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Article 33. Protection of reporting persons

Each State Party shall consider incorporating into its domestic legal system appropriate measures to provide protection against any unjustified treatment for any person who reports in good faith and on reasonable grounds to the competent authorities any facts concerning offences established in accordance with this Convention



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Assessment of Preventative measure #21

- **Notes with appreciation** the role of these actors in detecting and reporting corruption:
 - Civil society
 - Accademia
 - The private sector
 - The Media
- Member states will **promote active participation** of individuals and groups outside of the public sector in the prevention of and the fight against corruption.
 - Qualification: to the extent that it is “within our means” and “in accordance with the fundamental principles of domestic law.”
- The declaration pledges to **raise public awareness** regarding the existence, causes, and gravity of the threat posed by corruption.



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Assessment of Preventative measure #21

- Will **respect, promote, and protect** the freedom to seek, receive, publish and disseminate information concerning corruption.
 - Qualification: That freedom may be subject to certain restrictions, but these shall only be such as are provided for by law and are necessary for respect of the rights or reputations of others and for the protection of national security or public order or of public health or morals.
- We will **consider inviting *them*** to contribute to the development and implementation of our technical assistance programmes
 - Qualification: The contribution is subject to being at “our request, and based on the needs required for the implementation of the articles of the Convention.”
- We will also **make efforts** so that the conditions are present for their effective contribution to achieving the objectives of the Convention, including to operate independently and without fear of reprisal because of their *efforts in that regard*.
 - Qualification: in accordance with domestic law and our respective applicable international obligations.



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Assessment of the declaration's commitments on whistleblower protection – Preventative measure #30

- **Provide a safe and enabling environment** to those exposing, reporting and fighting corruption, and, as appropriate, for their relatives and other persons close to them.
- **Support and protect *any person*** who identifies, detects, or reports *in good faith* and on reasonable grounds, corruption related to offences against any unjustified treatment.
- We will, *inter alia (among other things)*, **enable confidential complaint systems** and protected reporting systems, **[and] programmes** for the protection of reporting persons.
- **Increase awareness** of such measures
 - Qualification: in accordance with domestic legal systems and within our means.
- We also **reiterate our obligation to criminalize** obstruction of justice **and effectively protect** victims, witnesses, and justice and law enforcement officials from potential retaliation or intimidation, use of physical force or threats.



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What's missing?

- **Specificity.** The devil is in the details. How it's understood, interpreted, and implemented is important.
 - Refine the definition of “good faith” or remove the poison pill that puts whistleblowers motives on trial, thus making it consistent with the objectives of the Convention.
 - Corruption fighting needs a broader army than employee witnesses. Any citizen who provides evidence should be protected. You can do this by refining the definition, so it protects any legal person (business) or natural person, consistent with international law.
- **Commitments without vague qualifiers.** There should be no exceptions or qualifiers that undermine the purpose of whistleblower rights. Exceptions have to be carefully defined so they don't conflict with that objective.



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What action is needed?

- **Process:** Public participation and buy in should be integrated throughout the process. Create an active process and role for civil society in offering expertise to lawmakers on whistleblower legislation and monitoring its enforcement.
- **Execute the Vision:** Turn the values in the declaration into concrete standards.
- **Legal Action:** All member nations need to have best practice whistleblower laws based on the global consensus from expert groups. The laws should include best practices for providing temporary and permanent relief to make the whistleblower whole.
- **Implementation:** Member state should ensure the transparent implementation in practice; providing them with timely and effective assistance and resources as needed. Settlement agreements can be a sign of a healthy justice system by affording whistleblowers timely and affordable relief in their retaliation cases – however data about settlements is almost always non-public. More information about settlement agreements should be made public.