
WHISTLEBLOWER PROTECTION: THE KEY TO FIGHT AGAINST CORRUPTION IN URUGUAY

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Abstract: This paper consists in the analysis of the corruption in Uruguay and how the whistleblower protection could be the key to fighting against it. Beginning with the importance of the whistleblower protection to fighting corruption in a general aspect, the analysis is focused in the actual situation of Uruguay regarding to the existence of corruptive practices, its anti-corruption legal framework and international commitments, the mechanisms of review of the international organizations and how Uruguay is not fulfilling its commitments about the protection of whistleblowers, ending with some of the barriers that make the fight against corruption so hard in Uruguay, and the reasons why improving the whistleblowers protection is the one of the best solution to fighting corruption.

Key words: whistleblower protection, corruption, protective measures.

Resumen: Este trabajo consiste en el análisis de la corrupción en Uruguay y como la protección del denunciante podría ser la clave para combatirla. Comenzando por la importancia de la protección de los denunciantes en la lucha contra la corrupción en un aspecto general, el análisis se centra en la situación actual de Uruguay en cuanto a la existencia de prácticas corruptas, su marco legal anticorrupción y compromisos internacionales, los mecanismos de revisión de los organismos internacionales y como Uruguay no está cumpliendo con sus compromisos en materia de protección de denunciantes. Por último, se describen algunas barreras que dificultan la lucha contra la corrupción en Uruguay, y las razones por las que la mejora de la protección de los denunciantes es una de las mejores soluciones para combatir la corrupción.

Palabras clave: protección del denunciante, corrupción, medidas de protección.

Summary: 1. Introduction. 2. The importance of whistleblower protection to fighting corruption. 3. Anti-Corruption framework in Uruguay. 4. International Commitments. 4.1. Inter-American Convention Against Corruption. 4.2. United Nations Convention Against Corruption. 5. Conventions Review. 5.1. The Inter-American Convention Against Corruption Mechanism for Follow-Up (MESICIC). 5.2 The UN Convention Against Corruption Implementation Review Mechanism (IRM). 6. Barriers and Solutions

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1. Introduction

This paper consists in the analysis of the corruption in Uruguay and how the whistleblower protection could be the key to fighting against it. Beginning with the importance of the whistleblower protection to fighting corruption in a general aspect, the analysis is focused in the actual situation of Uruguay regarding to the existence of corruptive practices, its anti-corruption legal framework and international commitments, the mechanisms of review of the international organizations and how Uruguay is not fulfilling its commitments about the protection of whistleblowers, ending with some of the barriers that make the fight against corruption so hard in Uruguay, and the reasons why improving the whistleblowers protection is one of the best solution to fighting corruption.

In considering the importance of whistleblower protection to fighting corruption in Uruguay, it is important to define what corruption is. Corruption is considered as an “illegitimate exchange of resources involving the use or abuse of public or collective responsibility for private ends”.¹ Both the World Bank² and Transparency International³ emphasize on the elements of abuse of public office or entrusted power for private gain. In Uruguay, corruption is defined by the article 3 of the law 17.060 as the undue use of power or public office to obtain economic advantage, for oneself or for another, with or without damage to the State.⁴

The concept of corruption is analyzed both in the public and the private sectors. Corruption in the public sector breaches the public trust and accountability that “fuels mistrust in governments” and increases organize crime.⁵ Corrupt activity in the private sector when involves corrupt deals with State actors has similarly negative consequences, distorting competition and increasing costs. That is why “tackling corruption effectively... requires a commitment from the whole of society”.⁶

2. The importance of whistleblower protection to fighting corruption.

There are a lot of ways to stop corruption, and there is “no silver bullet” for fighting it. The five key actions suggested by Transparency International are: end impunity, reform public administration and finance management, promote transparency and access to information, empower citizens and close international loopholes.⁷ In this way, protecting those who blow the whistle is necessary to empower the citizens and improve the lack of transparency.

