAMEWORK

1.1 Whistleblower laws and policies

Whistleblower protection is a crucial aspect of the fight against financial crime. This section explores the laws, measures, and mechanisms implemented in Guinea to ensure the protection of whistleblowers. It examines the rights and guarantees afforded to whistleblowers, the protection mechanisms in place, and the persistent challenges related to this protection.

- **Decree promulgating Law L/2017/041/AN of July 4, 2017, on the prevention, detection, and repression of corruption and related offences.**

At the international level, on May 29, 2013, Guinea Conakry ratified the [United Nations Convention against Corruption](#). Articles 32 and 33 emphasise the need for effective protection against retaliation, intimidation, and threats to witnesses, victims, or experts, notably through establishing a comprehensive and effective internal legal framework.

The [decree promulgating Law L/2017/041/AN](#) of July 4, 2017, on the prevention, detection, and repression of corruption and related offences provides for special protection by the State for whistleblowers, repentance, informants, witnesses, experts, and victims of corruption or related offences against potential acts of retaliation or intimidation. For all cases of reporting of funds or seizures of assets, whistleblowers are entitled to an incentive bonus (Article 100).

Article 101 of the decree specifies the modalities of application of this protection, in that it applies to "shareholders, directors, company secretaries, employees, registered unions representing employees, suppliers, and supplier employees." The article adds that the protection "extends to any person who discloses objective and disinterested information and who reasonably believed, at the time of disclosure, that such information indicates or tends to indicate that a public or private entity, a joint venture or private company, a director, or the designated officer, acting in that capacity, has committed an offence against laws and regulations that could expose said entity or company to actual or potential risks or liabilities, or would be detrimental to the interests of that entity or company."

Therefore, the type of whistleblowing this decree recognises only concerns whistleblowing within companies, making it a limited form of protection.

Furthermore, Article 102 protects the anonymity of whistleblowers when the disclosures are likely to endanger their lives or physical integrity as well as that of their relatives. Lastly, Article 104 states: "The whistleblower or witness may not remain anonymous if, having regard to the circumstances in which the offence was committed or the character of the whistleblower or witness, knowledge of the identity of the person proves essential for the exercise of the rights of the defence".

Protection is therefore provided for certain whistleblowers, but the question arises as to whether it is effective.

- **Protection Under Criminal Law**

At the domestic level, in the preamble of the new [Guinean Penal Code](#), it is mentioned that the country "reaffirms its commitment to building a state governed by the rule of law through the promotion of good governance and combating corruption and economic crimes." Despite this, this text does not provide any measures to protect whistleblowers. Indeed, this code could have included provisions to criminally sanction those guilty of acts of retaliation against whistleblowers. Article 367 punishes breaches of secrecy; it states "The disclosure of information of a secret nature by a person who is the custodian, either by status or by profession, or by reason of a temporary function or mission, is punishable by imprisonment of 6 months to 1 year and a fine of 500,000 to 2,000,000 Guinean francs, or one of these two penalties only."

However, Article 705 of the same code stipulates that it is necessary to inform judicial and administrative authorities of "any crime that can still be prevented or limited in its effects, or whose perpetrators are likely to commit new crimes that can be prevented (...)." Failure to comply with this provision exposes individuals to sanctions. However, this provision does not apply to persons subject to secrecy as provided for in Article 367.

Finally, Article 722 states: "The act, for any person who has publicly declared knowledge of the perpetrators of a crime or offence, of refusing to answer questions posed to them in this regard by a judge is punishable by imprisonment from 6 months to 1 year and a fine of 500,000 to 1,000,000 Guinean francs." The same code specifies that false testimony is punishable by imprisonment from 1 to 3 years and a fine of 500,000 to 1,000,000 Guinean francs (Article 723).

- **Protection under labour law**

Article 8 of the [Labour Code](#) provides that "no one may be sanctioned or dismissed for having undergone, reported, or testified" acts constituting harassment in the workplace. It also prohibits "violence, sexual harassment, and moral harassment" (including the creation of an intimidating, hostile, degrading, humiliating, or offensive environment). However, there is no specific reference to whistleblowing.

Article 13 states that "(...) Opinions that workers, regardless of their position in the professional hierarchy, express in the exercise of the right of expression cannot be grounds for disciplinary sanctions or dismissal."

Fixed-term contracts cannot be terminated before their term except in cases of force majeure or "serious misconduct" (Article 171.4), but in the absence of additional details in the Labour Code, it is difficult to say whether whistleblowing could fall into this latter category. Indefinite contracts can be terminated for "personal reasons," including professional incompetence or misconduct (Article 172.7). It is the employer's responsibility to prove wrongful conduct in case of dispute.

The disclosure of "confidential information about the company to third parties" exposes the employee to disciplinary sanctions under Article 212.1 of the Labour Code, even when it occurs outside of working hours and premises.

Article 513.12 specifies that "labour inspectors and controllers are bound by professional secrecy. They swear not to disclose, even after leaving the service, trade secrets or processes of operation they became aware of in the exercise of their function. As such, they are also bound by confidentiality regarding the source of complaints reporting a defect in the installation or a violation of legal provisions as well as regarding the possible link between a complaint and the inspection visit." This provision could ensure the anonymity of the whistleblower who reports illegal activities.

- **Mechanism for referring cases to the National Anti-Corruption Agency (ANLC)**

The [ANLC](#), established by [Decree D/2017/219/PRG/SGG](#) promulgating Law L/2017/041/AN of July 4, 2017, on the prevention, detection, and repression of corruption and related offences, is an institution responsible for the prevention, detection, and repression

of corruption. With national jurisdiction, it is placed under the direct authority of the President of the Republic. With the advent of the National Rally for Development Committee (CNRD), which took power in Guinea after the September 2021 coup and whose president is Colonel Mamadi Doumbouya, all citizens, including those in the diaspora, whether employed or not, from the public or private sector, from civil society, the media, and any foreigner have the right to submit complaints of corruption and related offences to the ANLC.

Without an official website, the ANLC has invited citizens to contact it via its Facebook page to report illegal activities they witness. The agency aims to reach as many people as possible using Facebook, a tool accessible and available to all, encouraging the population to blow the whistle. However, it would be advisable to support this agency in creating a website or a more secure platform because using Facebook to denounce illicit acts could expose citizens to certain risks.

According to the [United Nations Office on Drugs and Crime \(UNODC\)](#), the ANLC is one of the least [financially supported](#) anti-corruption institutions in West Africa. Furthermore, it was established by decree, which would make its legal basis relatively weak. [Bernard Goumou](#), Prime Minister and Head of Government since August 2022, reportedly urged the Executive Secretary of the ANLC, Saikou Amadou Diallo, "to promote data collection, improve the effectiveness of the public communication system, and strengthen the whistleblower protection mechanism."

1.2 Laws and measures related to combating financial crime

This section focuses on the measures taken by the government of Guinea to combat financial crime. It examines legislative reforms, policies, and initiatives aimed at promoting transparency, integrity, and accountability in the management of public affairs. While acknowledging the efforts made, it also highlights persistent challenges and prospects for improvement in the fight against financial crime in Guinea.

- **Fight against corruption**

In its [2022 report on the Corruption Perceptions Index \(CPI\)](#) worldwide, Transparency International ranked Guinea 147th out of 180 countries, scoring 25 out of 100. The country had obtained the same rank and score in 2021.

However, the [Guinean Constitution](#) expresses the will of the Guinean people to combat corruption and economic crimes. It protects public property and punishes acts "of diversion, squandering, or illicit enrichment." In this regard, Article 49 states: "After the investiture ceremony and at the end of his mandate, within 48 hours, the President of the Republic solemnly submits to the President of the Constitutional Court a written declaration in honour of his assets." This requirement also applies to ministers (Article 64).

These declarations are published in the official journal, and any difference between the initial declaration and the one at the end of the mandate must be justified.

[Decree D/2020/072](#) regulates the procedures for the declaration of assets, property, or wealth. The fifth chapter is devoted to sanctions related to the failure to declare.

The [Penal Code](#) sanctions the corruption of public officials with imprisonment from 3 to 10 years and a fine of 5,000,000 to 10,000,000 Guinean francs. The penalty does not exceed 5 years for the private sector. When the accused are foreign public officials or public international organisations, they are punished with imprisonment from 3 to 10 years and a fine of 50,000,000 to 100,000,000 Guinean francs. Correctional measures are also provided against corruption involving minors and the concealment and/or laundering of the proceeds of corruption. In these latter cases, the fine can be up to five times the amount of concealment or laundering.

Finally, [Decree D/2017/219/PRG/SGG](#) promulgating Law L/2017/041/AN of July 4, 2017, on the prevention, detection, and repression of corruption and related offences, establishes the obligation for the ANCL to communicate the information it holds to the judicial authority or any other state body responsible for protecting public funds or combating money laundering, charged with prosecution. Non-compliance with procedures, communication obligations, and rules is equated with corruption (Article 34).

- **Court for the Repression of Economic and Financial Offences (CRIEF)**

The [Court for the Repression of Economic and Financial Offences \(CRIEF\)](#) was established by the CNRD through [Ordinance No. 2021/0007/PRG/CNRD/SGG](#) of September 16, 2021. It is a judicial body tasked with combating financial crime. It examines acts of embezzlement,

corruption by public officials, foreign, international, or private sector agents, as well as money laundering of at least one billion dollars (Article 6).

Since its establishment, the CRIEF has been very active and has initiated prosecutions against officials, including former Minister of Agriculture [Jean Marc Telliano](#) and staff members of the National Social Security Fund, for embezzlement of public funds, forgery and use of false documents, illicit enrichment, and money laundering, among other things.

In July 2022, [Sidiki Sylla](#), former Administrative and Financial Director of the Constitutional Court, was sentenced to 10 years imprisonment and ordered to pay over 75 billion Guinean francs for embezzlement of public funds and illicit enrichment. His assets, including 12,721,368,250 Guinean francs in his bank accounts, were also seized.

However, some accuse the junta of instrumentalizing the CRIEF and using it as a tool for [settling scores](#) and judicial harassment. The Air Guinea case, in which the former Minister of Transport and presidential candidate is involved, is emblematic of the divisive nature of the Court's activities. According to Aliou Condé, former Secretary General of the Ministry of Transport: "There is no reason to interrogate Cellou Dalein Diallo in this case, except the unspoken one of excluding him from the next presidential election by trying to tarnish his criminal record."

- **Fight against Money Laundering and Financing of Terrorism**

Guinea adopted [Law L/2021/024/AN on August 17, 2021, on the fight against money laundering and the financing of terrorism \(see below\)](#), establishing the legal framework related to the fight against money laundering and the financing of terrorism (AML/CFT).

Following the recommendations of the Financial Action Task Force (FATF), Article 75 of the law establishes the [National Financial Intelligence Unit \(CENTIF\)](#). CENTIF is an administrative authority under the supervision of the Central Bank of the Republic of Guinea. It collects, analyses, and prepares reports on suspicions reported by the entities listed in Article 5 of Law No. /2021/024/AN. These reports are then transmitted to the competent judicial authorities, including the CRIEF.

The new law on AML/CFT in Guinea has allowed for the consolidation of texts related to the fight against money laundering and the financing of terrorism while also addressing aspects related to the proliferation of weapons of mass destruction.

Furthermore, the current law has expanded the category of Designated Non-Financial Businesses and Professions (DNFBPs), which are essentially non-financial institutions that can be used for money laundering or terrorist financing purposes due to their nature.

The AML/CFT law requires the country to establish a national AML/CFT framework covering several aspects, including:

1. The country must conduct its national risk assessment and identify vulnerabilities to money laundering (ML) and terrorist financing (TF).
2. Obligated entities (financial institutions and DNFBPs) must conduct their risk assessments.
3. Obligated entities must implement an effective AML/CFT framework to significantly mitigate ML/TF activities and submit suspicious transaction reports to the financial intelligence unit (CENTIF).
4. Obligated entities failing to meet their obligations must face administrative and disciplinary sanctions.
5. CENTIF must be autonomous, operational, and adequately resourced with technical, financial, and human resources to fulfil its missions. CENTIF is an independent administrative authority under the supervision of the Minister of Finance. Its mission includes processing and transmitting information for the fight against ML and TF. CENTIF also handles suspicious transaction reports and can oppose the execution of a transaction based on serious, consistent, and reliable information. When operations reveal facts that may constitute the offence of money laundering or terrorist financing, CENTIF submits a report to the Public Prosecutor, who must refer the case to the investigating judge.
6. The country must establish mechanisms to freeze the assets of terrorist individuals and organisations.



P P L A A F

7. Both individuals and legal entities can be held criminally liable for offences related to money laundering and/or terrorist financing.
8. The country establishes mechanisms to seize, manage, and confiscate the assets of criminals. Guinea has thus established the Agency for the Management and Recovery of Seized and Confiscated Assets (AGRASC). The decree appointing the Director General of AGRASC and his deputy was issued on August 17, 2023.

1.3 Media rights and freedom of expression

Freedom of expression, press freedom, and media rights are crucial in whistleblowing. These fundamental rights enable whistleblowers and journalists to disclose sensitive information safely, shed light on wrongdoing, and protect the public interest. Respecting these rights promotes an environment conducive to transparency, accountability, and the disclosure of information in the public interest.

- **Legislation on freedom of the press and media rights**

According to the [Constitution](#), freedom of the press is "guaranteed and protected"; citizens are "free to believe, think, and profess their religious faith, political, and philosophical opinions" and "to express, manifest, and disseminate their ideas and opinions through words, in writing, and through images" (Article 10).

The High Authority for Communication is a regulatory body for the production and dissemination of content by the media to ensure transparency and media plurality. Under Article 5 of the organic [law L/2010/003/CNT/ of June 22, 2010, regarding the powers, organisation, composition, and functioning of the High Authority for Communication](#), its mission is to "ensure respect for the right of access to public information." However, under [the press freedom law](#), "the preservation of public order and the requirements of national unity" may justify restrictions on this right (Article 1).

In defamation cases, the press freedom law does not provide for custodial sentences but imposes heavy fines (Articles 108, 109, 110). In the event of a repeat offence of defamation against a person or group of people based on their origin, membership, or non-membership in ethnicity, nation, race, or religion, the press entity may be suspended for three to six issues.

For broadcasting, the incriminated program can be suspended for three to six editions (Article 111).

The [Penal Code](#), on the other hand, provides for a prison sentence of 1 month to 1 year and a fine of 500,000 to 1,000,000 Guinean francs or one of these two penalties only for "defamation committed against public administrations, constituted bodies, the army, courts, and tribunals through speeches, cries, threats, uttered in public places or meetings, or through writings sold or distributed, put up for sale, or exhibited in public places or meetings, in any case by means other than those of the press." The same penalties apply for "defamation against members of ministerial departments, the National Assembly, officials entrusted with or agents of public authority, citizens performing a public service or mandate, jurors or witnesses because of their depositions" (Article 364).

In 2016, [five union members](#) were sentenced to six months in prison and ordered to pay damages for defamation and insulting the President. They were eventually released after serving sentences ranging from two to fifteen days.

The [press freedom law](#) also provides for fines for a range of "press offences," including publications of seditious propaganda and incitement to discrimination, hatred, or violence (Article 98). Those who offend the President and other heads of state are subject to particularly significant fines (Article 105). [In 2021](#), a journalist was fined for "insulting" President Alpha Condé. He had stated on a private radio that "Mr. Condé's only project was to exterminate the Fulani community in Guinea."

Additional restrictions prohibit the media from publishing information on criminal or correctional proceedings before being read in court and prohibit the publication of information relating to the deliberations of the High Council of the Judiciary (Article 115).

Since the military junta took power in 2021, freedom of the press has faced unprecedented attacks, according to [Reporters Sans Frontières \(RSF\)](#). Press organisations representing private and public television, radio, newspapers, and news websites denounce "internet and social media shutdowns, radio signals jammed, equipment confiscated, and intimidation against the media." It appears that these restrictions come in the context of protests and calls for demonstrations launched by those opposing the ruling junta.

[The 2016 law on cybersecurity and the protection of personal data](#) has raised concerns about its ambiguous terminology and the imprisonment penalties it provides. Indeed, Article 44 states that: "when the disclosure of personal data without the authorisation of the person concerned or the competent authority harms the consideration, dignity, honour of the individual, or the privacy of their private life, the offender will, like any accomplice, be punished with imprisonment from two to ten years and a fine of 100,000,000 to 400,000,000 Guinean francs or one of these two penalties only (...)."

This provision could endanger journalists and whistleblowers by justifying the arrest and detention of journalists and media directors. Unfortunately, this legal context does not favour the disclosure of corruption involving government members or their associates.

- **Press Freedom: a concerning situation**

In [January 2021](#), the High Authority of Communication (HAC) ordered the one-month suspension of the radio show "Africa 2015" and three journalist hosts. The regulator claimed that during the show, the head of a coalition of opposition political parties from the [National Front for the Defense of the Constitution \(FNDC\)](#) intervened and made statements inciting popular revolt. The FNDC is a movement that emerged following a series of unprecedented protests in October 2019, protesting against the modification or adoption of a new constitution that led President Alpha Condé to a third presidential term. According to the High Authority of Communication, following the statements made, the journalists did not demonstrate professionalism.

In 2022, the HAC suspended journalist [N'Faly Guilavogui](#), deputy director of the media outlet Groupe Evasion Guinée, for ten days for "allowing the dissemination of a statement from a youth association in Konia, a community located 62km north of Conakry." The HAC accused the journalist of "violating the ethics and professional code of conduct of Guinean journalists." In the video, the youth reportedly demanded that "light be shed on the fate of their brothers arrested by the Guinean military authorities." Civil society has asserted that these suspensions reflect the "ambitions of the Guinean authorities to censor critical voices against the military government and send a chilling message to journalists in the country" and that "the military in power have positioned themselves as a force of repression against all dissenting voices in Guinea."

The [2023 Freedom House report on press freedom](#) classifies Guinea as "not free" with a score of 30/100 (a degradation from 34/100 in [2022](#)). This ranking is attributed to the military coup in September 2021.

Although the 2020 [Constitution](#) guarantees media freedom, social media users [denounced the interruption](#) of telecommunications services during the 2020 referendum and parliamentary elections. In October 2021, [media coverage](#) of the installation of the transitional Prime Minister, Mohamed Béavogui, was denied to several television stations.

In 2023, the context was not very different. Guinea's media landscape is pluralistic, with about a dozen active media outlets, over sixty private radio stations, and hundreds of news websites. Despite this, freedom of expression and the press are seriously impeded. Freedom House considers the prospect of genuine press freedom as "fragile" in light of recent efforts to ban opposition and civil society demonstrations. Indeed, on March 13, 2022, the CNRD declared in [press release No. 012/CNRD/2022](#) that "any demonstration in public places, likely to compromise social peace and the correct execution of activities contained in the schedule until the electoral campaign periods, is prohibited." This declaration prompted a public reaction from eight human rights defence organisations such as Amnesty International, Turn the Page, CCFD-Terre Solidaire, etc., urging the CNRD to reconsider its decision.

In its 2023 World Press Freedom Index, RSF ranks Guinea 85th out of 180 countries and specifies that the transitional regime is "still expected to address press freedom issues." This is an improvement of 24 places compared to 2021, when the country ranked 109th.

RSF has not recorded any arrests or deaths of journalists since January 2022. However, the [International Press Institute \(IPI\)](#) has noted several cases of journalists being assaulted by law enforcement under the passive gaze of authorities. Summons for publishing articles are common and sometimes require the intervention of the Guinean Press Professionals Union (SPPG), a local group advocating for press freedom. In July 2022, [several journalists](#) were assaulted, and one of their cars was damaged while covering FNDC protests.

1.4 The Access to Information Act and Secrecy Laws

In this section, we will discuss the importance of access to public information for whistleblowers and journalists. These individuals who expose illicit behaviours within the

public administration require reliable information to support their disclosures. The right to access public information ensures transparency and accountability, providing enhanced protection to whistleblowers and journalists who can rely on concrete facts when disclosing sensitive information.

- **Law No. 2020/0027/AN on the Right of Access to Public Information**

Under [Law No. 2020/0027/AN on the Right of Access to Public Information](#), access to information is a fundamental right; any citizen can request and obtain access to information and administrative documents without having to justify the reason (Article 2).

However, documents considered non-communicable administrative documents include "acts and documents prepared or held by parliamentary assemblies, documents of the Court of Auditors and the Constitutional Court, documents instructing complaints addressed to the Ombudsman, documents relating to ongoing judicial matters, documents classified by the State in accordance with the current regulations on archives" (Article 5).

