

## EXECUTIVE RESUME

The Mechanism for Follow-Up on the Implementation of the Inter-American Convention against Corruption-MESICIC-, has evaluated the Government of Guatemala in three rounds topics. Currently and derived from the Eighteenth Meeting of the Committee of Experts, held in March of 2011, it was agreed to make a fourth round for follow-up, comprising issues, the related analysis of the oversight bodies, and monitoring of recommendations made in the first round. The Civil Society Organizations for the preparation of the independent report, formed a working group consisting of: Acción Ciudadana (AC), Guatemala chapter of Transparency International (TI), Centro de Estudios de Guatemala (CEG), Myrna Mack Foundation (FMM), the Grupo de Apoyo Mutuo (GAM), Red Nacional por la Integridad (RNI) and Guatemala Visible. The document produced is an internal analysis of the oversight bodies, in relation to their functioning, autonomy, independence, internal control mechanisms, ways to provide resources and personnel, and other elements that can provide a real prospect of situation of these institutions and their compliance with the provisions of Article III, paragraph nine of the Inter-American Convention Against Corruption. It is also an analysis of progress by the State of Guatemala, in relation to measures developed by the committee of experts in the first round. In this sense, for civil society organizations that produced the independent report considered of its importance as a subject of analysis for four of them,

**Congress of Republic.** Political control, is mainly exercised by the Congress, to whom belongs the legislative power, standing within its functions, the work exerted counter weight to the various forums, in particular with the executive body through interpellation. Its top public servers are elected through political negotiations that are not necessarily related to the merits or trajectories of the members, exercising their decisions subject to the wills partial, undoubtedly respond to their nature. There is a composite regulatory framework of laws, regulations and manuals that prescribe the mechanisms for determining its public servers and also define the actions of the public servers at your service, lack of training programs that contribute to the development of functions. This body has a drive to provide information to the public, but suffers from an internal complaints system, claims or complaints and programs to promote the participation of public servers to report corrupt practices. Ensures resources through the budget law of the relevant year and coordinates with other state institutions and civil society through interagency agreements, and this is a good practice that should be emphasized. The mechanism for accountability is generated through the publication of information, which affects an incipient and detached political action of public servers of the agency, with respect to the wishes and needs of citizens. The big task ahead of the oversight body is to legislate the framework that allows combat corruption.

**Prosecution Office, The office of Anti-Corruption Section.** The legal control is exercised essentially by the Prosecution Office, which through all its prosecutors must generate the application of the law and a direct fight against impunity. It is through the Office of Anti-Corruption Section, this institution exercises its efforts to detect corrupt practices committed by public servers. This prosecution is subject to the internal structure of the Prosecution Office, and its highest authority the General Fiscal who is appointed by the President of the Republic, which has generated questionable independence of their decisions. The determination of human resources throughout the institution, the policy obey to implement the advice of the Prosecution Office and

contain an extensive regulatory framework is shaped by laws, specific regulations, instructions, agreements, manuals, and the collective agreement which provides mechanisms to determine the personnel and functions they need to exercise. There are ongoing training related to the functions exercised by employees of the Prosecution Office, but there is no proper promotion of the Ethic Code and issues related to combating corruption. Internal control mechanisms are poorly articulated and confusing regulations, where it should be noted, and the labor union's participation in the disciplinary system, through the collective agreement. This institution, ensuring its resources through the budget bill this year, and how to interact with other supervisory bodies and the citizenry is through agreements. Accountability is exercised through a report to the General Fiscal renders the results of its management. The detection work within the institution of corruption acts or practices currently pending processes 628 generated within the internal unity of disciplinary proceedings, with this much higher than the 186 pending complaints that the Office is currently processing Section Corruption at the national level, reflecting the limited use of it.

**Comptroller General Institution.** The technical control in the anti-corruption work, exercised by the General Comptroller, which has among its functions a number of attributes that make it the most important institution of this nature. The General Comptroller as the leading authority who exercises decisions with greater importance of the institution and the appointment is made by the Congress which leads you to question their independence in decision-making, for partisan political influence that could be generated. Human Resources are provided with a regulatory framework consisting of laws, regulations, agreements and manuals describing the functions and describes the management jobs and wages. The incursion of human resources within the Supreme Audit Institution is regulated by the opposition system described in the Civil Service Law, which has been constantly criticized and is targeted for reform. The system reports, complaints and claims runs through the center of Citizen Complaints Management, which is attached to the Directorate of the General Inspectorate of the Supreme Audit Institution. It has received only 6 complaints in a year, which demonstrates the lack of publicity of this mechanism. In addition there are no institutionalized processes for filing complaints. The budget is secured through organic budget law and its mechanisms of cooperation established through interagency agreements. It produces an annual report to Congress and publishes this information in order to be accountable to the citizenry. Detection in the work exerted by the General Comptroller, through audits conducted by it, many findings have been generated in recent years, which are mainly related to the violation of the law of contracts and lack of compliance with procedures. These are not considered as corrupt practices that fall within a crime and are liable to punishment by a fine. As for the findings as offenses in the year 2010 this institution filed 66 criminal complaints and from January to July 2011 were filed 43 criminal complaints, the status is unknown.

**The Superintendence of Tax Administration.** The control for tax collection is exercised by the Superintendence of Tax Administration, and is one of the organs of major importance for the development of the country, as this depends on sufficient funds can be generated for all other institutions. Its top Public Servers are the Board and the Superintendent in order. The board is composed of the Minister of Finance and four holders appointed by the President, who also appoints the Superintendent, which implies a questionable independence by the direct participation of the Executive in the appointment of its highest authorities. There are a number of laws, regulations, agreements and manuals to determine the way in which human resources are provided, functions

and development of specific tasks. This institution maintains software development training and technical functions that facilitate their work and strengthen institutions. They have a public information unit for easy access, generating good practices and the implementation of applications in Mayan languages. They also have a Taxpayer Service Management that tracks and resolves complaints, claims and complaints. In 2011 the 669 complaints received referred to management, of which 108 were for acts of corruption, which were forwarded to Internal Audit and the outcome is unknown. There is no mechanism to facilitate the public participation in such procedures. It also has the funds allocated by the budget law of the relevant year, an income equivalent to 2% of the total revenue, which ensures its operation. Performs interagency coordination work through agreements, which have not been generated since 2007. This institution is accountable to Congress through a report on the progress and performance of their duties, and citizenship through work reports that are published through its website. There are currently 18 criminal proceedings against the public servers of the Superintendence of Tax Administration for crimes related to corrupt practices, of which one is a conviction.

**Follow the first round of analysis.** The Guatemalan Republic as a whole has no significant progress on the recommendations of the expert committee in the first round of analysis, highlighting the lack of coordination and weak institutional and dispersed efforts on the implementation. However, it is important to note the following developments: 1. The implementation of public information units, 2. Creating Conduct Codes in some state institutions, 3. The adjustment in some aspects of estate affidavit form to the provisions of the law specifies. It is noteworthy that there is no central authority to ensure compliance with the obligations under the Inter-American Convention against Corruption and lead a true public policy on corruption. Therefore priority is the institutionalization of an entity with sufficient authority and capacity in this area. Although the issue of transparency and fighting corruption seems to be every time a debate within the public and constitutes a flag Guatemalan government policy, it is important that this will materialize into concrete actions to be reflected in a democratic state fighting against corruption.