1 David Schultz & Khachik Harutynunyan, *Combating corruption: The development of whistleblowing laws in the United States, Europe, and Armenia*, International Comparative Jurisprudence (Dec. 10, 2015), <https://repository.mruni.eu/bitstream/handle/007/14756/4393-9726-1-SM-2.pdf?sequence=1&isAllowed=y>

2 World Bank, *Helping Countries Combat Corruption: The Role of the World Bank* (Sept. 1997), <http://www1.worldbank.org/publicsector/anticorrupt/corruptn/corruptn.pdf>

3 Transparency International, *What is corruption?*, <https://www.transparency.org/what-is-corruption>

4 Ley 17.060, art. 3, Dec. 23, 1998 (Uru.). Translation of the article 3 of the Law 17.060.

5 Resource Guide on Good Practices in the Protection of Reporting Persons, The United Nations Convention against Corruption, New York, Aug. 2015, http://www.unodc.org/documents/corruption/Publications/2015/15-04741_Person_Guide_eBook.pdf

6 *Idem*.

7 Transparency international, *How to stop corruption: 5 key ingredients*, Mar. 10, 2016, https://www.transparency.org/news/feature/how_to_stop_corruption_5_key_ingredients

Whistleblowing is defined as “the disclosure of information about perceived wrongdoing in an organization, or the risk thereof, to individuals or entities believed to be able to effect action”.⁸ This act must be made by an individual within an organization, who discloses that information for the purpose of reporting and correcting corruption.⁹

The United Nations Convention Against Corruption (UNCAC) does not use the term whistleblower but refers to reporting persons broadly¹⁰. The Council of Europe defines whistleblower as “any person who reports or discloses information on a threat or harm to the public interest in the context of their work-based relationship, whether it be in the public or private sector”.¹¹ The Organization of the American States (OAS) adds the element of “good-faith” to the definition of whistleblower on its Model Law to facilitate and encourage the reporting of acts of corruption and to protect whistleblowers and witnesses.¹²

The motivation of the whistleblower should be the desire to expose the wrongdoing within its organization and no other purposes as revenge or simply to embarrass another person¹³ who did not commit any illegal activity. And although it is sometimes impossible nor desirable, the goal is to do it as a last resort, after checking all the internal controls that the organization has to report or correct the inappropriate behavior.¹⁴

The importance of whistleblowers in the fight against corruption is critical, because corruption is notoriously secretive, and insiders are among the few people capable to detect and report those activities.¹⁵ But, to encourage the reporting, it is necessary to have an effective whistleblower protection regulation, not only to protect those whistleblowers against retaliations but also to give them confidence about the reporting procedures.¹⁶

The best way to encourage and facilitate whistleblowing is by providing not only effective legal protection but also clear guidance, step by step, on reporting procedures

8 Transparency international, *Policy Position 01/2010: Whistleblowing: an effective tool in the fight against corruption*, Jan. 1, 2010, https://www.transparency.org/whatwedo/publication/policy_position_01_2010_whistleblowing_an_effective_tool_in_the_fight_again

9 David Schultz & Khachik Harutynunyan, *Combating corruption: The development of whistleblowing laws in the United States, Europe, and Armenia*, International Comparative Jurisprudence (Dec. 10, 2015).

10 Resource Guide on Good Practices in the Protection of Reporting Persons, The United Nations Convention against Corruption, New York, Aug. 2015, http://www.unodc.org/documents/corruption/Publications/2015/15-04741_Person_Guide_eBook.pdf

11 Council of Europe Recommendation CM/Rec (2014)7 of the Committee of Ministers to member States on the protection of whistleblowers, <https://wcd.coe.int/ViewDoc.jsp?id=2188855&Site=CM>

12 Defines “Good-faith whistleblower” as “any person who informs the competent authority of the commission of an act which that person considers could be an act of corruption that is liable for administrative and/or criminal investigation”, http://www.oas.org/juridico/PDFs/model_law_reporting.pdf

13 David Schultz & Khachik Harutynunyan, *Combating corruption: The development of whistleblowing laws in the United States, Europe, and Armenia*, International Comparative Jurisprudence (Dec. 10, 2015).