Documents that would affect the following are also not communicable: "the confidentiality of the Government's deliberations and the responsible authorities under the executive branch; national defence secrets; the conduct of Guinea's foreign policy; the economic, monetary, or financial policy of the State; the security of the State, public safety, or the safety of individuals; currency and public credit; the course of proceedings before the courts or preliminary operations to such proceedings; the investigation, by the competent services, of tax and customs offences; or, in general, secrets protected by law" (Article 6). Some documents are only communicable to those concerned or their close relatives (Article 8). Remedies are provided for refusal to disclose information (Articles 38, 39, 40).

This law establishes the Commission on Access to Public Information (CAIP), which regulates the right of access to public information. To this end, it has the power of sanction and injunction (Articles 46, 47). [Two years after its adoption](#), it appears that access to information is still not a reality in Guinea. Civil society organisations are therefore requesting the effective implementation of the law.

- **Provisions of the Penal Code (2016) regarding offences against State security**

Regarding confidentiality, under Article 536 of the [Penal Code](#), "Any Guinean who: 1. delivers to a foreign power or its agents, in any form and by any means whatsoever, information, object, document, or process that must be kept secret in the interest of national defence; 2. ensures, by any means whatsoever, the possession of such information, object, document, or process with the intention of delivering it to a foreign power or its agents; 3. destroys or allows to be destroyed such information, object, document, or process in order to favour a foreign power, is guilty of treason and punishable by life imprisonment."

Article 538 of the same code lists classified defence information: "Any Guinean or foreigner who, with the intention of delivering them to a foreign power, gathers information, objects, documents, or processes whose collection and exploitation are likely to harm national defence, is punishable by the maximum penalty of imprisonment for a definite term" (Article 539). Article 540 specifies that any guardian, custodian by function or by the status of information, object, document, or process that must be kept secret in the interest of national defence, who, without intention of treason or espionage: "1. destroys it, removes it, allows it to be destroyed or removed, reproduces it, or allows it to be reproduced; 2. carries it or allows it to be brought to the knowledge of an unqualified person or the public. The penalty is imprisonment for a definite term of 5 to 10 years, if the guardian or custodian acts through clumsiness, imprudence, inattention, negligence, or failure to observe regulations."

Any Guinean or foreigner without status guilty of the same acts is punishable by imprisonment for a definite term of 5 to 10 years (Article 541).

Finally, Article 543 specifies: "Any Guinean or foreigner who, without intention of treason or espionage, brings to the knowledge of an unqualified person or the public, military information not made public by the competent authority and whose disclosure is clearly likely to harm national defence, is punishable by imprisonment for 1 to 5 years and a fine of 500,000 to 1,000,000 Guinean francs."

2. ANALYSIS OF THE FACTS: WHISTLEBLOWER CASES

This section lists known and public cases of whistleblowers to assess the treatment afforded to whistleblowers in the country.

There are no known cases of public whistleblowers in Guinea Conakry.

3. RECOMMENDATIONS: WEAKNESSES AND NEEDED REFORMS

This section suggests areas for improvement for the State regarding the protection of whistleblowers, current legislation against financial crime, the government's commitment to combating this problem, and the respect for individual liberties, including the right to information, freedom of the press and expression, as well as media rights.

- **Whistleblowing and Anti-Corruption Efforts**

Despite the existence of legislative measures to fight against corruption, the country remains 147th out of 180 in Transparency International's 2022 Corruption Perceptions Index.

- To promote the establishment of an environment conducive to whistleblower disclosures, it is necessary to strengthen the enforcement of existing laws in this regard. It would also be an opportunity to enhance the authority and resources of the National Anti-Corruption Agency.

While Guinea has a law providing protection for whistleblowers, there have been no public whistleblowers reported in the country to date. Furthermore, the scope of protection offered by the current law is limited and does not fully shield these individuals from potential retaliation.

- Expanding the scope of protection offered to whistleblowers by law would be beneficial. Moreover, to encourage citizens to blow the whistle, it is necessary to raise awareness of this concept, which is still unfamiliar to many, even as there is a noticeable citizen push for more transparency in Guinea.

4. KNOWLEDGE, SUPPORT, AND ACTION CENTRES:

In this section, we will explore the landscape of civil society organisations, NGOs, and citizen movements that actively promote good governance. These entities represent valuable sources of knowledge and expertise, playing a crucial role in strengthening democratic practices.

The [Foundation for Democracy and Governance \(FDG\)](#), established in 2015 and registered under Belgian law, aims to support all judicial procedures aimed at criminally prosecuting behaviours contrary to the public interest. In this regard, it proposes to host a dedicated page on its website for whistleblowers and citizens holding information that could establish operations involving embezzlement, corruption, and influence peddling.

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The [Guinean Association for Transparency \(AGT\)](#) is a non-profit organisation specialising in the fight against corruption and promoting good governance in Guinea. This organisation engages in advocacy and regularly organises capacity-building activities for local actors.

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[Acting for Peace and Development in Guinea \(APDG\)](#) is a non-political, non-profit organisation. In addition to its awareness-raising and security-strengthening activities, it fights against corruption and promotes democracy and good governance.

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The [Citizen Broom Cell](#) of Guinea is a non-governmental organisation promoting good governance and social dialogue. The Citizen Broom of Guinea is "an organisation to clean up democratic, economic, and financial mismanagement and to purify peacefully."

The [Club Humanitaire sans Frontières \(CHF\)](#) is an NGO established in 2014. Apolitical, non-denominational, and non-profit, its mission is to contribute to the promotion of good governance to foster the socio-economic and sustainable development of states. It worked



with OCWAR-M to raise awareness among Guinean civil society organisations about the fight against money laundering and the financing of terrorism. CHF played a coordinating and animating role in this training activity and effectively identified relevant participants for the two sessions held in January and March 2022.

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8. BENIN

• List of Acronyms

ANLC: Authority for the Fight against Corruption

ANRACS: National Agency for the Recovery of Confiscated and Seized Assets

BEF: Economic and Financial Brigade

CENTIF: Financial Intelligence Unit

CIB: International Conference of Bar Associations

CRIET: Court of Repression of Economic Offences and Terrorism

ECOWAS: Economic Community of West African States

HAAC: High Authority of Audiovisual and Communication

AML/CFT: Anti-Money Laundering and Counter Financing of Terrorism

MFWA: Media Foundation for West Africa

NGO: Non-Governmental Organisation

OCWAR-M: Organised Crime: West African Response to Money Laundering and the Financing of Terrorism

PPLAAF: Platform to Protect Whistleblowers in Africa

RSF: Reporters Sans Frontières

UICA: International Union of CARPA (Councils of Lawyers and Lawyer Groups)

• Legal Sources

[United Nations Convention against Corruption \(2003\)](#)

[Constitution of Benin \(1990\)](#)

[Labour Code \(1998\)](#)

[Penal Code \(2018\)](#)

[Law on the Fight against Corruption and Related Offences \(2011\)](#)

[Law establishing the list of senior officials of the State \(2010\)](#)

[Law on the Fight against Money Laundering and Financing of Terrorism \(2018\)](#)

[Law on the Fight against Money Laundering and Financing of Terrorism \(2020\)](#)

[Decree establishing the conditions for special protection of whistleblowers, witnesses, experts, and victims of corruption acts \(2013\)](#)

[Information and Communication Code \(2015\)](#)

[Digital Code \(2017\)](#)

[Decree No. 2022-563 of October 12, 2022](#)

- **Executive Summary**

The Constitution of Benin guarantees the "right to freedom of thought, conscience, religion, worship, opinion, and expression in accordance with the public order established by law and regulations" and ensures "freedom and protection of the press". However, access to these fundamental freedoms has shown certain deficiencies in recent years.

The protections granted to whistleblowers are minimal and weak. [Law No. 2011-20 of October 12, 2011, on the fight against corruption](#) and the associated decree, prohibits retaliation against anyone reporting corruption practices to national authorities, but these measures do not provide any effective means of communicating information and disclosures to other entities are not protected.

In January 2015, the National Assembly adopted the [Information and Communication Code](#), which defines the rights and freedoms of journalists. Although defamation is no longer punishable by imprisonment, heavy fines can be imposed. The enactment of the [Digital Code](#) in June 2017 constitutes a new hindrance to freedom of expression, prohibiting certain opposition media and encouraging censorship practices.

1. ANALYSIS OF THE LEGAL FRAMEWORK

1.1 Laws and measures related to whistleblowers

Whistleblower protection is a crucial aspect of the fight against financial crime. This section explores the laws, measures, and mechanisms implemented in Benin to ensure the protection of whistleblowers. It examines the rights and guarantees afforded to whistleblowers, the protection mechanisms in place, and the persistent challenges related to this protection.

- **Protection under laws and mechanisms related to the fight against corruption**
- **Law on the Fight against Corruption and Related Offences (2011)**

[The law on the fight against corruption and related offences of 2011](#) provides whistleblowers, witnesses, experts, victims, and their relatives with "special protection", albeit limited, against potential acts of retaliation or intimidation for disclosing information on corruption. The definition of a "whistleblower" is "any person who reports, in good faith, an alleged act of corruption". This definition remains vague as it does not specify any viable means of communicating information, and disclosures to other entities are not protected.

This protection is defined in Decree No. 2013-122 of March 6, 2013, on the conditions for the special protection of whistleblowers, witnesses, experts, and victims, which specifies that no whistleblower, expert, or victim of a corruption-related crime can be harassed, reprimanded, or punished for disclosing or denouncing corruption (Article 4). Article 4 also provides the possibility to seek state protection in case of retaliation and/or harassment following collaboration with the National Authority for the Fight against Corruption.

The decree calls for the reintegration and/or compensation of employees sanctioned or dismissed for collaborating with national authorities in the fight against corruption. In case of threat or endangerment of a whistleblower, the Minister in charge of security or the Minister in charge of national defence must ensure the person's security through police services or security forces (Article 5). Furthermore, financial compensation may be allocated to cover the expenses incurred by the whistleblower or witness in the context of "truth-telling" (Article 10).

Whistleblowers also have the right to register the police station as their domicile, and if their life is in danger, a judge may authorise the anonymous collection of the whistleblower's statement. However, anonymity is "impossible" in cases where "knowledge of the person's identity is essential to the rights of defence," and the law specifies that "defamatory or false testimonies" can be prosecuted under other legislation. In addition, charges cannot be based on anonymous statements. Illegally revealing a whistleblower's identity is punishable by up to 10 years in prison.

- **Analysis and Processing Unit for Complaints and Reports (CPD)**

In addition to this mechanism, the country established the Analysis and Processing Unit for Complaints and Reports ([CPD](#)) in January 2022. It is a citizen reporting desk for corruption

incidents established following a Council of Ministers. The role of the CPD is to receive complaints against public officials and conduct investigations for prosecution.

- **Protections under Labour Law**

The [Labour Code](#) does not include any provisions regarding whistleblowing, and although it is not listed as a reason for dismissal, dismissal for whistleblowing is not specifically identified as an unfair labour practice. Contracts can legitimately be terminated in cases of negligence or "objective and serious" reasons related to the employee's health, unsuitability for the position, or professional inadequacy. Acts that may constitute negligent conduct and may result in serious professional misconduct include refusal to perform tasks within the scope of employment activities, professional misconduct, assault, intoxication, and breach of confidentiality (Article 56). However, the law does not provide information on reporting illegal acts.

No example of a practice constituting wrongful dismissal is given, but it is noted that damages determined by the competent court based on the harm suffered may be awarded when wrongful dismissal is proven (Article 52). According to the [Labour Code](#), labour inspectors can investigate complaints and are required to keep information confidential.

Benin is, therefore, one of the few countries in West Africa to have legislation protecting whistleblowers, witnesses, experts, and victims in accordance with its obligations resulting from the ratification of the [United Nations Convention against Corruption](#).

1.2 Laws and Measures Related to the Fight Against Financial Crime

This section focuses on the measures taken by the government of Benin to combat financial crime. It examines legislative reforms, policies, and initiatives aimed at promoting transparency, integrity, and accountability in the management of public affairs. While acknowledging the efforts made, it also highlights persistent challenges and prospects for improvement in the fight against financial crime in Benin.

- **Fight Against Corruption**
- **Laws and Mechanisms Related to the Fight Against Corruption and Other Related Offences**

Since taking office, President Patrice Talon has made the fight against corruption his main focus and several reforms and measures have been implemented. However, corruption still remains prevalent in the country, as evidenced by [corruption scandals](#) that shake the public sphere.

Nevertheless, corruption is severely punished by [Law No. 2018-16 of December 28, 2018](#), which establishes the Penal Code. Indeed, imprisonment sentences are provided for cases of active and passive corruption as well as fines (Articles 335 to 346). However, there is no public information regarding the application and effectiveness of these provisions.

High-ranking state officials and senior civil servants as defined by [Law No. 2010-05 establishing the list of senior state officials](#) are required to declare their assets at the beginning and end of service. This obligation also applies to elected officials and any state employee whose appointment obliges them to do so.

The offence of illicit enrichment is also punishable under Articles 360 to 362 of the [Penal Code](#) and is established when "any person holding an elective public office or a governmental position (...) cannot justify their lifestyle, the lawful origin of their resources, and their assets." Individuals guilty of illicit enrichment face imprisonment from one to five years and a fine corresponding to the value deemed excessive compared to the value of the assets the accused is likely to possess. The penalties are doubled when illicit enrichment occurs during the exercise of a mandate.

In 2022, the Corruption Perceptions Index (CPI), the main global indicator of corruption in the public sector issued by the NGO [Transparency International](#), ranked Benin 72nd out of 180 with a score of 43/100 (the country gained one place compared to 2021).

- **Establishment of Public Institutions Responsible for Fighting Corruption**

In recent years, the government of Benin implemented public policies encouraging the fight against corruption. This includes the creation in July 2018 of the Court of Repression of Economic Offences and Terrorism (CRIET) responsible for judging financial crime cases (including [embezzlement](#)). However, this jurisdiction is accused of partiality and dependence on political and executive power by [several observers](#), as well as by a former judge, [Essowé Batamoussi](#), currently in exile. Indeed, the CRIET is criticised for having only charged opponents of the regime in place since its creation in 2018. Despite these accusations, CRIET continues its activities: on February 24, 2023, it detained five toll and weighing station agents on one of the country's roads for [embezzlement and abuse of power in the exercise of their duties](#).

Benin has also established the [High Commissioner for the Prevention of Corruption](#), which is expected to replace the Authority for the Fight against Corruption (ANLC). The project to create this authority was validated by the Council of Ministers on April 1, 2020, and sent to Parliament. According to the government, the structure is part of the "new dynamic aimed at strengthening the institutional framework and promoting measures of good governance, notably with the CRIET, the [Financial Intelligence Unit \(CENTIF\)](#), and the Economic and Financial Brigade (BEF)." Since the announcement of the creation of this authority, to date, it has not been [effectively established](#), and the ANLC still handles current affairs under the authority of the Secretary-General of the Presidency of the Republic.

- **Fight Against Money Laundering and Terrorism Financing**

The uniform AML/CFT law (see below) was transposed into Benin's legal system on July 25, 2018. [Law No. 2018-17 on the fight against money laundering and the financing of terrorism](#) determines measures aimed at identifying and preventing money laundering and the financing of terrorism. It also aims to facilitate investigations and prosecutions by the relevant authorities.

On 2 July 2015, the Council of Ministers of the WAMU zone adopted the draft uniform law on the fight against money laundering and terrorist financing. The eight member countries of WAMU and WAEMU had six months to internalise the law into their domestic legal order. Internalisation took place in various countries between December 2015 and December 2018.

The 2015 Uniform Act, which replaced the previous 2008 Uniform Act, incorporated the new 2012 revisions of the FATF standards.

The new law made it possible to merge the texts relating to the fight against money laundering and terrorist financing and to take into account aspects relating to the proliferation of weapons of mass destruction.

Furthermore, the current law introduced the prohibition of cash transactions for amounts exceeding 10 million francs, and expanded the category of designated non-financial professional entities (DNFPEs), which are essentially non-financial institutions that could be used for money laundering or terrorism financing purposes due to their nature.

The AML/CFT law requires the country to establish a national AML/CFT framework covering several aspects, including:

1. The country must conduct its national risk assessment and identify vulnerabilities to money laundering (ML) and terrorist financing (TF).
2. Obligated entities (financial institutions and DNFBPs) must conduct their risk assessments.
3. Obligated entities must implement an effective AML/CFT framework to significantly mitigate ML/TF activities and submit suspicious transaction reports to the financial intelligence unit (CENTIF).
4. Obligated entities failing to meet their obligations must face administrative and disciplinary sanctions.
5. CENTIF must be autonomous, operational, and adequately resourced with technical, financial, and human resources to fulfil its missions. CENTIF is an independent administrative authority under the supervision of the Minister of Finance. Its mission includes processing and transmitting information for the fight against ML and TF. CENTIF also handles suspicious transaction reports and can oppose the execution of a transaction based on serious, consistent, and reliable information. When operations reveal facts that may constitute the offence of money laundering or terrorist financing, CENTIF submits a report to the Public Prosecutor, who must refer the case to the

investigating judge. The composition of CENTIF was modified by [law n°2020-25](#) of September 02, 2020, amending [law n°2018-17](#).

6. The country must establish mechanisms to freeze the assets of terrorist individuals and organisations.
7. Both individuals and legal entities can be held criminally liable for offences related to money laundering and/or terrorist financing.
8. The country establishes mechanisms to seize, manage, and confiscate the assets of criminals. In this regard, Benin has set up, since [Decree No. 2022-563 of October 12, 2022](#), a National Agency for the Recovery of Confiscated and Seized Assets (ANRACS).

As part of the fight against money laundering and the financing of terrorism, a sensitisation workshop aimed at the Bar Association of Benin on AML/CFT and whistleblower protection was organised in June 2022 by [Expertise France](#) under the [OCWAR-M](#) project, in partnership with PPLAAF, the International Conference of Bar Associations (CIB), and the International Union of CARPA (UICA). This activity allowed lawyers to better understand the concept of whistleblowing as well as the necessity of establishing a robust AML/CFT framework within the Bar Association.

1.3. Media rights and Freedom of Expression

Freedom of expression, press freedom, and media rights play a crucial role in whistleblowing. These fundamental rights enable whistleblowers and journalists to disclose sensitive information safely, shed light on wrongdoing, and protect the public interest. Respecting these rights promotes an environment conducive to transparency, accountability, and the disclosure of information in the public interest.

- **Press freedom legislation and media rights**

[The Information and Communication Code](#) reaffirms that "freedom of speech and writing, printing and publishing, reading, and receiving information, ideas, thoughts, and opinions of one's choice are guaranteed in the Republic of Benin" (Article 6), while noting that "these

freedoms are exercised in accordance with the law" and that "journalists refrain from any publication that incites regionalism, ethnocentrism, discrimination, hatred, xenophobia, violence, and debauchery" (Article 36).

[The High Authority for Audiovisual and Communication](#) (HAAC) is empowered to punish "media actors" who violate the Code, including through malicious insinuations, the use of offensive language, defamation, incitement to public disorder, compromising public interest, and violations of privacy.

Defamation against courts, tribunals, armed forces, or public administration is punishable by a fine of up to approximately \$18,000, as is defamation against government officials, the President, or foreign Heads of State. Defamation against other citizens incurs a less severe fine. Imprisonment sentences of up to three years can be imposed for the publication of documents aimed at diverting security forces from their duties or for the publication of false news likely to disturb "public peace" or undermine the "discipline and morale of the armed forces." Publishing documents inciting crimes against national internal security, such as murder, assassination, arson, or the destruction of homes, stores, and infrastructure, is punishable by up to five years in prison (Article 264).

[The Information and Communication Code](#) recognises that journalists are "bound by professional secrecy" and cannot be compelled to disclose the source and origin of confidentially received information (Article 35).

- **Troubling decline in freedom of expression and press**

[Freedom House](#), in its [2022](#) and [2023](#) reports, described Benin as a "partly free" country with a score of 59/100. In 2022, the organisation noted that "since President Patrice Talon took office in 2016, the country has begun using the judicial system to attack its political opponents, and [that] new electoral rules and repression against its political opponents have allowed it to consolidate its power in 2021. Deadly police violence during political protests, arrests of activists, and other restrictions on civil liberties have become increasingly problematic in recent years."

According to Freedom House, in Benin, defamation "remains a crime punishable by fines, and [that] media criticising the government are increasingly at risk of being suspended." In

July 2021, the High Authority for Audiovisual and Communication (HAAC) lifted the ban on La Nouvelle Tribune, a newspaper that had been closed in 2018. Major television channels have also been closed by the HAAC and remain closed despite court decisions overturning these actions. In 2020, the HAAC banned all "unauthorised" online media outlets, temporarily suspending three outlets; the others ignored the order.

A 2017 law on digital media allows journalists to be prosecuted and imprisoned for allegedly false or harassing online content. In 2021, at least five journalists were arrested under this law. According to [Amnesty International](#), this law significantly restricts freedom of expression.

In this regard, [Freedom House](#) cites the editor-in-chief of a newspaper, [Casimir Kpédjo](#), who was arrested following a complaint from the [Autonomous Amortisation Fund](#), which depends on the Ministry of Economy and Finance. He was arrested in April 2019 for publishing "false" information about the national debt and was released on bail a month later.

Furthermore, activist and good governance advocate [Jean Kopton](#) was sentenced on January 18, 2021, to 12 months in prison and a fine of 200,000 FCFA for digital harassment. Today, free, Kopton publicly denounced the rental cost of the Head of State's vehicle. He was declared guilty under the 2017 [Digital Code](#) of "harassment through electronic communication", an offence described as "vague and too broad" by the [UN Working Group on Arbitrary Detention](#).

In [2023](#), Reporters Sans Frontières (RSF) ranked Benin 112th in its World Press Freedom Index, a 9-place improvement over the previous year. Despite this improvement, the situation remains complex for journalists, whose "freedom of speech (...) has greatly diminished in recent years," as noted by RSF in its 2022 ranking.

In 2018, the organisation condemned the suspension of a radio station close to the opposition: [Radio Soleil FM](#) and [Sikka TV](#), owned by [Sébastien Ajavon](#). In 2022, Sikka TV remained off the air despite a [court decision](#) in May 2017 ordering its reopening.

- **Adoption of the Digital Code: a new barrier to press freedom**

[RSF](#) also highlights that since the adoption of the 2017 [Digital Code](#), press freedom has been weakened by certain repressive provisions allowing for the criminalisation of press offences.

In March 2020, journalist [Ignace Sossou](#) was sentenced to twelve months in prison, six of which were suspended, for "harassment through electronic means" after reporting on social media the statements made by the Republic's prosecutor during a workshop on disinformation. On March 13, 2020, in an unprecedented [tribune](#) initiated by RSF, over 120 media outlets and journalists from West Africa called for Ignace Sossou's release. During its 88th session, [the UN Working Group on Arbitrary Detention](#) found that Ignace Sossou had not received a fair trial, that his conviction was without legal basis, and that it had resulted from the exercise of his freedom of expression.

On December 7, 2021, [two journalists](#) from the daily "Le Soleil Benin Info" were sentenced under Article 550 "harassment through electronic communication" of the [Digital Code](#) to six months' suspended imprisonment and a fine of over 500,000 CFA francs. This is an "increasingly common accusation by the authorities against critical online publications," according to the [Media Foundation for West Africa \(MFWA\)](#). The complainant, a customs inspector, had allegedly been defamed in a series of articles in the newspaper about a land dispute.

In 2022, the [MFWA](#) stated that since its adoption, more than 17 journalists, bloggers, and activists have been victims of Article 550 al. 1 of the Digital Code which establishes the offence of "harassment through electronic communication" and represents a real obstacle to freedom of expression and the press.

- **Political acts marking a setback in public freedoms**

Moreover, in July 2020, the HAAC ordered the [immediate suspension](#) of all publications of online news sites operating without authorisation, while the [Information and Communication Code \(2015\)](#) requires prior authorisation. The HAAC cited vague criteria such as a "morality investigation" regarding the conditions required to obtain authorisation to operate a news website.

In March 2020, the Constitutional Court of Benin notified the African Union of its withdrawal from the [Protocol on the African Charter on Human and Peoples' Rights](#) establishing the [African Court on Human and Peoples' Rights](#). According to Amnesty International, this withdrawal marks a [dangerous setback](#) and a significant regression in terms of human rights protection by blocking direct access by individuals and NGOs to the African Court according to Amnesty International.

1.4 The Access to Information Act and Secrecy Laws

This section discusses the importance of access to public information for whistleblowers and journalists. These individuals who expose illicit behaviours within the public administration require reliable information to support their disclosures. The right to access public information ensures transparency and accountability, providing enhanced protection to whistleblowers and journalists who can rely on concrete facts when disclosing sensitive information.

- **Legislation on access to information and confidentiality**

[The Information and Communication Code](#) provides broad access to state information and specifies that state agents may disclose and provide evidence of all illicit behaviours within the public administration. Except in cases of defamatory denunciation, they cannot incur any administrative or disciplinary sanctions. Consequently, the State must guarantee access to sources of information, particularly public ones, for everyone (Article 7). No individual can be prohibited or prevented from access (Article 8). Restrictions on the right of access to public information are "justified only in exceptional circumstances" such as public interest, defence secrecy, and confidential judicial procedures.

The [law on the organisation of national defence secrecy](#), declared enforceable by the Constitutional Court in June 2020, provides for prison sentences of up to 20 years for sharing documents essential to national defence secrets with an "or their transfer to justice or brought to the attention of the public" (Article 13).

2. ANALYSIS OF THE FACTS: WHISTLEBLOWER CASES

The objective of this section is to list known and public cases of whistleblowers to assess the treatment afforded to whistleblowers in the country.

3. RECOMMENDATIONS: WEAKNESSES AND NEEDED REFORMS

This section suggests areas for improvement for the State regarding the protection of whistleblowers, current legislation against financial crime, the government's commitment to combating this problem, and the respect for individual liberties, including the right to information, freedom of the press and expression, as well as media rights.

- **Strengthening legislation on whistleblower protection**

Legislation on whistleblowing in Benin is limited. There is no law protecting whistleblowers, nor a clear procedure or mechanism guiding the disclosure of information. The protections offered are limited to disclosures made to national authorities only and are often incomplete (Article 4 of Decree No. 2013-122 of March 6, 2013). Whistleblowing in the workplace is not supported by significant protection against retaliation, and employers are not obligated to follow up or accept complaints.

In February 2017, the Economic Community of West African States (ECOWAS) held [a meeting](#) with Benin civil society, the government, and the media, during which participants agreed on the importance of early warning systems and protecting whistleblowers in the fight against corruption, and encouraged the National Assembly to adopt comprehensive national legislation on whistleblower protection. However, online information does not indicate what follow-up actions were taken after this workshop.

- It would be opportune for these efforts to continue so that Benin can enact a law effectively protecting whistleblowers and providing a clear framework for the disclosure of information on actions contrary to the public interest.

4. KNOWLEDGE, SUPPORT, AND ACTION CENTRES

This section explores the landscape of civil society organisations, NGOs, and citizen movements that actively promote good governance. These entities represent valuable sources of knowledge and expertise, playing a crucial role in strengthening democratic practices.

[Social Watch Benin](#) is a network of NGOs and associations that promotes citizen control of public action at both the central and municipal levels in Benin. The activities of this network revolve around interventions related to the promotion of transparency, accountability, citizen control, advocacy, budget monitoring, and investments.

Contact: Blanche SONON, President

Email Address: contact@socialwatch

9. MAURITANIA

- **List of acronyms**

ECOWAS - Economic Community of West African States

AML/CFT - Anti-Money Laundering/Countering the Financing of Terrorism

COMITE: National Committee for the Fight against Money Laundering and the Financing of Terrorism

CPI - Corruption Perceptions Index (Transparency International)

CRF : Cellule de renseignement financier

IRA - Initiative for the Resurgence of the Abolitionist Movement

MFWA - Media Foundation for West Africa

OCWAR-M - Organised Crime, West African Response to Money Laundering and the Financing of Terrorism

OGRAC - Office for the Management of Frozen, Seized, and Confiscated Assets and the Recovery of Criminal Assets

NGO - Non-Governmental Organisation

UN - United Nations

CSO - Civil Society Organisation

PPLAAF - Platform to Protect Whistleblowers in Africa

RPM - Mauritanian Press Group

RSF - Reporters Sans Frontières

FIU - Financial Intelligence Unit

- **Legal sources**

[Constitution of Mauritania](#)

[Penal Code of Mauritania](#) (Ordinance 83-162 of July 9, 1983, establishing a Penal Code)

[Labour Code](#) (Law No. 2004-017 establishing the Labor Code)

[Law on the Fight against Corruption](#) (Law No. 2016-014)

[Decree implementing the law on the fight against money laundering and the financing of terrorism](#)

[Press Freedom Law](#) (Ordinance No. 017-2006 on press freedom)

[Cybercrime Law](#) (Law No. 2016-007 on cybercrime)

[Nouakchott Declaration on Transparency and Sustainable Development in Africa](#)

[Decree No. 2017-127 of November 2, 2017 establishing the organisation and functioning of a public administrative establishment called the Office for the Management of Frozen, Seized, and Confiscated Assets and the Recovery of Criminal Assets \(OGRAC\)](#)

- **Executive Summary**

Mauritania's legal system combines civil law with Sharia, imposing severe penalties for offences related to religion.

There are no specific laws to protect whistleblowers, and individuals who disclose sensitive information have no recourse against retaliation.

The media operates in an ambiguous legal environment, where freedoms are constrained by the law, and law enforcement may appear arbitrary. Journalists appear to practise self-censorship, especially when addressing sensitive topics such as the military, corruption, Islam, and slavery. A particular case that has sparked outrage among human rights advocates involves the death sentence of a blogger for critical statements about Islam.

1. ANALYSIS OF THE LEGAL FRAMEWORK

1.1 Whistleblower laws and policies

Whistleblower protection is a crucial aspect of the fight against financial crime. This section explores the laws, measures, and mechanisms implemented in Mauritania to ensure the protection of whistleblowers. It examines the rights and guarantees afforded to whistleblowers, the protection mechanisms in place, as well as the persistent challenges related to this protection.

- **Limited Protection of Witnesses, Experts, Whistleblowers, and Victims in Mauritania's Anti-Corruption Law**

[Law No. 2016.014 on the fight against corruption](#) establishes protection for witnesses, experts, whistleblowers, and victims in Article 19. Indeed, this article stipulates that they "shall be provided with special protection by the State" and "any person who resorts to revenge, intimidation, or threat, in any form or manner whatsoever, against witnesses, experts, victims, whistleblowers, or their family members or other close persons, shall be

punished with imprisonment from one (01) to five (05) years and a fine of two hundred thousand (200,000) to one million (1,000,000) ouguiyas." The article specifies that a decree will organise the modalities of protection, but this decree is not available online to date.

This law also penalises "non-disclosure" of offences; in this sense, Article 20 states: "any person who, by his function or profession, permanent or temporary, becomes aware of one or more offences provided for in this law, and does not inform the competent public authorities promptly, shall be punished with imprisonment from one (01) to five (05) years and a fine of two hundred thousand (200,000) to one million (1,000,000) ouguiyas."

The implementation of this protection is commendable even though it remains inadequate because the modalities and measures of protection are not defined, nor are its areas of application. It is also important to note that there is no evidence to indicate whether these provisions are effectively applied.

Therefore, it is evident that there is no specific legal provision for protecting whistleblowers. However, the provisions on the protection of witnesses, experts, victims, and whistleblowers, although insufficient, can apply to whistleblowers in certain cases.

1.2 Laws and measures related to combating financial crime

This section focuses on the measures taken by the Mauritanian government to combat financial crime. It examines legislative reforms, policies, and initiatives aimed at promoting transparency, integrity, and accountability in the management of public affairs. While acknowledging the efforts made, it also highlights persistent challenges and prospects for improvement in the fight against financial crime in Mauritania.

- **Corruption in Mauritania: Political Accusations and a Worrying Position in Transparency International's Ranking**

Following his election in June 2021, President Mohamed Ould Ghazouani promised to make the fight against corruption a priority. In March 2021, former President Mohamed Ould Abdel Aziz and fourteen other members of his government were accused of corruption, money laundering, and embezzlement of public funds.

A [national anti-corruption alliance](#) has been established, bringing together religious leaders, lawyers, intellectuals, and university professors to shed light on the embezzlement during President Ould Abdel Aziz's tenure. This alliance advocates for the majority of the embezzled funds to be returned to the people. The alliance sought to become a civil party in the trial of the former president who was [arrested by the police](#) at his home on Tuesday, January 24, 2023, on the eve of the opening of his trial after he allegedly refused to surrender to the police. The trial, which has been [postponed several times](#), is still ongoing. The prosecutor has requested a [20-year prison sentence](#) for the former president, along with confiscation of his assets.

In its [2022 Corruption Perceptions Index \(CPI\)](#) report, Transparency International ranks Mauritania 130 out of 180 countries with a score of 30/100. The country thus finds itself at the bottom of the ranking.

- **Fight against corruption**

The [Penal Code](#) penalises the corruption of public officials and employees of private companies under Articles 171 to 177.

The country has adopted [Law No. 2016.014 on the fight against corruption](#), which aims to "incriminate corruption in all its forms and facilitate and support international cooperation to combat corruption and recover ill-gotten assets." This law provides for imprisonment and heavy fines for those engaged in such acts. The law penalises corruption in public procurement, which is punishable by imprisonment for five to ten years and a fine equal to double the perceived value, not less than two million ouguiyas (Art. 5). It also punishes illicit enrichment, defined in Article 16 as follows: "Any public official who cannot justify an increase in his wealth compared to his legitimate income shall be deprived of civil rights, as provided for by the Penal code. (...)".

Provisions exist, but given the level of corruption observed in the country, the effectiveness of their implementation is questionable.

In April 2022, Mauritanian Prime Minister Mohamed Bilal Messaoud stated that the government is committed to fighting corruption "through effective institutional action" as part

of a [National Anti-Corruption Strategy](#). However, this strategy is not available online, and to date, we have no information on its implementation.

- **Fight against money laundering and terrorism financing**

In [October 2019 \(see below\)](#), Mauritania decided to strengthen its framework for combating money laundering and terrorism financing. In this regard, the country adopted Law No. 2019-017 of February 20, 2019 (not available online at this time), and the Council of Ministers adopted a decree implementing this law. This decree defines "the composition, sets the rules of organisation and functioning of the National Committee for the Fight against Money Laundering and Terrorism Financing (COMITE), and the Financial Investigation Unit (UNITE)."

The new law has enabled the consideration of aspects related to the proliferation of weapons of mass destruction.

Furthermore, the law has expanded the category of Designated Non-Financial Businesses and Professions (DNFBPs), which are essentially non-financial institutions that can be used for money laundering or terrorism financing purposes due to their nature.

The AML/CFT law requires the country to establish a national AML/CFT framework covering several aspects, including the following:

1. The country must conduct its national risk assessment and identify vulnerabilities to money laundering (ML) and terrorist financing (TF).
2. Obligated entities (financial institutions and DNFBPs) must conduct their risk assessments.
3. Obligated entities must implement an effective AML/CFT framework to significantly mitigate ML/TF activities and submit suspicious transaction reports to the financial intelligence unit (CRF).
4. Obligated entities failing to meet their obligations must face administrative and disciplinary sanctions.
5. CRF must be autonomous, operational, and adequately resourced with technical, financial, and human resources to fulfil its missions. CRF is an independent administrative authority under the supervision of the Minister of Finance. Its mission

includes processing and transmitting information for the fight against ML and TF. CRF also handles suspicious transaction reports and can oppose the execution of a transaction based on serious, consistent, and reliable information. When operations reveal facts that may constitute the offence of money laundering or terrorist financing, CRF submits a report to the Public Prosecutor, who must refer the case to the investigating judge.

6. The country must establish mechanisms to freeze the assets of terrorist individuals and organisations.
7. Both individuals and legal entities can be held criminally liable for offences related to money laundering and/or terrorist financing.
8. The country establishes mechanisms to seize, manage, and confiscate the assets of criminals. Mauritania has had since Decree No. 2017-127 of November 2, 2017, an Office for the Management of Frozen, Seized, and Confiscated Assets and the Recovery of Criminal Assets (OGRAC).

As part of the fight against money laundering and the financing of terrorism, a training course for members of the Nouakchott bar, organised by PPLAAF and [Expertise France](#) in partnership with the International Conference of Bars and Law Societies (CIB) and the Union Internationale des CARPA (UICA), took place in March 2022. The training was part of the [OCWAR-M project](#), a European project to combat money laundering and the financing of terrorism throughout the West African region. Under the aegis of the President of the Bar, it provided training for members of the Bar and the Bar Council on issues relating to the fight against financial crime and the protection of whistleblowers.

1.3 Media rights and freedom of expression

Freedom of expression, press freedom, and media rights play a crucial role in whistleblowing. These fundamental rights enable whistleblowers and journalists to disclose sensitive information safely, shed light on wrongdoing, and protect the public interest. Respecting these rights promotes an environment conducive to transparency, accountability, and the disclosure of information in the public interest.

- **Legal framework restricting press freedom in Mauritania**

The [Constitution](#) does not expressly provide for freedom of the press, although the [Freedom of the Press Act](#) states that access to information and freedom of the press "are inalienable rights of the citizen". However, the law also notes that these freedoms may be limited "by law and to the extent strictly necessary for the preservation of democratic society".

Defamation can be punished by heavy fines. The Freedom of the Press Act introduces fines for press offences against the President, for defamation of members of the government, certain officials, and official bodies (including the courts and the military), and for "public offence" against heads of state and foreign diplomats. Defamatory allegations concerning the private lives of members of the government may be punishable by up to six months imprisonment in the case of a charge based on ethnic group, nationality, religion, or race. The definition of defamation in the Freedom of the Press Act implicitly extends to ordinary citizens, but there are no penalties for defamation of persons outside the state apparatus.

When the [cybercrime law](#) was still at the draft stage, journalists had already begun to express fears that the bill would allow them to be prosecuted for "almost anything published online." The law provides for prison sentences and heavy fines for disseminating certain politically sensitive content on the internet while reaffirming the illegality of content that undermines Islamic values and the sharing of information considered to be in the interests of national defence.

- **The case of the blogger sentenced to death and the continuing fight for human rights in Mauritania**

In a [high-profile case](#), a blogger has been sentenced to death for denying Islam. Mohamed Cheikh Ould M'Kheir was arrested in 2014 and tried in a summary trial for criticising inequality in Mauritanian society and the Prophet Muhammad. He appealed against the conviction, but his court-appointed lawyers resigned in February 2015 for fear of reprisals from religious conservatives. A Supreme Court ruling published in December 2016 concluded that there had been procedural irregularities in previous trials. Despite this, M'Kheir remained in detention. On 8 October 2017, a court of appeals [sentenced](#) him to two years imprisonment, and the public prosecutor immediately appealed against this court

decision. In 2019, after [apologising](#) on a television channel, M'Kheir was reportedly released and transferred out of Mauritania.

- **Repression and harassment of journalists in Mauritania: a growing threat to press freedom**

Journalists have "the duty and the right" to protect their sources "in all circumstances, except in cases provided for by law to combat crimes and offences" (Article 3 of the Press Freedom Act).

In its [2023 report](#), Freedom House considers Mauritania to be "partly free", with a score of 36/100. In its [2022 report](#), Freedom House pointed out that "(...) a variety of media outlets operate, but [that] journalists risk arrest for reporting on sensitive topics and [that] there is a great deal of self-censorship". Freedom House adds that "journalists who cover sensitive stories or scrutinise the political elite can face harassment, wiretapping, and sometimes arrest."

Freedom House also reports that "several repressive laws are still in force, including those criminalising defamation, dissemination of false information, cybercrime and blasphemy." Indeed, in June 2020, Parliament approved a law punishing the dissemination of "[false news](#)" and the creation of false identities online. Offenders can be sentenced to up to five (5) years imprisonment and fines ranging from 50,000 to 200,000 Ouguiya.

The [Regroupement de la Presse Mauritanienne \(RPM\)](#) has predicted a decline in freedom of expression in Mauritania in 2021. It points to the proliferation of repressive laws, arrests, and questioning of journalists. In 2021, for example, a Mauritanian reporter, [Abdellahi Mohamed Ould Atigha](#), was arrested at his home by police officers for a Facebook post in which he questioned the government's management of a fund intended to finance projects for disadvantaged groups. The journalist was released 48 hours later after the complaint lodged by the minister's father was withdrawn. The same year, journalist [Salem Kerboub](#) was arrested for a Facebook post denouncing the government's fraudulent management of funds to curb the COVID-19 pandemic. In 2019, bloggers [Abderrahmane Weddady and Cheikh Ould Jiddou](#) spent more than two months in prison for posting on their social networks about

a controversy surrounding a two-billion-dollar fund allegedly invested by relatives of Mauritanian President Mohamed Ould Abdel Aziz in the United Arab Emirates.