14 *Idem*.

15 Transparency international, *Policy Position 01/2010: Whistleblowing: an effective tool in the fight against corruption*, Jan. 1, 2010

16 OECD, CleanGovBiz, *Whistleblower protection: encouraging reporting*, Jul. 2012, <https://www.oecd.org/cleangovbiz/toolkit/50042935.pdf>

to the competent authorities.¹⁷ The whistleblower needs to know exactly which steps he needs to take in order to report efficiently the corrupt activity.

3. Anti-Corruption framework in Uruguay¹⁸

Corruption, including domestic and foreign bribery, abuse of power, trafficking of information, trading in influence and embezzlement, is criminalized in the Uruguayan Criminal Code. The Government went further and approved a law against corruption in the public sector in 1998. The acceptance of a bribe by a public officer, and the promise or offer of a bribe to a public officer are deemed as felonies under Uruguay's penal code. Some high-level Uruguayan officials from the executive, parliament, and judiciary branches have been prosecuted for corruption in recent years.

Laws 17.835, 18.494 and 19.355 (passed in 2004, 2009, and 2015, respectively) establish a framework against money laundering and terrorism finance and include corruption as a preceding crime. Money laundering is penalized with sentences of up to ten years and it applies to Uruguayans living inside the country and abroad. Prosecutions have been gradually increasing since 2005.¹⁹

Law 18.485 of 2009 regulates political parties and obliges all political parties and candidate lists competing in national elections to declare their income and expenditures. According to the law, political parties receive public funding for their regular activities as well as during elections. However, the Parliament is studying a modification of this law which will prohibit the anonymous donations and by corporations, the donations must be in an electronic method (elimination of cash donations) as the Financial Inclusion law indicates, and there are going to be limits to personal donations.

However, the electoral courts lack the necessary human and technical resources to efficiently verify the financial statements of political parties. Research conducted by journalists also shows that the electoral court has not controlled or sanctioned political parties according to the law. They also found that loopholes in the current legal framework allow political parties to continue receiving donations from companies that have contracts with the public administration in circumvention with the law.

With respect to transparency laws, the law 18.381 of 2008 regulates the right of access to public information. It includes provisions regarding the processing of information requests and covers obligations concerning the proactive disclosure by state bodies. It also establishes that public institutions must respond to access to information requests within 20 days, providing a reason if the information request is denied.

17 G20 Anti-Corruption Action Plan, *Protection of whistleblowers. Study on Whistleblower protection frameworks, compendium of best practices and guiding principles for legislation*, May. 12-13, 2010, <https://www.oecd.org/g20/topics/anti-corruption/48972967.pdf>

18 Information taken from: U.S. Department of State, *Uruguay Investment Climate Statement*, May. 2015, <https://www.state.gov/documents/organization/241998.pdf> and Transparency International, *Uruguay: Overview of Corruption and Anti-Corruption*, May. 2016, https://www.transparency.org/whatwedo/answer/uruguay_overview_of_corruption_and_anti_corruption

19 More detailed information on legislation and cases is available at: <https://www.presidencia.gub.uy/antilavado/inicio/>

In general, the exceptions to the right of access are consistent with international standards and include information related to national security, privacy, and legitimate commercial and other economic interests.

The law, however, also contains a general provision that right to information can be denied if the information is considered confidential, which is too broad and subjected to personal discretion. In 2015, Rodríguez and Rossel²⁰ analyzed the implementation of the access to information law by doing a mystery shopping exercise after surveying journalist who had made such request. The result show that improvement in the implementation of the law are required because only 17.2 percent (55 out of the 320 requests filled) of requests to access information filled were answered in a satisfactory manner.