In 2021, the Media Foundation for West Africa (MFWA) expressed [concern](#) about the detentions and arrests of journalists and social network activists in Mauritania, using the new cybercrime law that appears to restrict freedom of the press and expression. Severe penalties of up to five years in prison have been imposed for disseminating false information and inciting national division. Human rights activists have also criticised the law as an attempt to muzzle the press and restrict democracy. The MFWA called on the Mauritanian government to respect freedom of expression and the constitutional rights of its citizens.

Reporters Sans Frontières (RSF) ranked Mauritania [97th in the world in 2022](#). The NGO notes that "journalists are particularly exposed to pressure from the political authorities" and that "the adoption in 2020 of a new cybercrime law with liberticidal tendencies is a source of concern". In [2023](#), RSF ranked Mauritania 86th, a slight improvement compared to 2022.

1.4 The Access to Information Act and Secrecy Laws

This section discusses the importance of access to public information for whistleblowers and journalists. These individuals who expose illicit behaviours within the public administration require reliable information to support their disclosures. The right to access public information ensures transparency and accountability, providing enhanced protection to whistleblowers and journalists who can rely on concrete facts when disclosing sensitive information.

- **Lack of transparency in Mauritania: the absence of a law on access to public information.**

Mauritania has not adopted a law on access to public information.

The country has strict secrecy laws and severe penalties for those who break them. Under the [Penal Code](#), allowing information concerning national defence to be made public is punishable by 20 years of hard labour (Article 72). Where the intent of the disclosure is not treason, this penalty is reduced to a maximum of 10 years (Article 73). Publishing

"information relating to the measures taken to discover and arrest the perpetrator of the treason is punishable by 20 years' hard labour" (Article 76).

Employees who communicate their employer's trade secrets to "foreigners or Mauritians residing in a foreign country" are liable to imprisonment for up to five years (article 388). If the beneficiary of the secrecy is a Mauritanian residing in Mauritania, the maximum term is two years. There are no specific provisions for journalists or non-employees who divulge such secrets.

2. ANALYSIS OF THE FACTS: WHISTLEBLOWER CASES

The objective of this section is to list known and public cases of whistleblowers to assess the treatment afforded to whistleblowers in the country.

There are no known cases of whistleblowers being published in Mauritania. It is not possible to establish whether there have been cases of whistleblowing that have been hushed up or whether the lack of legislative protection has deterred people from disclosing sensitive information.

3. RECOMMENDATIONS: WEAKNESSES AND NEEDED REFORMS

This section suggests areas for improvement for the State regarding the protection of whistleblowers, current legislation against financial crime, the government's commitment to combating this problem, and the respect for individual liberties, including the right to information, freedom of the press and expression, as well as media rights.

- **Whistleblowing and the fight against corruption**

In Mauritania, there is currently no specific protection for whistleblowers and no indication of any legislation in the pipeline. Although there are provisions to protect witnesses, experts, victims, and whistleblowers, these are insufficient to develop a whistleblowing culture in the country.

- It would benefit whistleblowing if the Mauritanian government were to develop a law offering extensive and adequate protection to whistleblowers and strengthen its

actions to combat corruption and promote transparency and good governance to promote an environment favourable to whistleblowing.

- **Preservation of freedom of expression and of the press**

In Mauritania, there is growing concern regarding freedom of expression and of the press due to the adoption of restrictive legislative provisions. Journalists face pressure, intimidation and arbitrary arrest, raising concerns about their safety.

- To promote an environment conducive to freedom of expression and whistleblowing, it would be important for the Mauritanian state to take measures to protect the rights of the media and journalists.

4. KNOWLEDGE, SUPPORT, AND ACTION CENTRES:

This section explores the landscape of civil society organisations, NGOs, and citizen movements that actively promote good governance. These entities represent valuable sources of knowledge and expertise, playing a crucial role in strengthening democratic practices.

In Mauritania, no sufficiently reliable organisation has been identified.

B. ENGLISH-SPEAKING COUNTRIES REPORTS

1. NIGERIA

- **List of acronyms**

AFRICMIL - African Centre for Media and Information Literacy

AML/CFT - Anti-Money Laundering and Countering the Financing of Terrorism

ARCN - Architect Registration Council of Nigeria

CBN - Central Bank of Nigeria

CORA - Corruption Anonymous

CPI - Corruption Perception Index

ECOWAS - Economic Community of West African States

EFCC - Economic and Financial Crimes Commission

EU - European Union

FAAN - Federal Aviation Authority of Nigeria

HEDA - Human and Environmental Development Agenda Resource Center

ICPC - Independent Corrupt Practices Commission

NFIU - Nigerian Financial Intelligence Unit

NGO - Non-Governmental Organisation

OCWAR-M - Organised crime: West African response to money laundering and terrorist financing

PPLAAF - Platform to Protect Whistleblowers in Africa

RWB - Reporters Without Borders

SERAP - Socio-economic Rights and Accountability Project

WIN - Whistleblowing International Network

- **Legal sources**

[Constitution of the Federal Republic of Nigeria](#)

[Freedom of Information Act, 2011](#)

[Whistleblower Policy of 2016](#)

[Corrupt Practices and Other Related Offences Act, 2000](#)

[Economic and Financial Crimes Commission Establishment Act, 2004](#)

[Witness Protection and Management Act 2022](#)

[Money Laundering \(Prohibition\) Act 2022](#)

[Advance Fee Fraud and other Fraud Related Offences Act 1995](#)

[Failed Banks \(Recovery of Debts\) and Financial Malpractices in Banks Act 1994](#)

[Nigerian Financial Unit Act](#)

- **Executive Summary**

There are several cases of whistleblowers who have exposed corruption schemes in Nigeria, but whistleblowers continue to face reprisals. Although civil society has been advocating for stronger whistleblower rights in Nigeria since at least 2001, a whistleblower protection law has yet to be passed. As a result of this inaction, protections for employees and citizens who report crime, corruption, and misconduct are virtually non-existent, and the number of known whistleblower cases is low. On December 14, 2022, the federal government approved a draft whistleblower protection bill, sending it to the National Assembly.

Currently, the only legislation relevant to whistleblowers relates to public officials who make disclosures under the Freedom of Information Act. In December 2016, the Federal Executive Council approved a [whistleblower policy](#) created by the Federal Ministry of Finance. The policy stipulates that whistleblowers who provide information helping the government recover stolen or concealed assets could receive between 2.5 and 5 percent of the amount recovered. However, the policy is not a law and does not protect whistleblowers from retaliation or immunity for civil or criminal prosecution.

The existing whistleblower policy has lost momentum, due in part to the continued lack of legal protections for whistleblowers. However, in November 2022, a coalition of stakeholders declared their [commitment](#) to advocating for an urgent passage of the whistleblower protection bill before the end of the 9th National Assembly on June 11, 2023. The coalition includes the African Centre for Media and Information Literacy (AFRICMIL), Amnesty International, and the Whistleblowing International Network (WIN).

Tips for Whistleblowers:

- While Nigeria has a federal whistleblower reward policy as of 2016, there are no laws to protect employee or citizen whistleblowers from retaliation.

- There are no specific compensation programs for victimised whistleblowers, nor penalties for people who retaliate against whistleblowers.
- Among the leading anti-corruption groups in Nigeria are Corruption Anonymous (CORA), a coalition which PPLAAF recently joined.
- Despite serious threats to media freedom, Nigeria has more than 100 independent news outlets and an investigative journalism centre.

1. ANALYSIS OF THE LEGAL FRAMEWORK

1.1 Whistleblower laws and policies

Whistleblower protection is a crucial aspect of the fight against financial crime. This section explores the laws, measures, and mechanisms implemented in Nigeria to ensure the protection of whistleblowers. It examines the rights and guarantees afforded to whistleblowers, the protection mechanisms in place, and the persistent challenges related to this protection.

- **Nigerian Constitution**

The Nigerian Constitution grants the fundamental right to freedom of expression, though this right has yet to be embodied in a whistleblower protection law. Section 39 of the Constitution states that “every person shall be entitled to freedom of expression, including freedom to hold opinions and to receive and impart ideas and information without interference.”

- **Freedom of Information Act of 2011**

Section 27 of the Freedom of Information Act of 2011 relates to public employees who disclose information in the public interest, including information related to mismanagement, gross waste of funds, fraud, abuse of authority, and public health and safety dangers. The law includes protections for public officials and people acting on behalf of public institutions from civil or criminal proceedings if they disclose information under the law, even if the disclosure otherwise would violate the Criminal Code, Penal Code, Official Secrets Act or another law. The Freedom of Information Act does not apply to the private sector.

- **Whistleblower Policy of 2016**

Under the federal government's Whistleblower Policy of 2016, individuals may make voluntary disclosures to the federal government through the Federal Ministry of Finance, Budget and National Planning concerning possible misconduct or violations relating to the public interest that have occurred, are ongoing, or are about to occur. Such misconduct or violations include financial malpractice or fraud, misappropriation of public funds, violation of financial regulations, and soliciting bribes.

Information can be submitted anonymously and the whistleblower has the power to choose whether to disclose their identity. However, the policy does not provide whistleblowers with protection from retaliation.

Whistleblowers who provide the government with information that leads directly to the recovery of stolen or concealed public funds or assets are eligible to receive between 2.5 and 5 percent of the amount recovered. In order to qualify for the reward, the whistleblower must provide the government with information that it does not already have access to and that it cannot obtain from a publicly available source.

The policy resulted in over 1 983 tips in its first few years, leading to approximately N7.8 billion in recoveries. However, whistleblower reports have recently lost momentum due to Nigeria's lack of a whistleblower protection law; Nigerians hesitate to report corrupt practices without legal protection from the government.

- **Witness Protection and Management Act 2022**

In 2022, Nigeria passed the Witness Protection and Management Act. The Act applies only to certain offences, including economic and financial crimes, corrupt practices and other related offences, and money laundering prevention and prohibition. Under the Act, a witness is defined as a person who has information about the commission of an offence and has given evidence on behalf of the State in proceedings related to the offence. Individuals may also be considered witnesses if they require protection due to their relationship with a witness. Since the Act was only recently passed, it is unclear whether it has been implemented effectively.

The Act also establishes the Witness Protection and Management Programme, empowering the agency implementing the Programme to take actions as may be reasonable and necessary

for the safety and welfare of witnesses who provide information. Factors considered in determining whether a witness qualifies for inclusion in the Programme include the seriousness of the offence to which the evidence of the witness relates, the nature and importance of the witness's testimony, the nature of the perceived threat to the witness, the nature of the witness's relationship to any other witness being considered for inclusion, the result of any psychological evaluation, whether there are viable alternative methods of protection the witness, and whether the witness has a criminal record.

Under the Programme, the agency can provide physical and armed protection, arrange for witnesses to establish new identities, relocate witnesses, provide accommodation for witnesses, and provide reasonable financial assistance to witnesses.

1.2 Laws and measures related to combating financial crime

This section focuses on the measures taken by the Nigerian government to combat financial crime. It examines legislative reforms, policies, and initiatives aimed at promoting transparency, integrity, and accountability in the management of public affairs. While acknowledging the efforts made, it also highlights persistent challenges and prospects for improvement in the fight against financial crime in Nigeria.

- **Anti-Corruption laws and measures in Nigeria**

Corruption continues to be a central issue in Nigeria. In [Transparency International's 2022 Corruption Perceptions Index \(CPI\)](#), which scores countries based on a scale of zero (highly corrupt) to one hundred (very clean) based on the perceived level of public sector corruption, Nigeria scored a 24 and ranked 150 out of 180 countries. Nigeria's government has passed whistleblower, freedom of information, witness protection, and anti-corruption legislation to combat corruption. However, some of these provisions are not implemented effectively in practice.

There have been several high-profile cases of corruption in the Nigerian government. In May 2022, the Accountant General of Nigeria, Ahmed Idris, was [arrested](#) for money laundering and diversion of public funds amounting to an estimated N80 billion. In 2019, at least [eight](#) politicians working on President Muhammadu Buhari's reelection campaign had pending corruption cases. One of these politicians was Abdullahi Adamu, the former governor of

Nasarawa State, who was charged with stealing N15 billion from Nasarawa State during his tenure as governor. The full investigation, prosecution, and conclusion of corruption cases in Nigeria remains unusual.

Since the assumption of office of President Bola Tinubu in March 2023, the President of the Economic and Financial Crimes Commission (EFCC) and the Director of the Central Bank have been arrested. They are accused of abuse of office.

- **Corrupt Practices and Other Related Offences Act, 2000**

The Corrupt Practices and Other Related Offences Act established the Independent Corrupt Practices Commission (ICPC), one of Nigeria's major anti-corruption agencies. The Act generally prohibits corrupt practices arising from transactions involving public officials and the general public or private individuals. However, as evidenced by whistleblower Joseph Ameh's case (described below), the ICPC has struggled to effectively enforce the Act's provisions.

The ICPC is tasked with investigating reports of corruption, prosecuting offenders, instructing agencies on how to minimise corruption, and educating the public on corruption. Under the Act, corruption is defined as bribery, fraud, and other related offences. Categories of offences include the giving and receiving of bribes to influence public duties, the fraudulent acquisition and receipt of properties, the failure to report bribery, and the concealment of information and frustration of investigation.

Individuals who provide evidence under the Act are entitled to receive a certificate of indemnity from the court, which serves as a bar to any legal proceedings against them relating to the evidence they provided. Subject to certain conditions, individuals who provide information used by Commission officers are entitled to have their identities remain private.

- **Money Laundering Legislation and Enforcement**

Nigeria has also passed legislation establishing offences for money laundering, fraud, and financial malpractice.

- **The Money Laundering Prevention and Prohibition Act, 2022**

The [Money Laundering \(Prevention and Prohibition\) Act 2022](#) enhanced existing anti-money laundering laws, providing for the prosecution and punishment of money laundering and related offences.

Relatedly, the [Advance Fee Fraud and other Fraud Related Offences Act 1995](#) prohibits obtaining property or benefits by false pretences and washing or minting currency. Finally, the [Failed Banks \(Recovery of Debts\) and Financial Malpractices in Banks Act 1994](#) establish financial malpractice-related offences for banks and other financial institutions.

- **The Nigerian Financial Intelligence Unit**

As part of the fight against money laundering and terrorist financing, Nigeria is also equipped with the [Nigerian Financial Intelligence Unit \(NFIU\)](#). It was established in June 2004 and was previously part of the EFCC. Since 2018, the NFIU has become independent and autonomous in its operational tasks, functions under the [NFIU Act](#) and is housed within the Central Bank of Nigeria (CBN).

The NFIU, as enshrined in the NFIU Act and the Money Laundering Prohibition Act, has the core mandate of: receiving suspicious transaction reports from reporting entities, including financial institutions and designated non-financial businesses and professionals, receiving threshold-based transaction reports from reporting entities, analysing the received information, including accessing local and international databases to enrich the reports and disseminating the resulting intelligence reports to law enforcement, anti-corruption, security, and intelligence agencies, as well as regulatory and supervisory bodies, for further investigation and prosecution.

- **Economic and Financial Crimes Commission Establishment Act, 2004**

The Economic and Financial Crimes Commission Establishment Act created the Economic and Financial Crimes Commission (EFCC). It has the power to investigate, prosecute, and penalise offenders. However, concerns have been raised about potential [political interference](#) affecting its effectiveness and independence.

Under the Act, EFCC officers cannot be compelled to disclose the source of information or informants' identities without a court order.

Since Bola Tinubu assumed power, the EFCC's President, [AbdulRasheed Bawa](#), has been dismissed and accused of abuse of office.

The EFCC's mission includes preventing and combating economic and financial crimes, as well as investigating, preventing, and prosecuting money laundering and terrorist financing activities. It also coordinates national efforts in the global fight against money laundering and terrorism.

Despite the implementation of these measures, money laundering and terrorist financing remain significant concerns in Nigeria. The country faces challenges related to these criminal activities due to various factors, including the ineffective enforcement of financial crime laws and widespread corruption. Nigeria is considered a hub for illicit financial flows, given its strategic geographical position and significant economic size.

1.3 Media rights and freedom of expression

Freedom of expression, press freedom, and media rights play a crucial role in whistleblowing. These fundamental rights enable whistleblowers and journalists to disclose sensitive information safely, shed light on wrongdoing, and protect the public interest. Respecting these rights promotes an environment conducive to transparency, accountability, and the disclosure of information in the public interest.

- **Challenges to press freedom in Nigeria: legal restrictions and intimidation**

Nigeria ranks 123 out of 180 countries in the [Reporters Sans Frontières \(RSF\) 2023 World Press Freedom Index](#), a slight progression over the year 2022. According to the report, Nigeria is one of West Africa's most dangerous countries for journalists, who are often watched, attacked, arbitrarily arrested, and even killed. Since January 2023, RSF has identified two Nigerian journalists who are currently detained. Between January 2019 and September 2022, the Press Attack Tracker recorded 161 attacks on journalists. In May 2022, blogger Ahmed Olamilekan was arrested by the State Security Service for publishing a story on Ogun State Governor Dapo Abiodun's alleged criminal records in the United States. In

July 2022, Ikenna Ezenekwe, an online publisher, was arrested by security operatives based on a libel petition filed by Primus Odili, the former Chief of Staff to the governor of Anambra State.

According to [Freedom House's 2023 Country Report](#), Nigeria's vibrant media landscape is impeded by criminal defamation laws and the frequent harassment and arrest of journalists who cover politically sensitive topics. While freedom of speech, expression, and the press are constitutionally guaranteed, these rights are limited by sedition, criminal defamation, and false-news laws. Government officials restrict press freedom by publicly criticising, harassing, and arresting journalists when they cover sensitive topics such as corruption, human rights violations, and separatist and communal violence. In [2023](#), Nigeria received a score of 43/100 and was considered as "partly free" by Freedom House.

While Nigeria's constitution protects freedom of expression, several laws limit this right. Laws on cybercrime, terrorism, and state secrets have infringed on the work of journalists and the penal code continues to treat defamation as a crime. Furthermore, in recent years, legislation regulating social media has been proposed which would severely restrict journalists' freedom.

1.4 The Access to Information Act and Secrecy Laws

In this section, we will discuss the importance of access to public information for whistleblowers and journalists. These individuals who expose illicit behaviours within the public administration require reliable information to support their disclosures. The right to access public information ensures transparency and accountability, thereby providing enhanced protection to whistleblowers and journalists who can rely on concrete facts when disclosing sensitive information.

- **Freedom of Information Act, 2011**

The objective of this law is to promote transparency and accountability in Nigeria by granting individuals the right to access public records and information. It establishes the right of any person to request information held by public officials or institutions, without the need to demonstrate a specific interest in the information. The law also mandates public institutions to record and organise their activities in a manner that facilitates public access to information.

By ensuring the proper disclosure of information, protecting personal privacy, and providing legal remedies for non-compliance, this law aims to foster a more open and informed society while safeguarding the interests of the public and serving public officers.

According to the Nigerian Freedom of Information Act, government and public institutions must provide appropriate training to their officials regarding the public's right to access information and records held by such institutions. The Act specifies certain exemptions for information requests, including personal information related to clients, patients, employees, applicants, and individuals receiving care or services from public institutions. Trade secrets, commercial or financial information obtained from third parties, and information that could interfere with contractual negotiations or procurement processes are also exempt from disclosure. However, public institutions may disclose personal information if consent is given or if the public interest in disclosure outweighs the privacy protection of the individual.

2. ANALYSIS OF THE FACTS: WHISTLEBLOWER CASES

This section lists known and public cases of whistleblowers with the aim of assessing the treatment afforded to whistleblowers in the country.

- **Whistleblowers in Nigeria: facing reprisals and struggles for justice**

In 2020, Joseph Ameh, an architect at the Federal College of Education (Technical), Asaba, Delta State, was fired after petitioning the Independent Corrupt Practices Commission (ICPC) regarding alleged contract fraud at the college. Ameh alleged that over 60 million naira had been diverted by the College's management and filed a petition in order to obtain protection from the ICPC for blowing the whistle. The ICPC advised Ameh to seek the intervention of the Architect Registration Council of Nigeria (ARCN); however, Ameh was fired after the ARCN became involved. While the ICPC petition was meant to remain confidential, Ameh's identity was revealed and he suffered reprisals as a result. The ICPC arraigned several members of the College's management who were found guilty of malpractice, but later discharged them due to "faulty prosecution." According to Ameh, the ICPC rejected the evidence he provided and refused to allow him to testify in court.

In April 2017, a whistleblower helped the Nigerian government recover \$43.5 million, £27,800, and 23.2 million naira from a high-end apartment in the Ikoyi area of Lagos. The

anti-corruption agency said it raided the Lagos apartment after receiving a tip-off that a “haggard” woman wearing “dirty clothes” was taking bags in and out of the apartment. The agency said the funds are “suspected to be the proceeds of illegal activities”. According to some media reports, the Federal Ministry of Finance paid the whistleblower the sum of N421 million, pursuant to the Whistleblower Policy of 2016.

In September of 2016, lawmaker Abdulmumin Jibrin was suspended from the House of Representatives for six months after exposing alleged budget padding and fraud in the legislative chamber. Jibrin said that “corrupt elements have infected the House, making the institution a hub of systemic corruption.”

Two whistleblowers, Murtala Aliya Ibrahim and Taslim Anibaba, faced reprisals for exposing contract fraud at the Federal Mortgage Bank of Nigeria in 2016. During his annual leave, Ibrahim was transferred from the Bank’s headquarters to an office in Jalingo and his employment was eventually terminated in May of 2017. In August of 2017, Anibaba was placed on indefinite suspension. After a series of appeals to the Minister of Power, Works and Housing, the panel recommended the lifting of Anibaba’s suspension and his immediate reinstatement. However, Ibrahim has remained unemployed since May of 2017 and continues to fight for his reinstatement.

In 2015, PPLAAF-affiliated whistleblower Aaron Kaase blew the whistle on fraudulent financial acts involving the Chairman of Nigeria’s Police Service Commission. As a result of his disclosures, Kaase was arrested, detained, harassed, and suspended from his position. In 2017, the National Industrial Court of Abuja decided to reinstate Kaase to his position at the Commission, ordering the Commission to pay him “all his emoluments and entitlements accruable to him during the period of his suspension.” After reinstatement, Kaase was acquitted in a case involving charges brought by the current chair of the Commission.

In 2014, then-President Goodluck Jonathan suspended and replaced Lamido Sanusi as governor of Nigeria’s Central Bank after he exposed alleged corruption at the national petroleum company, including billions in lost or stolen funds. Sanusi is now a traditional leader, having been crowned Emir of Kano in June 2014.

Joseph Akeju, a former bursar at the Yaba College of Technology, exposed corruption at the school and suffered several reprisals as a result. In 2009, Akeju refused to participate in a

“loot” and was subsequently dismissed. It took seven and a half years for Akeju to be reinstated by Adamu Adamu, the minister of education. After being reinstated in 2016, Akeju was transferred to the Federal Aviation Authority of Nigeria (FAAN). Two years after his transfer, Akeju returned to Yaba College and discovered that 1.6 billion naira had gone missing and the college had been giving out frivolous contracts. Akeju blew the whistle on the corruption, prompting his second dismissal. As a result of blowing the whistle, Akeju faced death threats and incurred several debts while pursuing justice in court. While Akeju was eventually reinstated following a petition at the school’s senate, he was almost due for retirement by the time of his reinstatement and has not recovered financially from the reprisals he suffered.

3. RECOMMENDATIONS: WEAKNESSES AND NEEDED REFORMS

This section suggests areas for improvement for the State regarding the protection of whistleblowers, current legislation against financial crime, the government's commitment to combating this problem, and the respect for individual liberties, including the right to information, freedom of the press and expression, as well as media rights.

- **Whistleblower protection law in Nigeria: legal gaps and institutional challenges**

Nigeria lacks a designated whistleblower law that covers employees and citizens from retaliation if they report crime, corruption, or public health threats. Furthermore, Nigerian law does not recognise people who make such reports as whistleblowers. Consequently, there are no legal mechanisms to protect whistleblowers from retaliation.

In addition, there is no government agency to receive and investigate reports from workplace whistleblowers, lend them support or legal advice, or offer them protection from retaliation and adverse consequences.

- **How the law should be improved:**

As civil society organisations have long suggested, a crucial first step to improve the situation for Nigerian whistleblowers would be to pass a designated whistleblower law that meets prevailing international standards. This should go hand-in-hand with efforts to raise

awareness of the law in order for potential whistleblowers to make use of it, and to ensure any new legislation and procedures are strongly enforced.

Recently, a coalition of stakeholders declared their [commitment](#) to advocating for an urgent passage of the whistleblower protection bill before the end of the 9th National Assembly on June 11, 2023. In December 2022, the federal government approved a draft whistleblower protection law, which was passed on to the National Assembly.

While PPLAAF recommends the passage and enforcement of the draft law, PPLAAF and the Nigerian Human and Environmental Development Agenda (HEDA) Resource Center have made several recommendations for the improvement of the draft law. First, the law should be expanded to include disclosures made in the private sector. Second, the law should protect individuals who have committed offences while blowing the whistle – while Article 44 grants whistleblowers immunity for acts committed while blowing the whistle, Article 21 contradictorily states that “a disclosure is not a public interest disclosure if the discloser commits an offence by making it.” Third, there should not be a good faith requirement in the law, as Article 22’s provisions are sufficient to ensure the absence of bad faith. Fourth, Article 29’s conditions under which the Commission may not investigate are too broad and should be further limited.

4. KNOWLEDGE, SUPPORT, AND ACTION CENTRES

This section explores the dynamic landscape of civil society organisations, NGOs, and citizen movements that actively promote good governance. These entities represent valuable sources of knowledge and expertise, playing a crucial role in strengthening democratic practices.

Corruption Anonymous (CORA)

2nd Floor (Flat A3)

22 Koforidua Street (by UBA) off Ouagadougou Street

Zone 2, Abuja, Nigeria

P.O. Box 6856 Wuse, Abuja, Nigeria

Tel: (+234) 81 1877 1666

contact@corruptionanonymous.org

Convention on Business Integrity

Contact: Soji Apampa

17A, House 2, Muyibat Oyefusi Crescent

Off Akinola Adegunwa St., Off Adeyemo Akapo St.

Omole Phase I, Ikeja

Lagos, Nigeria

Tel: (+234) 1 791 5712 / 819 158 0287

cbinigeria.com

info@cbinigeria.com

United Action for Change

This umbrella organisation, which promotes good governance and citizen participation, has developed and is advocating for a proposed whistleblower protection law at the state level.

Contact: Muiz A. Banire

o.5. Austin Agbolahan Close

GRA Magodo Phase II Shangisha

Lagos, Nigeria

Tel: (+234) 1293 1860 / 802 312 1459

uacng.org

info@uacng.org

Socio-Economic Rights and Accountability Project (SERAP)

Contact: Dr. Kolawole Olaniyan

2B Oyetola Street, Off Ajanaku Street, Off Salvation Street, Opebi, P.O. Box 14037

Ikeja, Lagos, Nigeria

Tel: (+234) 816 0537 202

<https://serap-nigeria.org/>

info@serap-nigeria.org

African Centre For Media and Information Literacy (AFRICMIL)

Contact: Dr Chido Onumah



2nd Floor (Flat A3) #22 Koforidua Street (Beside UBA) off Ouagadougou Street, Zone 2,
Abuja, Nigeria P.O.Box 6856, Wuse, Abuja, Nigeria

Tel: (+234) (0) 8118771666

[Contact | African Centre for Media & Information Literacy \(africmil.org\)](http://africmil.org)

info@africmil.org

2. GHANA

- **List of acronyms**

AML/CFT - Anti-Money Laundering and Countering the Financing of Terrorism

CHRAJ - Commission on Human Rights and Administrative Justice

CPI - Corruption Perception Index

DNFBPs - Designated non-financial businesses and professions

ECOWAS - Economic Community of West African States

EOCO - Economic and Organised Crimes Office

EU - European Union

FIC - Finance Intelligence Centre

GACC - Ghana Anti-Corruption Coalition

ML/TF&P - Money Laundering/Terrorist Financing and Proliferation Financing

NGO - Non-Governmental Organisation

OCWAR-M - Organised crime: West African response to money laundering and terrorist financing

OSP - Office of the Special Prosecutor

PPLAAF - Platform to Protect Whistleblowers in Africa

RWB - Reporters Without Borders

UN - United Nations

WAJSIC - Whistleblower and Journalists Safety International Center

- **Legal sources**

[Act 720: Whistleblower Act, 2006](#)

[Act 989: Right to Information Act, 2019](#)

[Act 795: Witness Protection Act, 2018](#)

[Act 959: Office of the Special Prosecutor Act, 2017](#)

[Act 843: Data Protection Act, 2012](#)

[Act 775: Electronic Communications Act, 2008](#)

[Act 29: Criminal Code, 1960](#)

[Act 1044: Anti-Money Laundering Act, 2020](#)

[Ghana Revenue Authority's Whistleblower Program](#)

- **Executive Summary**

Ghana's whistleblower protection law is considered, on paper, among the strongest in Africa. Passed in 2006, the Whistleblower Act provides legal protection and remedies to all individuals who report crime and misconduct in the public interest. In practice, however, the law has several weaknesses that threaten its effectiveness. The government's stated willingness to correct these problems has yet to be followed up with action.

The Whistleblower Act is administered by the Commission on Human Rights and Administrative Justice (CHRAJ). The Commission also serves as Ghana's Anti-Corruption Agency and Ombudsman.

In parallel with CHRAJ, the Ghana Anti-Corruption Coalition (GACC), a group of public, private, and civil society organisations, works on a range of anti-corruption issues including the effectiveness of the whistleblower law. Furthermore, the recently-founded Whistleblower and Journalists Safety International Center (WAJSIC), founded by Ghanaian investigative journalist Anas Aremeyaw Anas and PPLAAF, provides protection and support to whistleblowers and journalists exposing corruption across the African continent.

Both CHRAJ and GACC have recommended strengthening the law in line with Ghana's National Anti-Corruption Action Plan. One crucial problem with the law's effectiveness lies in a lack of awareness. Particularly in rural areas, citizens have little to no knowledge of the law's purpose and benefits. Additionally, negative perceptions of whistleblowers as "disloyal" has further hindered the development of a robust whistleblower culture in Ghana.

In 2020, the Ghana Revenue Authority (GRA) introduced a new whistleblower [program](#) with reward incentives of at least GH¢25,000 for individuals who help expose tax defaulters. This is an independent program specific to GRA, unrelated to the Whistleblower Act of 2006. The latter provides for a reward of 10 percent of the recovered money or an amount set by the Attorney General and the Inspector General of Police for whistleblowers whose reports lead to an arrest and conviction. Until September 2023, this reward program had never been activated. However, the Attorney general announced that a [law amending](#) the 2006 law to establish this reward program had been passed.

In August of 2022, CHRAJ inaugurated a [committee](#) to draft a Standard Operating Procedure for whistleblower protection in Ghana, addressing weaknesses in the country’s current systems for operationalising whistleblowing and providing for more effective implementation of the Whistleblower Act.

Tips for Whistleblowers:

- Ghana’s Whistleblower Act includes legal protections and remedies for anyone who reports crimes, misconduct, or public health dangers.
- Reports can be made to a wide range of contacts, including employers, Parliament members, the Attorney-General, and ministers.
- The Commission on Human Rights and Administrative Justice (CHRAJ) provides legal assistance to victimised whistleblowers and can order those retaliating against whistleblowers to stop.
- The Ghana Anti-Corruption Coalition has developed [A Guide to Whistleblowing in Ghana](#), which contains practical information and advice, and a [Training Manual for Civil Society Organisations and Traditional Authorities](#).

1. ANALYSIS OF THE LEGAL FRAMEWORK

1.1 Whistleblower laws and policies

Whistleblower protection is a crucial aspect of the fight against financial crime. This section explores the laws, measures, and mechanisms implemented in Ghana to ensure the protection of whistleblowers. It examines the rights and guarantees afforded to whistleblowers, the protection mechanisms in place, as well as the persistent challenges related to this protection.

- **Whistleblower Act, 2006**

The Whistleblower Act provides legal protections to people who report “impropriety,” and while the law is strong on paper, it has not been [effectively implemented](#) in practice. Under the law, “impropriety” includes economic crimes, violation of law, miscarriages of justice, misappropriation of public resources, and dangers to public health or the environment – whether they have occurred or are likely to occur.

Whistleblowers are legally protected from retaliation in the workplace, including dismissal, suspension, denial of promotion, involuntary transfer, and harassment.

In order to qualify for protections, disclosures must be made in good faith and with a reasonable belief that the information is true. Unless it is proven that the whistleblower knowingly disclosed false information, whistleblowers are not liable to civil lawsuits or criminal prosecution.

Information may be reported to a wide range of people, institutions, and organisations, including employers, police, the Attorney-General, members of Parliament, ministers, CHRAJ, the National Media Commission, chiefs, and heads of religious groups. Investigations undertaken regarding impropriety must be completed within 60 days.

The law requires whistleblowers to include their name, address, and occupation, which raises the question of whether officials will investigate anonymous reports. The law includes procedures for illiterate people to make reports.

People who believe they have been or are likely to be victimised for blowing the whistle may file a complaint with the CHRAJ. The Commission can order anyone who is victimising or harassing a whistleblower to stop. CHRAJ orders have the same effect as a judgement from the High Court. If the person disobeys the order, the Commission can seek a court order compelling the person to comply.

Those in need can obtain legal help by applying to CHRAJ, which will refer the case to the Legal Aid Board or another institution. Victimised whistleblowers can seek compensation in the High Court, and if necessary, may receive police protection.

The law also set up a Whistleblower Reward Fund. Whistleblowers whose reports lead to an arrest and conviction can receive 10 percent of the money recovered or an amount set by the Attorney-General and Police Inspector-General. However, as of 2021, this compensation mechanism had [never been activated](#). On September 5, 2023, Attorney General Godfred Dame announced that a law amending the 2006 Whistleblower Act had been passed in August to finally include the [long-awaited reward system](#) for whistleblowers.

People who fail to maintain a whistleblower's confidentiality, or who conceal or suppress evidence in an investigation, face fines and imprisonment.

A CHRAJ [committee](#) was inaugurated in 2022 to draft a Standard Operating Procedure for whistleblower protection, addressing the challenges and weaknesses in the current systems for operationalizing whistleblowing and providing for a more efficient and effective implementation of the Whistleblower Act.

- **Witness Protection Act, 2017**

Ghana's Witness Protection Act establishes a Witness Protection Agency to provide protection to "persons who possess important information and face potential risk or intimidation due to their cooperation with the law enforcement agencies with respect to investigation and prosecution." However, there is no evidence that the law has been implemented effectively.

In deciding whether to include a witness in the Witness Protection Programme, the Attorney-General must consider: (a) the seriousness of the offence which the relevant evidence or statement relates to, (b) the nature and importance of any relevant evidence or statement, (c) the nature of the perceived danger to the witness, (d) the nature of the relationship of the witness with other witnesses being assessed for inclusion, (e) any psychological or psychiatric evaluation of the witness, (f) whether there are viable alternative methods of protecting the witness, and (g) whether the witness has a criminal record.

Authorised protective action includes allowing witnesses to establish a new identity, relocating witnesses, providing accommodation for witnesses, providing transport for the property of witnesses, providing reasonable financial assistance to witnesses, and providing counselling and vocational training services to witnesses.

- **Data Protection Act, 2012**

Ghana's Data Protection Act establishes a Data Protection Commission to protect individuals' privacy and personal data by regulating the processing of personal information. Under Section 18 of the Act, processing of personal data must be done without infringing the privacy rights of the data subject, in a lawful manner, and in a reasonable manner. The Act further requires the consent of the data subject for the processing of personal data unless the purpose for which the data is processed is exempt under Section 20(2). There are also

exemptions in place for personal data relating to national security, crime and taxation, and health, education, and social work.

However, a lack of awareness of the Act's provisions and inadequate infrastructure have prevented the Act from being implemented effectively, leading to issues with enforcement.

- **Electronic Communications Act, 2008**

Under the Electronic Communications Act, any network operator or service provider who is a holder of a Class Licence is prohibited from using or disclosing confidential, personal, or proprietary information of users. However, there are exemptions where the use or disclosure is necessary for the operation of the network or service, the billing and collection of charges, the protection of the rights or property of the operator or provider, or protection from the fraudulent use of the network or service. Anyone who intentionally uses or discloses personal information in contravention of the Act may be liable for a fine of up to one thousand five hundred penalty units, a term of imprisonment of up to four years, or both.

The Act has been [criticised](#) for its hefty false information provisions, which do not meet international freedom of expression standards. Furthermore, there is little evidence that the Act's other provisions have been implemented effectively in practice.

1.2 Laws and measures related to combating financial crime

This section focuses on the measures taken by the Ghanaian government to combat financial crime. It examines legislative reforms, policies, and initiatives aimed at promoting transparency, integrity, and accountability in the management of public affairs. While acknowledging the efforts made, it also highlights persistent challenges and prospects for improvement in the fight against financial crime in Ghana.

- **Anti-Corruption laws and measures in Ghana**

Corruption remains a highly relevant issue in Ghana. In [Transparency International's 2022 Corruption Perceptions Index](#) (CPI), which scores countries based on a scale of zero (highly corrupt) to one hundred (very clean) based on the perceived level of public sector corruption, Ghana scored a 43 and ranked 72 out of 180 countries. Ghana's government has taken several steps to combat corruption, including passing whistleblowing, access to information, and

witness protection legislation. The government also established an independent Office of the Special Prosecutor to investigate alleged corruption. However, many of these measures are not effective in practice.

- **Office of the Special Prosecutor Act, 2017**

The Office of the Special Prosecutor (OSP) is a specialised, autonomous body tasked with investigating specific cases of alleged or suspected corruption and corruption-related offences, recovering the proceeds of corruption and corruption-related offences, and taking steps to prevent corruption. The OSP also has the power to prosecute such offences on the authority of the Attorney-General.

However, the OSP has faced criticism for its lack of effective enforcement. Due to resource constraints including budget disbursement, staffing, and office space, the OSP has [failed](#) to successfully prosecute and conclude numerous cases of corruption involving public officials. For example, the Special Prosecutor publicly confirmed his investigation of public servants in payroll malfeasance in partnership with the Auditor General, but it is unclear whether cases emanating from the audit reports have been investigated or filed in the courts.

- **Other Acts Relating to Anti-Corruption**

Ghana has also enacted several other legal provisions relating to corruption. Ghana's [Criminal Code](#) specifically addresses corruption by public officers, covering several forms of corruption including bribery and extortion.

- **Money Laundering Legislation and Enforcement**

- **Anti-Money Laundering Act**

The [Anti-Money Laundering Act](#), 2020 – which addresses the deficiencies of the old Anti Money Laundering Act, 2008 – qualifies money laundering as an offence and provides for the establishment of a Financial Intelligence Centre. Additionally, the Public Procurement Act, the Financial Administration Act and the Internal Audit Agency Act each seek to combat public sector corruption by strengthening accountability, although implementation of these provisions needs to be strengthened.

- **Financial Intelligence Centre (FIC)**

The [Financial Intelligence Centre \(FIC\)](#) was established under Section 4 of the Anti-Money Laundering Act, 2008 as amended. It is responsible for receiving and analysing suspicious transaction reports and other relevant information related to money laundering, terrorist financing, and proliferation financing (ML/TF&P). It serves as the national centre for gathering actionable intelligence and disseminating it to competent authorities.

Additionally, the FIC has the authority to request additional information from reporting entities, which include Financial Institutions and Designated Non-Financial Businesses and Professions (DNFBPs) in Ghana. DNFBPs encompass various entities such as lawyers, accountants, notaries, auctioneers, religious bodies, non-governmental organisations, real estate developers or agents, the gaming sector, dealers in precious metals and stones, and dealers in motor vehicles.

- **Economic and Organized Crimes Office**

The establishment of the [Economic and Organised Crimes Office](#) was authorised through the [Economic and Organised Crime Act of 2010](#). Its primary objective is to conduct investigations into various criminal activities, including money laundering, terrorist financing, and other transnational organised crimes. The office is empowered to employ proactive measures aimed at targeting the proceeds of crime, such as seizure, freezing, confiscation, and the imposition of financial penalties. Notably, the legislation also includes provisions for confiscation even in cases where a conviction has not been secured. However, these provisions present certain challenges, as they require suspects to be formally charged under the same Act.