The Transparency and Public Ethics Committee (<http://www.jutep.gub.uy/>) is the government office responsible for combating public sector corruption. The government does not encourage nor discourage private companies in establishing internal codes of conduct. There are no mayor NGOs involved in investigating corruption.

4. International Commitments

Uruguay has been party to the Inter-American Convention Against Corruption (IACAC) since 1998 and the United Nations Convention Against Corruption (UNCAC) since 2007.

4.1. *Inter-American Convention Against Corruption*

Article III of the IACAC obligates the Member States to consider applying several measures for the purposes set forth in the Article II. In numeral 8, the Member States agree to apply measures to create, maintain and strengthen “*Systems for protecting public servants and private citizens who, in good faith, report acts of corruption, including protection of their identities, in accordance with their Constitutions and the basic principles of their domestic legal systems*”.

On 21 March, 2013, representatives of the 31 states that make up the Mechanism for Follow-Up on the Implementation of the Inter-American Convention against Corruption (MESICIC) approved by consensus the “*Model Law to Facilitate and Encourage the Reporting of Acts of Corruption and to Protect Whistleblowers and Witnesses*” that emerged from a broad participatory process headed by the Organization of American States (OAS) Department of Legal Cooperation, as part of its commitment to make available to States efficient and effective tools to support them in the task of properly implementing the Inter-American Convention against Corruption on its legal and institutional regimes.²¹

20 R. Piñero Rodríguez & C. Rossel, *Acceso a información pública en Uruguay: normativa, condiciones de aplicación y enforcement*, Jan. 2015, <http://www.icsoc.cl/wp-content/uploads/2014/12/Pi%C3%B1ero-y-Rossel.-Acceso-de-informaci%C3%B3n-p%C3%BAblica-en-Uruguay.pdf>

21 Whistleblowing International Network, *Model Law to Protect Whistleblowers & Witnesses*, <https://whistleblowingnetwork.org/other-resources/the-americas/model-law-to-protect-whistleblowers-witnesses/>

The Model Law provides a set of provisions for states to have systems of protection for public officials and private citizens who report acts of corruption, including the protection of their identities, as provided by the OAS Convention against Corruption. It distinguishes the acts between those which have administrative nature and those which have criminal nature, giving the competence of receiving the complaints to different authorities – the agency responsible for administrative oversight of the civil service on the first case and the Office of the Public Prosecutor on the second.²²

Article 4 of the Model Law states that the protective measures will not be granted to “those reporting or providing information in bad faith” and “those providing information obtained through violation of fundamental rights”. It is important to clarify that the definition given by the Model Law of bad-faith whistleblowing is “the act of providing the competent authority with information on an act of corruption, knowing that said acts have not been committed, or with falsified evidence or about their commission, in order for an administrative and/or criminal investigation process to be opened”.²³

The Model Law regulates in its Chapter II the “Facilitation and incentives for reporting acts of Corruption”. Every whistleblower that report an act of corruption is entitled to basic protective measures and may request for additional protective measures. The basic measures are “Legal advice for matters related to their report” and “The confidentiality of their identities pursuant to Article 11” which states that the reports could be filed anonymously and if any of the persons involved in processing anonymous reports discloses any information will be administrative, civil, and/or criminally liable.

The additional protection measures can be exceptionally given to the whistleblower upon request, after proving that “there is deemed to be a real potential danger to, or vulnerability of, the physical and/or psychological integrity of the whistleblower or that of his or her family group”. There is a whole chapter about the requesting and granting additional protective measures, which can be: police protection; change of residence or concealment of whereabouts; medical or psychological assistance; transfer of administrative unit within the agency; change of workplace; and paid leave.

The Model Law is a really useful guide because it regulates all the procedures of the reporting, investigation, protection of the whistleblowers, and the rights and obligations of all the parties involved.

4.2. *United Nations Convention Against Corruption*

The UNCAC states in its article 33 that “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.”

²² Article 3, Model Law to facilitate and encourage the reporting of acts of Corruption and to protect whistleblowers and witnesses, OEA/Ser.L/SG/MESICIC/doc.345/12 rev. 2, Mar, 22, 2013.