- **AML/CFT Inter-Ministerial Committee (IMC)**

In order to fulfil its obligations under United Nations Security Council Resolution No. 1267, Ghana has established an AML/CFT Inter-Ministerial Committee (IMC). This committee was created by the government in March 2013 through an Executive Instrument. Its primary role is to coordinate all matters related to money laundering, terrorist financing, and other

transnational organised crimes. The Minister of Finance serves as the Chairperson of the IMC.

Furthermore, the Executive Instrument also established the Law Enforcement Coordinating Bureau (LECOB), which operates as the implementing arm of the IMC. LECOB derives its authority from the IMC and is chaired by the National Security Coordinator. Its purpose is to facilitate effective collaboration and cooperation among various law enforcement agencies in combating money laundering, terrorist financing, and related crimes.

1.3 Media rights and freedom of expression

Freedom of expression, press freedom, and media rights play a crucial role in whistleblowing. These fundamental rights enable whistleblowers and journalists to disclose sensitive information safely, shed light on wrongdoing, and protect the public interest. Respecting these rights promotes an environment conducive to transparency, accountability, and the disclosure of information in the public interest.

- **Press freedom challenges in Ghana: balancing constitutional guarantees and increasing harassment of journalists**

According to [Freedom House's 2022 Country Report](#), freedom of the press in Ghana is constitutionally guaranteed and generally respected in practice. Criminal libel and sedition laws were repealed in 2001. However, under Section 2018 of the Criminal and Offences Act of 1960, it is a crime to publish false news "likely to cause fear or alarm to the public or to disturb the public peace." This provision has been used to harass journalists; in 2021, military and police personnel detained or attacked journalists on several occasions. In its [Freedom in the World 2023 report](#), Freedom House rates Ghana as "free" with a score of 80/100.

In its [2023 Press Freedom Index](#), Reporters Sans Frontières (RSF) ranks Ghana 62 out of 180 countries, two ranks lower than in 2022. This is a sharp decline from its ranking at 30th in 2021. RSF considers that more and more media lack independence because they are controlled by political actors. The report notes that journalists' safety has deteriorated sharply in recent years, as political leaders continue to make death threats against investigative journalists and reporters covering the effectiveness of anti-Covid-19 measures were attacked

by security forces. As the government becomes increasingly intolerant of criticism, journalists are forced to resort to self-censorship to protect their jobs and security.

1.4 The Access to Information Act and Secrecy Laws

In this section, we will discuss the importance of access to public information for whistleblowers and journalists. These individuals who expose illicit behaviours within the public administration require reliable information to support their disclosures. The right to access public information ensures transparency and accountability, thereby providing enhanced protection to whistleblowers and journalists who can rely on concrete facts when disclosing sensitive information.

- **Right to Information Act, 2019**

Under Article 21(1)(f) of Ghana's 1992 Constitution, "all persons shall have the right to information subject to such qualifications and laws as are necessary for a democratic society." In 2019, Ghana passed the [Right to Information Act](#), which provides for the implementation of this constitutional right by establishing a framework to foster a culture of transparency and accountability in Ghana, increasing awareness of the role of citizens in exposing and fighting corruption.

However, the law has not been implemented effectively. Currently, many government institutions lack information units with designated personnel to handle requests, inhibiting government responsiveness to requests for information. The Deputy Minister of Justice has [urged](#) government agencies to establish information units or designate personnel to handle information requests. A [lack of public awareness](#) of the law's provisions further inhibits the law's implementation.

Under the law, all persons have the right to information and may apply for information without giving a reason for the application. The government is additionally responsible for making "general information on governance" available to the public without an application from a specific person, while public institutions must publish annual information manuals.

In order to apply to access information held by a public institution, individuals must submit a signed, written application to the relevant institution describing the information to be identified, indicating the form and manner of access required, and providing the applicant's

name and address. There are additional provisions addressing the procedure for illiterate or disabled applicants.

After an application is received by a public institution, the institution has fourteen days to notify the applicant of its decision. It may only refuse access to information where it is exempted under law or where the application is “manifestly frivolous or vexatious.” In the case of a denial, the applicant may appeal for internal review by the head of the institution. If the head of the institution affirms the denial, the applicant is entitled to judicial review of the institution’s decision by the High Court.

Notably, the law includes an extensive list of exemptions, which poses a challenge to increased transparency. Information is exempt from disclosure in certain situations involving the President, Vice President, Cabinet, and international relations. The law also outlines other exemptions, including where disclosure would prejudice national security, endanger the life or physical safety of a person, prejudice the effective formulation or development of government policy, impede the prosecution of an offence, or prejudice the fair trial of a person or the impartial adjudication of a case. Furthermore, the law does not specify that in case of conflict with other laws – including broad secrecy provisions in other laws – the Right to Information Act will prevail.

2. ANALYSIS OF THE FACTS: WHISTLEBLOWER CASES

The objective of this section is to list known and public cases of whistleblowers to assess the treatment afforded to whistleblowers in the country.

There are very few cases of whistleblowing that have been publicly reported in Ghana, and there are no publicly reported case decisions under the Whistleblower Act.

- **Martin Amidu: Uncovering Ghana's Massive Financial Scandal**

In January 2012, Martin Amidu was fired as Attorney General by President John Atta Mills, following his role in exposing questionable payments to Waterville Holdings. Waterville, a construction company, had been hired to refurbish Ohene Djan Stadium in Accra for the 2008 African Cup of Nations. Amidu was vindicated in June of 2013, when the Supreme Court

ruled unanimously that Waterville should refund that GH¢40 million it obtained illegally from the state. The affair is viewed as one of the largest financial scandals in the country's history.

- **Embezzlement Scandal: Whistleblowers Expose Minister's Misuse of Public Funds**

In November 2016, the Minister of Youth and Sports allegedly embezzled \$20,000 of public money. He financed his girlfriend's trip to Germany using state resources and allegedly took an amount of GH¢800 more than what he was supposed to take as per diem for his role as a minister travelling with sports teams. These facts were revealed by the Director General, Mr. Albert Anthony Ampong, and the Chief Accountant of the same ministry. In this case, the whistleblowers, under Act 720, Section 3(1), made a disclosure to the President of Ghana. The president then asked the minister to resign without further charge.

The Daily Guide Newspaper reported that the whistleblowers were put on leave. They challenged the suspension in court and were ordered reinstated. Because their identities were revealed during the back and forth of the case, even after reinstatement, the whistleblowers continued to experience other forms of harassment, such as intimidation, for reporting the hijacking.

3. RECOMMENDATIONS: WEAKNESSES AND NEEDED REFORMS

This section suggests areas for improvement for the State regarding the protection of whistleblowers, current legislation against financial crime, the government's commitment to combating this problem, and the respect for individual liberties, including the right to information, freedom of the press and expression, as well as media rights.

- **Ghana's Whistleblower Act: challenges and recommendations for improvement**

The Whistleblower Act has a number of key weaknesses that prevent it from providing comprehensive protections. First, victimised whistleblowers seeking compensation for financial losses must file an action with the High Court, which can be a lengthy process. This situation is expected to evolve with the reward program provided by the Whistleblower Act

itself, which has only been activate since September 2023. It stipulates that whistleblowers will be rewarded with 10 percent of the amount of recovered money or an amount set by the Attorney General and the Inspector General of Police for whistleblowers whose reports lead to an arrest and conviction. However, there is no online information available to confirm whether this reward program is effective in practice. Second, there are no provisions regulating internal disclosures and no requirements for organisations to set up internal disclosure mechanisms. Third, there are no penalties for people or organisations that retaliate against whistleblowers.

In addition to these weaknesses in the law itself, a 2013 study by the GACC and Open Society Foundation found a lack of awareness of its provisions, particularly in rural areas. Deutsche Welle [reported](#) in August 2016 that only two people in Ghana’s northern Tamale region had used the Whistleblower Act during the previous two years. A 2018 study by the Cape Coast Technical University and Frederic Bastiat Institute found that whistleblowers are likely to be labelled as “disloyal” in Ghanaian society, further discouraging potential whistleblowers from making disclosures and hindering the development of a robust whistleblower culture in Ghana.

To overcome a lack of awareness and promote whistleblowing culture in Ghana, the GACC has repeatedly recommended improving public education on whistleblowing. It, therefore, released [A Guide to Whistleblowing in Ghana](#) in 2010, along with a [revised version](#) in 2012. Because the publication is only available in English, the GACC has recommended translating it into local languages.

- **How the law should be improved:**

Though it contains many internationally recognised standards, the Whistleblower Act lacks several critical elements that may be hampering its effectiveness. Among them, there are no provisions for: reporting crime or corruption to the media or the public, even in cases of urgent or grave public health dangers; making reports anonymously; requiring employers to have internal reporting procedures in place; penalising people and organisations that retaliate against a whistleblower; the transparent review of the law. While proposed amendments to

the Whistleblower Act have been discussed in the Parliament, no amendment has been passed.

- **Ghana’s Right to Information Act: recommendation for improvement**

In addition, the Freedom of Information Act currently contains a clause allowing a fee to be charged if the information requested is in a language other than English, a provision which is used to deny journalists’ access to information and should be modified or removed entirely.

4. KNOWLEDGE, SUPPORT, AND ACTION CENTRES

This section explores the landscape of civil society organisations, NGOs, and citizen movements that actively promote good governance. These entities represent valuable sources of knowledge and expertise, playing a crucial role in strengthening democratic practices.

Commission on Human Rights and Administrative Justice (CHRAJ)

This government agency provides legal advice to whistleblowers and has the authority to order retaliation and harassment to stop. Retaliation complaints can be made in person, or by phone or e-mail.

Old Parliament House

High Street – Accra

Postal address: Box AC 489, Accra

Tel: (+233) 302 662 150

chraj.gov.gh

info@chraj.gov.gh

Ghana Anti-Corruption Coalition (GACC)

The GACC is a cross-sectoral group of public, private and civil society organisations that promotes good governance and anti-corruption efforts. It promotes anti-corruption and good governance through capacity-building, research, and advocacy.

Pig Farm Junction

Near Total Service Station

(Main Olusegun Obasanjo Way)

Postal address: P.O. Box GP 17921, Accra

Tel: (+233) 302 230 483

gaccgh.org/

info@gaccgh.org

Whistleblowers & Journalists Safety International Center (WAJSIC)

Founded by Ghanaian investigative journalist Anas Aremeyaw Anas and PPLAAF, WAJSIC provides protection for whistleblowers and journalists exposing corruption and fighting for accountability across the African continent. WAJSIC provides accommodation, communication, legal, and advocacy services.

info@wajsic.org

Further information:

[Letter](#) from Ghana's Permanent Mission of the UN Office of the High Commissioner for Human Rights to the Special Rapporteur on the Promotion of the Right to Freedom of Opinion and Expression.

3. SIERRA LEONE

- **List of acronyms**

AML/CFT - Anti-Money Laundering and Countering the Financing of Terrorism

CPI - Corruption Perception Index

CRF : Central Revenue and Fiscal Unit

CT - Counterterrorism

ECOWAS - Economic Community of West African States

EU - European Union

FIU - Financial Intelligence Unit

GIABA - Inter-Governmental Action Group against Money Laundering in West Africa

ML - Money laundering

NACS - Fourth National Anti-Corruption Strategy

NGO - Non-Governmental Organisation

OCWAR-M - West African response to money laundering and terrorist financing

PPLAAF - Platform to Protect Whistleblowers in Africa

PPM - People's Power Movement

RSF - Reporters Without Borders

TF - Terrorist financing

TOCU - Transnational Organised Crime Unit

UNODC : United Nations Office on Drugs and Crime

- **Legal sources**

[Constitution of Sierra Leone, 1991](#)

[The Official Secrets Act, 1911](#)

[The Official Secrets Act, 1920](#)

[The Public Order Act, 1965](#)

[The Anti-Corruption Act, 2008](#)

[The Right to Access Information Act, 2013](#)

[The Independent Media Commission Act, 2020](#)

[Anti-Money Laundering and Combating of Financing of Terrorism Act, 2012](#)

- **Executive Summary**

In July 2020, a liberal movement began in Sierra Leone marked by the repeal of restrictive and criminal media laws on defamation and seditious libel. President Julius Maada Bio affirmed the government's commitment [“to allow the development of a free and robust media”](#) in November of that year. The movement was further exemplified by the abolishment of the death penalty in 2021, as well as [the government’s will to enact a law to protect human rights defenders](#).

Regrettably, Sierra Leone does not have a stand-alone law that sets out guidelines for whistleblowers and ensures their protections. Nevertheless, blowing the whistle is incentivized through a reward program outlined in [the Anti-Corruption Act](#) of 2008.

Despite the government's efforts, Sierra Leone remains “partly free”, as rated by [Freedom House](#) with a score of 65/100 in 2022.

1. ANALYSIS OF THE LEGAL FRAMEWORK

1.1 Whistleblower laws and policies

The protection of whistleblowers is a crucial aspect in the fight against financial crime. This section explores the laws, measures, and mechanisms implemented in Sierra Leone to ensure the protection of whistleblowers. It examines the rights and safeguards afforded to whistleblowers, the protective mechanisms in place, as well as the persistent challenges related to this protection.

- **The Anti-Corruption Act of 2008 and its provisions for informers and witnesses**

Sierra Leone does not have a law dedicated to whistleblowers and the [Anti-Corruption Act of 2008](#) is the only relevant legal instrument for their protection. Most provisions of the Act provide protection for informers and witnesses.

For example, Section 82 (2) of the Act provides protection to workers in the public sector to the extent that when “a public officer discloses to his superior officer or to the Commissioner that an [...] offence may have occurred within the public body in which he is employed”, he

shall incur no “civil or criminal liability” nor “disciplinary sanctions” because of his disclosures. Although the provision does not include the term “whistleblower,” it could still be invoked for protection.

Other protective measures for witnesses are the following: immunity of witnesses from criminal or civil proceedings based on their disclosures (Section 85 of the Act); sanction to any form of retaliation against them with a fine, imprisonment or both (Section 82 (5)) and the benefit of a witness protection program (Section 83). Protective provisions for witnesses could be applied to whistleblowers if they agree to testify before a court.

Despite the lack of a specific legislation to protect whistleblowers, their disclosures are encouraged by the Act since it provides financial incentives: “a person who gives information that results in the conviction of another person, of an offence under this Act shall be paid ten percent of the proceeds of any property forfeited as a result of the conviction” (Section 81 (3)).

The [2019 Anti-Corruption \(Amendment\) Act](#), passed by the Sierra Leone Parliament on October 31, 2019, enhances the authority of the Anti-Corruption Commission (ACC) in combating corruption. It introduces stiffer penalties for offences, bolsters safeguards for witnesses and whistleblowers, offers non-prosecution options for the ACC, and broadens the definition of corruption to encompass both giving and receiving advantages, including offering, soliciting, obtaining, and receiving.

1.2 Laws and measures related to combating financial crime

This section focuses on the measures taken by the Sierra Leone government to combat financial crime. It examines legislative reforms, policies, and initiatives aimed at promoting transparency, integrity, and accountability in the management of public affairs. While acknowledging the efforts made, it also highlights persistent challenges and prospects for improvement in the fight against financial crime in Sierra Leone.

- **Anti-corruption legislation**

In its [2022 Corruption Perceptions Index](#) (CPI) report, Transparency International ranks the country 110th out of 180 countries, with a score of 34/100. Therefore, the country remains in the red zone with the same score it received in 2021.

However, Sierra Leone has adopted legislation to fight corruption – the [Anti-Corruption Act of 2008](#). This law defines bribery, misappropriation of public funds, peddling influence and other related offences. It also defines and incriminates the “possession of unexplained wealth” in Article 27 which reads as follows:

“(1) Any person who, being or having been a public officer - (a) maintains a standard of living above that which is commensurate with his present or past official emoluments; or (b) is in control of pecuniary resources or property disproportionate to his present or past official emoluments, unless he gives a satisfactory explanation to the court as to how he was able to maintain such a standard of living or how such pecuniary resources or property came under his control, commits an offence (...).”

- **Anti-Corruption Commission**

This law also establishes the [Anti-Corruption Commission](#) which is an independent institution for the prevention, investigation, prosecution and punishment of corruption and corrupt practices.

On the Commission's website, individuals have the option to submit anonymous reports online regarding cases of corruption ("how to report corruption") and bribery ("pay no bribe") across various sectors, including Police, Education, Health, Water, Electricity, and others. These reports can be submitted through a toll-free hotline, a downloadable mobile app that can be used without incurring data charges, and via partner organisations. The website specifies that these reports are intended to be forwarded to relevant government-established entities responsible for preventing such incidents, with the goal of "addressing corruption at its source through administrative or systems reforms."

It appears that those who file reports can inquire about the progress of their cases by contacting the ACC through the provided toll-free hotline phone number. However, the

effectiveness and efficiency of these measures remain uncertain. This is because, as of 2022 or 2023, there is no online data available, despite the ACC's assertion that it regularly publishes information on citizen reports of bribery and petty corruption, along with corresponding responses. The most recent data accessible dates back to 2019.

- **Fourth National Anti-Corruption Strategy (NACS)**

Sierra Leone has adopted the [Fourth National Anti-Corruption Strategy \(NACS\) for the period 2019-2023](#) which is the successor to the NACS 2014-2018. Like the previous strategies, the NACS 2019-2023 “is aimed at attaining the vision of confronting corruption as a threat to every sphere of national development and building an ethical and accountable Republic that promotes zero tolerance for corruption to inspire integrity, transparency, accountability and the rule of law”.

- **Money laundering legislation and enforcement**

- **Anti-Money Laundering and Combating of Financing of Terrorism Act, 2012**

Sierra Leone has adopted the [Anti-Money Laundering and Combating of Financing of Terrorism Act, 2012](#). It provides for the criminalisation of money laundering and financing of terrorism, the establishment of structures to implement this and for other related matters. A new AML/CFT Act is currently before Parliament but, as of September 2023, it has not been adopted.

- **Financial Intelligence Unit (FIU)**

This law establishes the [Financial Intelligence Unit \(FIU\)](#) and defines its missions, which are, among others: to provide clear and effective institutional lead in implementing national and international policies and standards, to identify the proceeds of unlawful activities, to share information with law enforcement authorities, the intelligence services, other local and international agencies, to process, analyse, add value and retain information disclosed to and obtained by it, and to contribute to the Global framework against money laundering and the financing of terrorism.

- **Transnational Organised Crime Unit (TOCU)**

In September 2021, Sierra Leone also established the [Transnational Organised Crime Unit \(TOCU\)](#), consisting of 14 law enforcement units. TOCU's responsibilities include investigating drug offences, money laundering (ML), terrorist financing (TF), and counterterrorism (CT). As part of the [United Nations Office on Drugs and Crime's \(UNODC\) West Africa Initiative](#), TOCU facilitates information sharing and coordination among Sierra Leone's law enforcement agencies. The effectiveness of TOCU is attributed to the training received from UNODC, which has provided extensive training to numerous investigators involved in financial crime investigations. However, it appears that the TOCU does not have direct access to financial institutions' information and therefore must rely on the FIU to obtain this information.

This list is not exhaustive, and it should be noted that Sierra Leone has adopted various measures and institutions tasked with combating or participating in the fight against financial crime.

Sierra Leone's vulnerability to money laundering and related offences stems from the insufficient supervision of financial institutions, lax regulations, widespread corruption, and ineffective enforcement of financial crime laws. The country's prominent seaport amplifies its attractiveness as a trans-shipment hub for illegal drugs and other illicit goods. Despite the existence of institutional and legal frameworks to combat these offences, their prevalence remains alarmingly high. This raises legitimate concerns about the effectiveness of these mechanisms.

1.3 Media rights and freedom of expression

Freedom of expression, press freedom, and media rights play a crucial role in whistleblowing. These fundamental rights enable whistleblowers and journalists to disclose sensitive information safely, shed light on wrongdoing, and protect the public interest. Respecting these rights promotes an environment conducive to transparency, accountability, and the disclosure of information in the public interest.

- **Advancements and challenges in media freedom in Sierra Leone**

The [Constitution](#) of Sierra Leone guarantees freedom of speech and freedom of the press (Article 25).

[Part 5 of the Public Order Act of 1965](#), which criminalised defamation, false news and seditious libel, has been a hindrance to the media in Sierra Leone for years, resulting in censorship of journalists. Those laws were used by government officials to penalise journalists who exposed high-level corruption as reported by [Freedom House in 2021](#).

In July 2020, Part 5 of the Public Order Act of 1965 was repealed. The elimination of these provisions has been a triumph for media outlets and organisations advocating for freedom of speech. This outcome was the result of a long-standing demand by these groups, as documented in [Article 19's report on the issue](#).

The [Independent Media Commission Act of 2020](#) has replaced the previous law and offers a more supportive environment for the media. Despite its advancement regarding freedom of speech, the Act is criticised by civil society for [undermining media pluralism and fair competition](#), silencing independent journalists in the print media.

The [Reporters Sans Frontières \(RSF\) 2023 report](#) ranked Sierra Leone 74th out of 180 countries, a significant drop from 46th in 2022, when RWB assessed that “reporters [were operating] in a relatively safe environment.” This is due to the fact that in April 2022, unknown individuals [attempted an arson attack on a journalist’s house](#).

In addition, few incidents towards journalists and people demonstrating have been reported. Moreover, on 10 August 2022, around ten people died and more than 100 were arrested while [demonstrating](#) against inflation.

The country is considered as “partly free” by Freedom House in its [Freedom in the world 2023 report](#) with a score of 63/100. There are many independent newspapers and dozens of public and private radio and television stations, but Freedom House notes that most of them favour one of the main political parties in their news coverage. The part of the law that criminalised defamation and sedition has been repealed. Freedom House adds that journalists are sometimes arrested and intimidated for speaking out or publishing certain articles or reports.

1.4 The access to Information Act and Secrecy Laws

This section discusses the importance of access to public information for whistleblowers and journalists. These individuals who expose illicit behaviours within the public administration require reliable information to support their disclosures. The right to access public information ensures transparency and accountability, thereby providing enhanced protection to whistleblowers and journalists who can rely on concrete facts when disclosing sensitive information.

- **Transparency and Accountability: The Right to Access Information Act**

It should be noted that [The Right to Access Information Act of 2013](#) provides for the disclosure of information held by public authorities or by persons providing services for them. Sierra Leoneans, therefore, have a legal basis to hold their leaders and political actors accountable on different subjects of public interest. However, Part III Section 15 of the Act restrains the disclosures on national security grounds.

- **The Official Secrets Acts**

Sierra Leone has archaic laws on its statute books called the Official Secrets Acts of 1911 and 1920 enacted by the British government.

[Section II of the Official Secrets Act of 1911](#) used to prohibit the unauthorised sharing of information related to the monarch and designated "prohibited places," which included both private and public locations. This provision was later revoked by the British government's [Official Secrets Act 1989](#). The [Official Secrets Act of 1920](#) does not restrict the release of information.

There is no information available on the current implementation of those Acts.

2. ANALYSIS OF THE FACTS: WHISTLEBLOWER CASES

The objective of this section is to list known and public cases of whistleblowers to assess the treatment afforded to whistleblowers in the country.

- **The revelations of Dr. John Idriss Lahai**

In 2022, Dr. John Idriss Lahai [revealed on social media the widespread procurement of fake degrees in Sierra Leone](#). To date, we do not have any information on the actions taken in response to these revelations.

There are no more public whistleblowers.

3. RECOMMENDATIONS: WEAKNESSES AND NEEDED REFORMS

In this section, the focus will be on suggesting areas for improvement for the State regarding the protection of whistleblowers, current legislation against financial crime, the government's commitment to combating this problem, and the respect for individual liberties, including the right to information, freedom of the press and expression, as well as media rights.

- **Whistleblower Protection law**

Sierra Leone's whistleblowing protections are extremely limited. Whistleblowers disclose information at great personal risk, making it essential that they benefit from specific legislative protection measures.

- Sierra Leone should consider enacting a law dedicated to whistleblowers that would create reporting channels, ensure that whistleblower cases are investigated, and provide them protection.
- An independent authority should also oversee the implementation of the law. Its tasks should be, on the one hand, to ensure that disclosures lead to investigations and prosecutions of those responsible for illegalities and reprisals, and on the other hand, to ensure the protection of whistleblowers.

4. KNOWLEDGE, SUPPORT, AND ACTION CENTRES

This section explores the landscape of civil society organisations, NGOs, and citizen movements that actively promote good governance. These entities represent valuable sources of knowledge and expertise, playing a crucial role in strengthening democratic practices.

[People's Power Movement \(PPM\)](#) is an NGO that “participates in campaigns by systematically applying knowledge and skills in nonviolent actions for change. It seeks cooperation with other civil society organisations that focus on anti-corruption, good governance, and social justice issues, and with relevant government agencies such as the Anti-Corruption commission of Sierra Leone.”

Contact :

C/o Foundation for Rural and Urban Transformation (FoRUT)

24E Main Motor Road, Congo Cross

Freetown Sierra Leone

Mob: +232 78 544 125 / +232 76 744 424

Email: peoplepowersl2019@gmail.com

4. LIBERIA

- **List of acronyms**

AML/CFT: Anti-Money Laundering and Countering the Financing of Terrorism

CPI: Corruption Perception Index

CSO: Civil Society Organisation

CTRs : Currency transaction reports

ECOWAS: Economic Community of West African States

FATF : Financial Action Task Force

FIU : Financial Intelligence Unit

GIABA : Inter-Governmental Action Group against Money Laundering in West Africa

LACC: Liberian Anti-Corruption Commission

LCACC: Liberia CSOs Anti-Corruption Coalition

ML/TF&PF : Money Laundering, Terrorist Financing and Proliferation Financing

NGO: Non-Governmental Organisation

OCWAR-M: Organised Crime: West African Response to Money Laundering and Terrorism Financing

PPLAAF: Platform to Protect Whistleblowers in Africa

RWB: Reporters Without Borders

STRs : Suspicious transaction reports

- **Legal sources**

[Whistleblower Act of 2021](#)

[Constitution of the Republic of Liberia](#)

[Freedom of Information Act of 2010](#)

[Act to Establish the Liberian Anti-Corruption Commission, 2008](#)

[Act to Amend the Act of Legislation of 2008 Establishing the Liberia Anti-Corruption Commission, 2022](#)

[Anti-Money Laundering, Terrorist, Financing, Preventive, Measures And Proceeds of Crime Act 2021](#)

[Financial Intelligence Unit Act 2012.](#)

- **Executive summary**

In July of 2022, Liberia’s House of Representatives passed the Whistleblower Act of 2021, which was signed into law by President George Weah in August of the same year. The law builds on previous executive orders by Former President Ellen Johnson Sirleaf establishing protections for whistleblowers (Executive Order No. 22, Executive Order No. 43, and Executive Order No. 62). The law provides legal protections to whistleblowers employed in both private and public institutions who make protected disclosures. However, given how recently the law was passed, it remains to be seen whether it will be implemented effectively.

The Liberian Anti-Corruption Commission’s (LACC) role in enforcing Liberia’s anti-corruption law has been limited by its inability to independently prosecute corruption. Recent amendments to the law establishing the LACC’s prosecutorial power independent of the Ministry of Justice should be implemented efficiently in order to strengthen the LACC’s ability to hold corrupt actors accountable.

Since formal legal protections for whistleblowers were established only recently, there are few publicly reported cases of whistleblowers in Liberia. Effective enforcement of the Whistleblower Act and increased public awareness of the protections in the Act are key to encouraging individuals to blow the whistle on corruption in Liberia.

Tips for Whistleblowers:

- Liberia’s Whistleblower Act includes legal protections for individuals who make disclosures in the public interest.
- Reports can be made to law enforcement agencies, public institutions, private institutions, and civil society organisations.
- The Liberia Anti-Corruption Commission has the power to investigate all acts of corruption in the private, public, and civil society sectors. Corruption can be reported on LACC’s [website](#), although individuals are required to provide their name and email.

1. ANALYSIS OF THE LEGAL FRAMEWORK

1.1 Whistleblower laws and policies

Whistleblower protection is a crucial aspect of the fight against financial crime. This section explores the laws, measures, and mechanisms implemented in Liberia to ensure the protection of whistleblowers. It examines the rights and guarantees afforded to whistleblowers, the protection mechanisms in place, as well as the persistent challenges related to this protection.

- **Whistleblower Act of 2021**

The Whistleblower Act provides legal protections to individuals employed in public or private institutions who disclose information in the public interest. Protected disclosures include information relating to the commission of a criminal offence, a miscarriage of justice, the endangerment of the health or safety of an individual, the degradation of the environment, price-fixing, corruption, dishonesty, or serious maladministration in a governmental body or private institution.

Whistleblowers are legally protected from retaliation by employers, fellow employees, and other individuals – they may not be dismissed, suspended, reassigned, denied any rights or privileges, be subjected to discriminatory action, or blacklisted because they made disclosures.

In order to qualify for protections, whistleblowers must make disclosures with a reasonable belief that the information is true. However, disclosures are not protected if the individual making the disclosure is in violation of criminal law or other statutory provisions. Whistleblowers are protected from liability in civil, criminal, or administrative cases if they are acting under the Act's provisions, even if it is later determined that the information they disclosed was incorrect.

Disclosures may be made to law enforcement agencies, public and private institutions, civil society organisations, and “other persons who are capable of acting and investigating the disclosure.” Investigations undertaken in response to protected disclosures must be completed within 30 days.

While the institution receiving the disclosure must record the whistleblower's identity, the law clarifies that the record must be made in a form that protects the identifying information of the whistleblower and ensures confidentiality pending investigation of the matter.

The law also outlines a whistleblower reward program, in which whistleblowers whose disclosures result in the recovery of an amount of money shall be rewarded with 5 percent of the amount recovered.

- **Constitution of the Republic of Liberia**

Article 15 of the Constitution guarantees the right to freedom of expression, which includes freedom of speech and the press. Freedom of expression may be limited only by judicial action in proceedings grounded in defamation or invasion of the rights of privacy and publicity.

Article 16 guarantees the right to privacy, providing that “no person shall be subjected to interference with his privacy of person, family, home, or correspondence except by order of a court of competent jurisdiction.”

1.2 Laws and measures related to combating financial crime

This section focuses on the measures taken by the Liberian government to combat financial crime. It examines legislative reforms, policies, and initiatives aimed at promoting transparency, integrity, and accountability in the management of public affairs. While acknowledging the efforts made, it also highlights persistent challenges and prospects for improvement in the fight against financial crime in Liberia.

- **Anti-Corruption laws and measures in Liberia**
- **Challenges and concerns in Liberia's fight against corruption**

Corruption continues to be pervasive in Liberia. In [Transparency International's 2022 Corruption Perceptions Index](#), which scores countries based on a scale of zero (highly corrupt) to one hundred (very clean) based on the perceived level of public sector corruption, Liberia scored a 26 and ranked 142nd out of 180 countries. Liberia's government recently passed whistleblower legislation and also has in place freedom of information and

anti-corruption legislation. However, it remains unclear how effective these provisions are in practice.

The Liberia Anti-Corruption Commission released a [strategic plan](#) for 2019 to 2024, which highlighted the Commission's goals to prevent, deter, and prosecute acts of corruption, institute anti-corruption education and corruption prevention systems, and elevate the fight against corruption to the forefront of Liberia's development agenda.

Former President Ellen Johnson Sirleaf's tenure involved several high-profile corruption [scandals](#). In her first term alone, over 20 government ministers were accused of corruption by the General Auditing Commission, but none were prosecuted. In the latter years of her presidency, Varney Sherman, a lawyer and former head of Sirleaf's political party, was tried for allegedly paying over \$950,000 in bribes on behalf of British firm Sable Mining to secure an iron ore concession. However, Sherman was acquitted in 2019 along with his co-accused. While George Weah entered office in 2018 committed to combating corruption, several members of his administration have been linked to prior cases of corruption and mismanagement.

In [May 2023](#), Liberian authorities admitted to losing track of four men who were recently tried and acquitted following the seizure of \$100 million worth of cocaine. The surprising judgement by a criminal court in Monrovia, which ordered the return of seized money to the suspects, has raised concerns about the functioning of justice and its susceptibility to corruption. The case highlights the role of the West African coasts as a drug trafficking route, and the incident undermined efforts to combat illegal drug transit. The defendants disappeared after their release. The incident has, therefore, reinforced the perception of compromised justice and has prompted questions about the use of popular juries and the prevalence of bribery in trials.

- **Act to Establish the Liberian Anti-Corruption Commission**

In 2008, the Liberian Anti-Corruption Commission (LACC) was established to investigate, prosecute, and prevent acts of corruption, as well as educate the public about the ills of corruption. The LACC is tasked with investigating all acts of corruption occurring in the public, private, and civil society sectors of Liberia, investigating the conduct of individuals committing corruption, prosecuting corruption in coordination with the Ministry of Justice,

and designing and implementing administrative and legal measures aimed at eradicating corruption.

The Act defines corruption as “any act (...) by a public or private official in the discharge of official duties which, in order to satisfy the selfish desire or interest of the said official or other person or persons (...) ignores the established laws, regulations, and thereby, denies, deprives, and prevents the State (...) or persons (...) from receiving entitlement, consideration, and/or treatment.” Acts of corruption include bribery, embezzlement, extortion, fraud, influence peddling, insider trading, misuse of public property and vested authority, and any economic and financial crimes.

The 2008 Act was replaced in 2022 by a new version of the law. The new law has faced [criticism](#) for repealing the existing Act entirely, rather than merely amending it. Although the new law grants the LACC an expanded scope of operation and direct prosecutorial power, implementation of the law is likely to face serious resource constraints which could inhibit the effective creation of a new LACC. The new law also abrogates the competence of the new LACC, specifically with regard to the power to freeze assets, and limits LACC’s transparency by preventing it from sharing key information with the public.

- **Money laundering legislation and enforcement**

In Liberia, money laundering is driven by corruption, illicit trade, tax evasion, drug trafficking, smuggling, robbery, prostitution, and forgery. It involves various channels such as banks, cross-border cash movements, real estate, casinos, gambling sites, and insurance companies.

- **Anti-Money Laundering and Combating the Financing of Terrorism Interim Measures Act 2021**

The Anti-Money Laundering and Combating the Financing of Terrorism Act 2012 is to be repealed and substituted with the [Anti-Money Laundering, Terrorist Financing, Preventive, Measures And Proceeds of Crime Act 2021](#), which has not yet been adopted by the Parliament.

The Act provides the definition of the offence of money laundering as follows:

"A person, body corporate, or other legal entity commits the offence of money laundering if, that person knowing or having reason to believe that property is the proceeds of crime: (a) converts or transfers the property with the intention of concealing or disguising its illicit origin, or aiding any person involved in the criminal conduct to evade legal consequences; (b) conceals or disguises the true nature, origin, location, disposition, movement, or ownership of the property; (c) acquires, possesses, or uses the property; (d) engages directly or indirectly engages in any transaction involving the property; (e) receives, possesses, conceals, disguises, transfers, converts, disposes of, removes from, or brings the property into Liberia; or (f) participates in, associates with, conspires to commit, attempts to commit, or aids, abets, or facilitates any of the above acts."

- **Financial Intelligence Unit (FIU)**

To comply with [FATF/GIABA](#) recommendations, the Liberian authorities established an autonomous [Financial Intelligence Unit \(FIU\)](#) in 2012 through the [Financial Intelligence Unit Act 2012](#). The drafts of the new AML/CFT Act provides for the replacement of the FIU by the [Financial Intelligence Agency \(FIA\)](#) of Liberia.

The FIA serves as Liberia's central national agency responsible for receiving, requesting, and conducting preliminary investigations into suspected money laundering, terrorist financing, and other financial crimes. It analyses and disseminates relevant information on these illicit activities. The FIA is also a member of GIABA, the institution of ECOWAS dedicated to promoting AML/CFT measures in West Africa.

The core functions of the Liberia FIA include analysing suspicious transaction reports (STRs) and currency transaction reports (CTRs) sent by reporting entities, cooperating with law enforcement, prosecution, and judiciary, assisting in the development of appropriate legislation, issuing circulars to reporting entities, obtaining freezing orders for suspect accounts, and collaborating with GIABA.

- **National AML/CFT Strategy and Action Plan 2022-2025**

Liberia has adopted a [National AML/CFT Strategy and Action Plan](#) for the years 2022-2025, which aims to strengthen the AML/CFT framework, enhance risk-based supervision, improve

investigation and prosecution of ML/TF & PF cases, facilitate asset recovery, foster cooperation, build capacity, raise awareness, and promote financial inclusion.

The objective of the measures is to enhance detection, deterrence, investigation, and prosecution of money laundering, terrorist financing, proliferation financing, and related offences, in order to safeguard Liberia's financial system against illicit activities and corruption.

1.3 Media rights and freedom of expression

Freedom of expression, press freedom, and media rights play a crucial role in whistleblowing. These fundamental rights enable whistleblowers and journalists to disclose sensitive information safely, shed light on wrongdoing, and protect the public interest. Respecting these rights promotes an environment conducive to transparency, accountability, and the disclosure of information in the public interest.

- **Press freedom challenges persist in Liberia despite legal reforms**

While the Constitution provides for freedom of speech and press, these rights are restricted in practice. Liberia also maintains criminal and civil libel laws, although the 2019 Press Freedom Act effectively decriminalised libel, sedition, and criminal malevolence. Defamation remains a civil offence. According to [Freedom House's 2022 Country Report](#), investigative reporters are subject to threats from members of the government and investigative reporting can result in media outlets being taken to court.

In December 2020, journalists were harassed, threatened, and attacked while reporting on Senate elections. In June 2021, journalists Tojan Kiazolu and Hannah Geterminah were physically assaulted by police officers for taking photographs in a public area. In July of 2022, investigative reporter Bettie K. Johnson Mbayo was sentenced to a month in prison on a charge of “disorderly conduct” after she was physically attacked by politician Marvin Cole and his employees. In [2023](#), Liberia scored 60/100 and was considered as "partly free" by Freedom House.

Liberia ranks 66th out of 180 countries surveyed in [Reporters sans Frontières \(RSF\) 2023 World Press Freedom Index](#). The report acknowledges that since the mid-2000s, the political

stability in the aftermath of the Liberian civil war has favoured the growth of the press. However, attacks on journalists have continued with impunity.

1.4 The Access to Information Act and secrecy laws

This section discusses the importance of access to public information for whistleblowers and journalists. These individuals who expose illicit behaviours within the public administration require reliable information to support their disclosures. The right to access public information ensures transparency and accountability, thereby providing enhanced protection to whistleblowers and journalists who can rely on concrete facts when disclosing sensitive information.

- **Freedom of Information Act, 2010**

The Freedom of Information Act of 2010 recognizes the right of access to information, especially information involving the public interest. Building on the Constitution, which provides that no limitation shall be placed on the public right to be informed about the government, the Act acknowledges that access to information is indispensable to democracy and good governance.

Under the law, any individual may request information from public bodies, as well as information from private bodies relating to public funding or services, without providing a reason. In addition, all public agencies are required to regularly publish information on their core functions, the nature of their activities and operations, and the information they possess.

Requests for information may be filed in writing, by electronic mail, orally, or by any alternative means. Individuals requesting information must provide reasonable detail enabling the relevant institution to identify the information. After a request is received by an institution, it has thirty days to respond.

It may only deny access to information where the information is exempted under law. Exceptions include information relating to national security, international relations, criminal investigations, trade secrets, personal information, or privileged communications. In the case of a denial, the applicant may appeal for internal review by a senior official. If the denial is affirmed by internal review, the applicant may appeal the decision to the Independent Information Commissioner. Finally, applicants have a right to judicial review of denials.

2. ANALYSIS OF THE FACTS: WHISTLEBLOWER CASES

This section lists known and public cases of whistleblowers to assess the treatment afforded to whistleblowers in the country.

Few cases of whistleblowing that have been publicly reported in Liberia.

- **Whistleblower exposes corruption at Bong-Mines Hospital**

In March 2023, Allison Tubah disclosed a [corruption scheme](#) at the Bong-Mines Hospital, where he worked as a Procurement Officer. Tubah revealed that \$80,000 intended for hospital renovations was diverted for personal use by three former officials of the hospital and their associates at the Health Ministry. Upon Tubah's discovery of the corruption, his supervisor, Administrator Alvin Sirleaf, threatened him with dismissal. On March 13th, Tubah wrote to the Liberia Anti-Corruption Commission (LACC) requesting an independent investigation into the corruption.