²³ Arts. 2 and 4, Model Law to facilitate and encourage the reporting of acts of Corruption and to protect whistleblowers and witnesses, OEA/Ser.L/SG/MESICIC/doc.345/12 rev. 2, Mar, 22, 2013.

Article 33 is not about witness protection, which is covered by Article 32. The Technical Guide²⁴ explains that, although is a non-mandatory provision, States may wish to keep it in mind because it is a provision intended to “cover those individuals who may possess information which is not of such detail to constitute evidence in the legal sense of the word”. It applies to those cases that are in an early stage of a case and are “likely to constitute an indication of wrongdoing.

The Legislative Guide²⁵ says that article 33 requires that “State parties consider incorporating into their domestic legal system appropriate measures to provide protection against any unjustified treatment of any person who reports in good faith”. These measures may include: career protection, provision of psychological support, institutional recognition of reporting, transfer within the same organization, and relocation to a different organization. The reports must be “in good faith, on reasonable grounds and to appropriate authorities”.

5. Conventions Review

5.1. *The Inter-American Convention Against Corruption Mechanism for Follow-Up (MESICIC)*

The Mechanism for Follow-Up on the Implementation of the Inter-American Convention against Corruption (MESICIC) is an inter-governmental body established within the framework of the OAS. It supports the States Parties in the implementation of the provisions of the Convention through a process of reciprocal evaluation, based on conditions of equality among the states. In this mechanism, recommendations are formulated with respect to those areas in which there are legal gaps or in which further progress is necessary.²⁶

The Mechanism for Follow-up on the implementation of the Inter-American Conventions Against Corruption (MESICIC) adopted at March 21, 2016, plenary session the final report of the Oriental Republic of Uruguay (fifth round)²⁷. Under chapter 2, *Systems for protecting public servants and private citizens who, in good faith, report acts of corruption (article III (8) of the Convention)*, it analyzed the government’s follow-up to the implementation of the recommendations formulated in the second and third round.²⁸

The new developments that showed Uruguay in the implementation of this measure is the Article 8 of Law 18.494 of June 11, 2019²⁹ which provides protection measures for those witnesses that act as experts and collaborators in proceeding that fall under the Specialized Magistrates and Prosecutors on Organized Crime. The New Criminal Code

24 Technical Guide to The United Nations Convention Against Corruption, New York, 2009. https://www.unodc.org/documents/corruption/Technical_Guide_UNCAC.pdf

25 Legislative Guide For The Implementation Of The United Nations Convention Against Corruption, New York, 2006, https://www.unodc.org/pdf/corruption/CoC_LegislativeGuide.pdf

26 https://www.oas.org/juridico/english/mesicic_intro_en.htm

27 OEA/Ser.L.SG/MESICIC/doc.459/15 rev. 4, Mar. 11, 2016, http://www.oas.org/juridico/pdfs/mesicic5_ury_final_en.pdf

28 *Idem*, pag. 38.

29 Law 18.494 of June 11, 2019, <http://www.parlamento.gub.uy/leyes/ AccesoTextoLey.asp?Ley=18494&Anchor>

of Procedure also sets out norms that place the responsibility of protection of whistleblowers, victims and witnesses to prosecutors. The problem is, as noted by the Committee, that the protection measures are applicable in very limited cases, for example, the cases which involve an amount greater than \$20,000 US Dollars and only those cases of corruption against public administration that occur within the Departments of Montevideo and Canelones.³⁰

Measure a) suggested by the Committee required additional attention to *strengthen mechanism for protection of identity of whistleblowers*. In the report the Committee also notes that there are no provisions in place, administratively, to protect the identity of public servants that must report any irregularities or corrupt practices, especially in cases where it may involve their superiors. And a public servant may only seek protective measures in the agency they work in, which may discourage reporting acts of corruption if it involves a public servant's superior, and there are no measures in place to protect his or her identity.³¹

Also, in the Response to the Questionnaire, the Government of Uruguay stated that if a whistleblower is a public servant, it is difficult to maintain his or her identity confidential in the agency where this person is employed due to risk of filtration of information, and it would be advisable to transfer this person to another office or agency.³²

The Committee believed that measure a) should be reformulated, as there were no legal provisions that protect the identity of public servants and recommended again to *establish administrative protection measures that protect the identity of public servants that must report any irregularities or corrupt practices*. (Recommendation 2.3.1).

Other recommendations of the Committee were establishing a body that has the competence to receive and respond to requests for administrative protection measures, as well as promoting the provision of the necessary measures of protection, remediation, and sanctions in the event retaliation does occur and provide this entrusted body with necessary resources and personnel to carry out its functions. (Recommendations 2.3.4 and 2.3.5).³³

The Committee concludes that the Oriental Republic of Uruguay did not provide information on new developments for the provision of the Convention on systems for protecting public servants and private citizens who, in good faith, report acts of corruption.³⁴

5.2. *The UN Convention Against Corruption Implementation Review Mechanism (IRM)*

The Implementation Review Mechanism (IRM) is a peer review process that assists States parties to effectively implement the Convention. In accordance with the terms

30 OEA/Ser.L.SG/MESICIC/doc.459/15 rev. 4, Mar. 11, 2016, pag. 44.

31 *Idem*.

32 *Idem*.

33 *Idem*.

34 *Idem*.

of reference, each State party is reviewed by two peers - one from the same regional group - which are selected by a drawing of lots at the beginning of each year of the review cycle. The functioning and the performance of the IRM is guided and overseen by the Implementation Review Group, an open-ended intergovernmental group of States parties which is a subsidiary body of the CoSP and was created together with the IRM in Resolution 3/1.³⁵

The examination of the application of the Convention by Uruguay was made by experts from Argentina and Brazil in the period between 2010 and 2015. As similarly noted in the MESISIC, in the IRM examination was noted that the protection to whistleblowers is “limited in practice to specialized courts with limited territorial jurisdiction and that the country has also identified technical assistance needs in this area”.³⁶

6. Barriers and Solutions

The main barriers to solve the problem of corruption in Uruguay are the culture and the lack of resources. While analyzing these barriers it is important to take in consideration that Uruguay is a very small country of an estimated population of 3.47 million³⁷.

The Uruguayan culture is a culture of nepotism and cronyism, maybe because there is a perceived need to help friends and family or maybe because people want to create their own “comfortable” work environment. Recent examples show this at the government level: The President of Uruguay, Tabaré Vazquez, ceased his son’s father-in-law from his Security Service team after the Public Ethics and Transparency organism (JUTEP) recommended it³⁸; One month before that, the President removed the Board of Directors of the State Administration of Health Services (ASSE) after the Vice-president, Mauricio Ardu, hired his son’s girlfriend; In 2015, the Minister of Economy, Danilo Astori, hired his wife as an assistant³⁹; The Social Prevision Bank President and Vice-president have both their couples working at the public organism⁴⁰; Adriana Peña, the Governor of Lavalleja was criticized when tried to raise the salary to her actual couple who worked as director of the Department⁴¹; and more.

Also, blowing the whistle about any wrongdoing is seen as a bad thing and people learn that at very young ages. The consequences generated by this culture are the existence of chains of wrongdoings covered by the people involved in the illegal activity and by their co-workers, who remain silent to avoid getting in “trouble”.

35 United Nations, CAC/COSP/IRG/I/2/1/Add.31, Oct. 4, 2014, <http://www.unodc.org/documents/treaties/UN-CAC/WorkingGroups/ImplementationReviewGroup/ExecutiveSummaries/V1406657e.pdf>

36 *Idem*.