- **Mysterious death of whistleblower raises questions of foul play**

In 2015, Michael Allison, a former consultant to the National Oil Company of Liberia, disclosed corruption involving senior officials of the Liberian government. Allison was expected to be a key witness in the corruption investigation; however, he drowned under suspicious circumstances before he could testify. Sources suggest that his death was a result of his role as a whistleblower and authorities did not rule out foul play.

3. RECOMMENDATIONS: WEAKNESSES AND NEEDED REFORMS

This section suggests areas for improvement for the State regarding the protection of whistleblowers, current legislation against financial crime, the government's commitment to combating this problem, and the respect for individual liberties, including the right to information, freedom of the press and expression, as well as media rights.

- **Addressing gaps in the Whistleblower Act**

While the Whistleblower Act lays the groundwork for whistleblower protection in Liberia, it lacks certain provisions that would provide more comprehensive protection. First, individuals may not make disclosures anonymously, which may disincentivise disclosures from potential

whistleblowers who are concerned about their identities being exposed. Second, there are no provisions addressing internal disclosures. Third, the law lacks a provision addressing disclosures to the media and the public. Finally, whistleblowers seeking compensation for dismissal or other losses must file a civil action of damage for retaliation, which is costly, does not guarantee compensation, and may not be resolved for a long period of time.

Due to the Act's recent passage, public awareness of its provisions should be promoted by educating the public on the legal protections afforded to whistleblowers under the Act, as well as whistleblowing more generally.

- **How the law should be improved:**

The Whistleblower Act should be amended to allow whistleblowers to make disclosures anonymously in order to protect them from possible reprisals. The Act should also include provisions requiring both public and private entities to develop procedures for handling internal disclosures.

In addition, the LACC's current lack of prosecutorial power has prevented it from effectively pursuing accountability for corrupt acts. In line with the amendments made in 2022, the LACC should be granted full prosecutorial power so that it can efficiently and independently investigate and prosecute corruption.

4. KNOWLEDGE, SUPPORT, AND ACTION CENTRES

This section explores the landscape of civil society organisations, NGOs, and citizen movements that actively promote good governance. These entities represent valuable sources of knowledge and expertise, playing a crucial role in strengthening democratic practices.

Liberia Anti-Corruption Commission (LACC)

LACC is a government agency tasked with investigating and prosecuting acts of corruption.

Tubman Boulevard, Congo Town

Monrovia, Liberia

Tel: (+231) 77 028 2642

lacc.gov.lr

laccliberia@gmail.com



Liberia CSOs Anti-Corruption Coalition (LCACC)

LCACC is a coalition of civil society organisations that promotes transparency and accountability in Liberia's public sector and advocates for anti-corruption reforms.

1st Floor Old Sheila Cinema Building

Carey Street

1000 Monrovia, 10 Liberia

Tel: (+231) 77 017 2157

lcaccliberia.wixsite.com

lcacc.liberia@gmail.com

5. THE GAMBIA

- **List of acronyms**

AML/CFT - Anti-Money Laundering and Countering the Financing of Terrorism

CPI - Corruption Perception Index

ECOWAS - Economic Community of West African States

EU - European Union

GIABA - Inter-Governmental Action Group against Money Laundering in West Africa

NGO – Non-Governmental Organisation

NIA - National Intelligence Agency

OCWAR-M – Organised crime: West African response to money laundering and terrorist financing

PPLAAF - Platform to Protect Whistleblowers in Africa

RSF - Reporters Sans Frontières

- **Legal sources**

[Constitution of the Second Republic of The Gambia, 1996](#)

[Labour Act, 2007](#)

[Information and Communications Act, 2009](#)

[Access to Information Act, 2021](#)

[Criminal Code, 1933](#)

Official Secrets Act, 1922 (not available online)

Public Security Act (not available online)

[The Gambia Anti-Corruption Bill, 2019](#)

[The Money Laundering Act, 2003](#)

- **Executive Summary**

In January 2017, there were high hopes that the end of the 22-year dictatorship of Yahya Jammeh would represent a turning point for human rights, media freedoms, and civil liberties in The Gambia. However, while the government of Adama Barrow had hinted at plans to amend draconian restrictions of freedoms, these laws still remain in effect.

Since January 2017, human rights have slightly improved under Barrow's administration, including respect for fundamental freedoms such as the rights to freedom of assembly, association and expression.

The Access to Information Act was adopted in August 2021. Its goal is to foster greater government transparency and accountability.

Although anti-corruption legislation exists, whistleblowing mechanisms remain very limited, and there is no dedicated law on the matter.

The Gambian Constitution provides “a fundamental law, which affirms our commitment to freedom, justice, probity and accountability”. Freedom of “speech and expression, which includes freedom of the press and other media” are specifically guaranteed. However, restrictive media and secrecy laws contradict the Constitution and have resulted in Freedom House ranking the Gambian press as “partly free” in its 2022 [Freedom of the Press index](#).

1. ANALYSIS OF THE LEGAL FRAMEWORK

1.1 Whistleblower laws and policies

Whistleblower protection is a crucial aspect of the fight against financial crime. This section explores the laws, measures, and mechanisms implemented in the Gambia to ensure the protection of whistleblowers. It examines the rights and guarantees afforded to whistleblowers, the protection mechanisms in place, as well as the persistent challenges related to this protection.

- **Protection of employees against unfair dismissal and victimisation**

The [2007 Labour Act](#) states that “the filing of a complaint or the participation in proceedings against an employer involving alleged violation of any laws, regulations or collective agreements” does not constitute valid grounds for dismissal or disciplinary action. In the event of a dispute, it falls on the employer to prove that a dismissal was justified. When a complaint of unfair dismissal is found by the tribunal to be “well founded,” the Industrial Tribunal may order reinstatement of the employee and/or “award such compensation as the

Tribunal considers just and equitable,” based on the “loss sustained by the employee in consequence of the dismissal.”

The Act prohibits the victimisation of employees for “anything done in pursuance” of the administration of the Act and notes that employers shall “grant an employee every opportunity and necessary facilities for communicating freely,” with officers of the Department of Labour responsible for investigating alleged breaches of the Act. Officers are obliged to “treat as absolutely confidential the source of any complaint” and refrain from informing the employer that an inspection was made “in consequence of a complaint”.

- **Limited Protection for Witnesses, Victims, and Experts**

The Gambia Anti-Corruption Bill of 2019 provides some protection for witnesses, victims and experts from retaliation. Indeed, Section 80 of this law reads as follows: “The Gambia Anti-Corruption Commission shall provide for the effective protection from retaliation or intimidation for witnesses, experts and victims who give testimony concerning offences relating to Corruption and, as appropriate, for their relatives and other person close to them, and make provision for evidentiary rules to permit witnesses and experts to give testimony in a manner that ensures the safety of such persons, such as permitting testimony to be given through the use of communications technology such as video or other adequate means.” The Anti-Corruption Bill has been pending in Parliament since 2019 and was finally [debated](#) in September 2023. However, currently, it appears that the law is still pending, and there is no online information available to confirm its effective adoption.

No further legal protections for whistleblowers are available.

1.2 Laws and measures related to combating financial crime

This section focuses on the measures taken by the Gambian government to combat financial crime. It examines legislative reforms, policies, and initiatives aimed at promoting transparency, integrity, and accountability in the management of public affairs. While acknowledging the efforts made, it also highlights persistent challenges and prospects for improvement in the fight against financial crime in The Gambia.

- **Anti-Corruption Laws and Measures in The Gambia**

In its [2022 Global Corruption Perception Index \(CPI\)](#) report, Transparency International ranked The Gambia 110th out of 180 countries, with a score of 34/100.

Despite the high level of corruption in the country, the [Criminal Code](#) punishes corruption of public sector employees in articles 86 to 94 of Chapter X entitled "Corruption and the Abuse of Office".

Furthermore, when he took office in 2017, the president Adama Barrow initiated an anti corruption law, which, after two years of drafting, was tabled for the first time in the National Assembly in 2019, and is still pending. This law defines corruption as including "bribery, fraud, embezzlement, diversion of public funds, trafficking in influence, illicit enrichment, abuse of power and other related offences".

The law also establishes The Gambia Anti-Corruption Commission, a body with significant authority. This Commission has the power to address issues related to corruption, abuse of power, and misconduct by public officials. It can also take preventive measures against unethical behaviour and conduct investigations on its own or based on complaints. The Commission is empowered to use special investigative techniques, like intercepting communications, with court oversight. It can summon individuals for questioning, seize property, and is independent from external influence.

Additionally, the Commission can "recommend legal action to the Attorney General, assess government agency practices, provide guidance to public officials on preventing fraud and corruption, and educate the public about these issues."

However, as of [September 2023](#), the anti-corruption bill is still pending. According to [Transparency International](#), "the fact that lawmakers have not yet passed this critical piece of legislation should be a source of worry."

- **Money Laundering Legislation and Enforcement**

The Gambia's Money Laundering Act, 2003, aims to prevent and punish money laundering and other related offences. Article 17 of the Act states that “a person commits the offence of money laundering if he or she

- (a) acquires, possesses or uses a property, knowing or having reason to believe that it is derived directly or indirectly from acts or omissions
- or (b) renders assistance to another person for
 - (i) the conversion or transfer of property derived directly or indirectly from those acts or omissions, with the aim of concealing or disguising the illicit origin of the property, or of aiding any person involved in the commission of the offence to evade the legal consequences of the offence, or
 - (ii) concealing or disguising the true nature, origin, location, disposition, movement or ownership of a property derived directly or indirectly from those acts or omissions.”

The penalties for this offence are: in the case of an individual, a minimum fine of one hundred thousand dalasis and/or five to fifteen years of imprisonment; in the case of a body corporate, a minimum fine of five hundred thousand dalasis.

A person who, knowing or suspecting that an investigation into money laundering has been, is being, or is about to be made, divulges to another person a fact or other information that is likely to prejudice the investigation commits an offence (Article 20). This person is liable on conviction to a fine of one hundred thousand dalasis or imprisonment for a term of not less than five years or more than fifteen years or to both the fine and imprisonment.

The High Court may, on application by the competent authority, by order, freeze the property in the possession or under the control of a person wherever it may be, if the Court is satisfied that a person has been charged or is about to be charged with a money laundering offence (Article 28).

The AML/CFT Act of 2012 establishes the Financial Intelligence Unit, an independent body that aims to prevent, reduce, and combat money laundering and financing of terrorism. However, in its [2022 mutual evaluation report](#), GIABA found that the system put in place by the Gambia is of limited effectiveness because of gaps in the legal framework, risk assessment, coordination, utilisation of financial intelligence, investigations and prosecutions, asset confiscation, counter-terrorism financing, international cooperation, prevention and supervision, and transparency of beneficial ownership information.

A new AML/CFT Act is currently before Parliament.

1.3 Media rights and freedom of expression

Freedom of expression, press freedom, and media rights play a crucial role in whistleblowing. These fundamental rights enable whistleblowers and journalists to disclose sensitive information safely, shed light on wrongdoing, and protect the public interest. Respecting these rights promotes an environment conducive to transparency, accountability, and the disclosure of information in the public interest.

- **Restrictive Media Laws and Amendments**

In June 2017, Adama Barrow declared that the press is “already free” under the new regime and that his cabinet is in the process of amending media laws. However, restrictive media laws remain in place. Sedition, defamation, and the publication of false news all remain offences under the [Criminal Code](#), and each is punishable by a prison term of “not less than one year,” and/or a fine. In 2013, knowingly providing false information to a civil servant became punishable by up to five years in prison, having previously been a misdemeanour punishable by 6 months in prison.

In addition, the [2009 Information and Communications Act](#) was amended in 2013 to provide a 15-year prison term and a fine for anyone convicted of using the internet to spread false news, make derogatory statements, incite dissatisfaction, or instigate violence against the government or public officials. The then-Information and Communications Minister, Nana Grey-Johnson, is reported to have justified the amendment by claiming that “some Gambians had tried to set the people and security officials against the government... by inciting the

people to engage in unpatriotic behaviour, spreading false news and engaging in criminal defamation against government officials”.

- **Progress and challenges in Press Freedom in The Gambia since the end of Jammeh’s Regime**

Since the end of Yahya Jammeh’s dictatorship, working conditions of journalists have improved. As a result, Reporters Sans Frontières (RSF) ranked The Gambia 46 out of 180 countries in its 2023 [World Press Freedom Index](#), an improvement of 97 places since 2016. In addition, Freedom House rated The Gambia as “partly free” in the 2023 [Freedom In the World index](#). The Gambia received a Press Freedom Score of 48 out of 100 (0 indicating maximal freedom).

RSF believes that since the end of Yahya Jammeh's regime, journalists have gained unprecedented freedom, even if efforts must still be made. In [its 2022 report](#), Freedom House also highlights that the media environment has improved under Barrow’s presidency. Indeed, more people are entering the profession, exiled journalists have returned to the country, and there has been a proliferation of private print, online, radio, and television outlets. Nevertheless, a number of laws that restrict freedom of expression remain in effect and still carry prison sentences for journalists. Moreover, in January 2020, journalists Pa Modou Bojang and Gibbi Jallow were arrested along with two radio technicians, and radio stations Home Digital FM and King FM were shuttered for reporting on demonstrations against President Barrow’s continued tenure in office. All four individuals were released from custody, but Bojang and Jallow [were charged with incitement](#).

Regarding freedom of assembly, Article 5 of the Public Order Act abiding citizens to receive authorisation to demonstrate has been used to forbid demonstrations. As a consequence, in January 2021, authorities forcefully dispersed a Banjul demonstration against President Barrow’s decision to remain in office beyond a three-year timetable. Authorities arrested 137 people including high-ranking members of the Three Years Jotna (Three Years Is Enough) civic group. The group was banned that month and eight members were charged, including for rioting.

1.4 The access to Information Act and secrecy laws

This section discusses the importance of access to public information for whistleblowers and journalists. These individuals who expose illicit behaviours within the public administration require reliable information to support their disclosures. The right to access public information ensures transparency and accountability, thereby providing enhanced protection to whistleblowers and journalists who can rely on concrete facts when disclosing sensitive information.

- **The Access to Information Act: enhancing transparency and accountability**

A law on access to information was enacted in 2021; this was a historic moment in a country which, for the first time, recognized information access as a human right. The law is a key instrument in increasing transparency and accountability for power-holders. Citizens of The Gambia now have a legal basis to hold their leaders and political actors accountable on different subjects of public interest. Once fully implemented, it will enable journalists and Gambian citizens to obtain information from public institutions.

The law emphasises the importance of disclosing information that would “reveal misconduct or deception”. Indeed, Article 25 (2) (c) of the Act stipulates that “a request should not be refused if the disclosure of the information would reveal misconduct or deception”.

The Act, therefore, compels public workers to reveal that information when they are requested to. However, most government institutions still feel reluctant to release basic information because of the fear that when information lands in the hands of citizens it may harm the government.

- **Challenges and Limitations: secrecy laws and reluctance to disclose**

The Gambia’s Official Secrets Act is not available online. According to Gambian news sources, the Act was originally introduced in 1922 by the British Colonial administration to prevent unauthorised disclosure of official documents and information. The law was amended in April 2008 and it became illegal to publish or communicate “any secret official code, word, sketch, plan, article, note or other document” which may be useful to an enemy. The

Jammeh government also increased the penalties for the offences of disclosure of official information and set a minimum sentence of 30 years and a maximum term of life imprisonment.

Therefore, Journalists reporting on security issues run the risk of contravening the Official Secrets Act without any criminal intention on their part. Furthermore, the Public Security Act can be invoked to compel journalists to reveal their sources or face a heavy penalty or jail time.

Despite the liberal reform which led to the adoption of the Access to Information Act in August 2021, the secrecy laws have not been repealed.

2. ANALYSIS OF THE FACTS: WHISTLEBLOWER CASES

The objective of this section is to list known and public cases of whistleblowers to assess the treatment afforded to whistleblowers in the country.

- **The 2017 Detention of a Whistleblower and its Implications for Whistleblower Treatment in the Post-Jammeh Era**

The 2017 detention of a National Intelligence Agency (NIA) legal advisor accused of breaking the country's secrecy laws has garnered a great degree of media attention, as it is the first of its kind in the post-Jammeh era and seen to be indicative of how the Barrow government may treat whistleblowers and dissidents. Angered by the alleged lack of meaningful reform under the Barrow administration, Bubacarr A.M.O Badjie accused the agency of having a workforce that is 60% "functionally illiterate" and claimed that the "usefulness of such people as NIA agents is very insignificant". In a letter to President Barrow which he also provided to the media, Mr. Badjie also claimed that a large percentage of the staff had close ties to former-President Jammeh's family and were recruited into the agency by past and present directors. Reports claim that Mr. Badjie had his employment terminated and was arrested in June 2017 by agents of the NIA (recently renamed the State Intelligence Service which has theoretically been stripped of arresting powers). The NIA

alleged that Mr. Badjie’s claims “constitute violations of the official secrets and code of conduct binding on all active and serving officers of this intelligence service.”

3. RECOMMENDATIONS: WEAKNESSES AND NEEDED REFORMS

This section suggests areas for improvement for the State regarding the protection of whistleblowers, current legislation against financial crime, the government's commitment to combating this problem, and the respect for individual liberties, including the right to information, freedom of the press and expression, as well as media rights.

- **Whistleblowing Protection Law**

The Gambia’s whistleblowing protections are extremely limited. There is no evidence that such reforms are planned, despite calls from the media and civil society to implement comprehensive whistleblowing legislation. Neither has President Barrow indicated that such legislation is a priority.

- The Gambia should consider passing a Law that effectively protects whistleblowers.

- **Anti-Corruption Law**

Also, despite the drafting of the country’s first anti-corruption bill, which was completed in 2019, this legislation remains ineffective as it has not been passed.

- The passing of this bill, which has been debated again by the Parliament in [September 2023](#), would step up the fight against corruption in the country.

4. KNOWLEDGE, SUPPORT, AND ACTION CENTRES

This section explores the dynamic landscape of civil society organisations, NGOs, and citizen movements that actively promote good governance. These entities represent valuable sources of knowledge and expertise, playing a crucial role in strengthening democratic practices.

In The Gambia, no reliable organisations have been identified yet.



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III. GENERAL RECOMMENDATIONS

This report has compiled 14 reports on whistleblower protection in 13 ECOWAS countries and Mauritania. It has also examined the trends, similarities, challenges, risks, and legal gaps related to whistleblower protection in this region.

As we conclude this report, PPLAAF wishes to propose recommendations to strengthen whistleblower protection in the region and create a more favourable environment for individuals who want to report abuses and promote transparency.

These recommendations are addressed to all ECOWAS member states and Mauritania, ECOWAS, the African Union (AU), the African Development Bank (AfDB), the World Bank, the International Monetary Fund (IMF), and the private sector.

- **Recommendations to ECOWAS member states and Mauritania**

PPLAAF invites ECOWAS member states and Mauritania to identify specific actions their governments could take to improve whistleblower protection. This could include adopting specific laws to protect whistleblowers, revising laws to combat financial crime, improving existing protection mechanisms, strengthening the powers of various authorities fighting financial crime, and establishing a legal framework and environment conducive to freedom of expression, freedom of the press, and the right to information. These various reforms could establish a whistleblowing culture and create a more favourable environment for disclosures.

- **Recommendations to ECOWAS and AU**

PPLAAF encourages ECOWAS and the AU to implement whistleblower protection capacity-building initiatives and share best practices at the regional level. PPLAAF suggests that these organisations integrate specific clauses into regional agreements to strengthen whistleblower protection and intensify efforts to combat financial crime.

- **Recommendations to the AfDB, World Bank, and IMF**

PPLAAF invites the AfDB, World Bank, and IMF to take concrete actions as part of their lending and technical assistance programs to encourage states to implement whistleblower protection measures. These financial institutions are encouraged to make their assistance

programs conditional on improving governance and transparency in beneficiary countries, including strengthening whistleblower protection and combating financial crime. These financial institutions significantly impact the economies of the countries where they operate. By protecting whistleblowers who play an essential role in detecting and preventing financial crime, these institutions contribute to reducing these problems in the countries concerned, which is vital to ensuring economic stability.

- **Recommendations to the private sector**

PPLAAF invites private sector companies to establish internal reporting mechanisms and protection measures for employees who use them. These companies comply with ethical standards and can build a good reputation by doing so.

All stakeholders are encouraged to implement these recommendations to strengthen whistleblower protection and combat financial crime in the region. The support of regional organisations and financial institutions is strongly requested to support state efforts.



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