37 <http://worldpopulationreview.com/countries/uruguay-population/>

38 <https://www.elobservador.com.uy/con-criticas-la-jutep-vazquez-ceso-su-consuegro-del-servicio-seguridad-presidencial-n1179568>

39 <https://www.elobservador.com.uy/astori-contrato-el-ministerio-su-pareja-es-etico-es-legal-n304618>

40 <https://www.elpais.com.uy/informacion/parejas-presidente-vice-tps-directorio-ente.html>

41 <https://www.elobservador.com.uy/adriana-pena-quiso-subir-salario-su-pareja-y-otros-directores-pero-la-junta-lo-impidio-n1157486>

Other important participants of these chains are the political parties. These organizations help their members by covering their illegal activities, not only because of the bad press for the individuals involved but also for themselves. In small countries in which all people know each other there is almost no place to go after being convicted of a corruption crime, that is why people cover each other's wrongdoings and sometimes benefit from it (asking for money or votes).

An example of this is the recent investigations to the State Administration of Health Services (ASSE), carry out by an Investigative Commission of the Parliament, because of the discovery of several corruptive activities. The State Administration of Health Services' board of Directors and other public officials (all members of the Government political party, "El Frente Amplio") were being investigated for corruptive activities such as owning companies that contracted directly with the public administration. The Investigative Commission wanted to extend the term given to the investigation, but the House of Representatives did not approve the extension. This action appears to have the intention to hide the corruptive activities held by their political party piers.

However, it is the traditional "political competition" inside and outside the political parties that helps in some cases to prevent corruptive practices inside the government. But it is not enough.⁴² Countries need whistleblowers that are in the daily operations of the public administrations in order to get more and better evidence of the wrongdoings.

The other barrier is the lack of resources. There is not enough money to waste in the implementation or improvement of new or existing technics to fight against corruption. In a country where the policemen are underpaid⁴³, and the violence is growing fast⁴⁴, there is no money or time to waste in solving corruption. And wasting money to uncover public officials' wrongdoings is not in the government's agenda, as it is shown by the example of ASSE.

The solutions are very difficult to implement because of the strong barriers discussed. There have been a lot of improvements in regulating the whistleblower protection at the criminal law level, although the practical applications are not so clear. But the real lack of regulation is at the administrative level. As noted by the civil society group "Uruguay Transparente"⁴⁵, all the corruption allegations made by public officials start at the administrative level, and there are no effective regulations to protect their identity and their job positions after eventual retaliations. This stops the public officials to report acts of corruption, because there are no protective measure or clear reporting procedures.

The solution given by "Uruguay Transparente" is to facilitate the way in which the allegations are made, through a web form. That implementation must be accompanied

42 <https://www.elobservador.com.uy/corruccion-competencia-politica-y-desarrollo-institucional-n1124547>

43 <https://dnic.minterior.gub.uy/index.php/institucional/remuneraciones>

44 <https://www.elobservador.com.uy/uruguay-se-apronta-reconocer-una-sus-peores-estadisticas-delitos-dice-director-interior-n1245488>

45 Answer given by "Uruguay Transparente" in reply to the questionnaire on provisions of the Inter-American Convention Against Corruption selected for review within the framework of the fifth round, http://www.oas.org/juridico/PDFs/mesicic5_ury_soc_civ_ury_tran.pdf

with the distribution of all the necessary information the public officials need to know about the administrative steps to take after noticing an act of corruption.⁴⁶

All this said, one of the most effective ways to fight corruption is that of the recommendations 2.3.4 and 2.3.5 of the MESICIC. Creating an impartial department within the government, integrated by one representative of each political party, entrusted with the task of receiving all the anonymous allegations (through email or phone number) and investigate all the cases they consider legitimate with full access to all the public departments internal data bases, and have a specialized police force at their disposition for those cases in which the whistleblower is considered in danger.

The best way to protect whistleblowers is if nobody knows who they are. But, in those cases where their participation in the investigation is needed or where their identity is discovered, the protective measures need to be in place. Only people who feel protected are able to blow the whistle and help to make justice.

46 *Idem.*