

AOMF'S QUÉBEC DECLARATION ON THE PROTECTION OF WHISTLEBLOWERS

Note: This translation of the original text of the declaration is provided by Ombud NB in order to comply with our obligations under the Official Languages Act.

Gathered for the XII Congress of the *Association des Ombudsmans et Médiateurs de la Francophonie* (AOMF) held between October 15 and 18, 2024 in the city of Québec, AOMF members support this declaration in a concerted effort to address the growing issues surrounding public integrity. This commitment is part of the recognition of the role of member institutions in terms of the integrity of public services, administrative transparency, anti-corruption efforts, and the protection of whistleblowers.

By this declaration, we, the Ombudsman and Mediators of La Francophonie, with the opinion of the Committee on Public Integrity of the AOMF, and seeking to improve the protection of whistleblowers:

RECALLING

1. The resolutions adopted by the General Assembly of the United Nations and entitled *The role of the Ombudsman and mediator institutions in the promotion and protection of human rights, good governance and the rule of law* (No. 77/224, 75/186, 72/186, 71/200, 69/168, 67/163, 65/207 and 633/169);
2. The UN International Covenant on Civil and Political Rights (ICCPR) of 16 December 1966, which guarantees the right to freedom of expression;
3. The United Nations Convention against Corruption (UNCAC) of 31 October 2003, known as “Merida”, which provides for the establishment of reporting systems facilitating the disclosure of acts of corruption, the protection of witnesses, experts and victims and the protection of persons who report information relating to acts of corruption;
4. The United Nations resolution on the protection of whistleblowers (CAC/COSP/2023/L.12/Rev.1) of 15 December 2023, which reinforces common standards regarding the implementation of disclosure mechanisms and the protection of whistleblowers against retaliation;
5. The OECD Convention on Combating Bribery of Foreign Public Officials in International Transactions of 17 December 1997;
6. The African Union Convention on Preventing and Combating Corruption (AUCPCC) of 11 July 2003;
7. The 1996 Inter-American Convention against Corruption;

8. The 1950 Convention for the Protection of Human Rights and Fundamental Freedoms as well as the landmark judgments of the European Court of Human Rights concerning the rights of whistleblowers such as: *Halet v. Luxembourg* of 14 February 2023;
9. Directive (EU) 2019/1937 of the European Parliament and of the Council of 23 October 2019 on the protection of persons who report breaches of Union law;
10. The G20 High-Level Principles for the Effective Protection of Whistleblowers of 2019;
11. Recommendation CM/Rec (2014)7 of the Committee of Ministers of the Council of Europe, and Resolutions 1729 (2010) and 2300 (2019) of the Parliamentary Assembly of the Council of Europe on the protection of whistleblowers;
12. The 2017 OECD Recommendation of the Council on Public Integrity calling for the establishment of coherent and comprehensive public integrity systems, as well as the development of a culture of integrity across the whole of society.

CONSIDERING

13. The importance of freedom of expression, which implies, notably in the professional context, being able to disclose information on facts that are reprehensible or detrimental to the public interest;
14. The essential role of whistleblowers for public integrity, who, in good faith, denounce reprehensible acts, to both prevent and effectively repress these attacks on the public interest;
15. The importance of the role of ombudsman and mediators in ensuring that citizens receive a quality of services that can be threatened by reprehensible acts;
16. The need, for democratic functioning as well as the integrity and efficiency of public services, to effectively protect whistleblowers and increase trust in the public policies providing for their protection;
17. The importance of listening to whistleblowers and the need to ensure the diligent and impartial treatment of alerts issued;

18. The courage of whistleblowers and the risk taken, by some of them, to denounce situations that threaten the public interest;
19. The important role that the media can play in whistleblowing with regard to public integrity;
20. The need to involve all stakeholders in the protection of whistleblowers and to raise awareness of the issues affecting them, including but not limited to the private sector, the media, non-governmental and international organizations and the academic sector;
21. The importance and key role of ombudsman and mediators in public integrity and whistleblower protection, through their action in various spheres contributing to administrative and governmental integrity that involve the management of public interest disclosures;
22. The growing number of AOMF member institutions being granted a mandate related to public integrity, anti-corruption efforts and the protection of whistleblowers.

REMAINING CONCERNED

23. By the multiple forms that integrity issues take within the public administration, including, but not limited to, the abuse of power and public funds, corruption, bribery, illegal taking of interests, collusion, favouritism, ethical conflict, influence peddling or any form of serious mismanagement undermining the integrity of public services, the health or safety of people or the environment;
24. By the ineffectiveness of several national legal systems on the protection of whistleblowers as noted by the global study of such laws in 2021 by the International Bar Association;
25. By the threats to democratic functioning resulting from breaches of public integrity;
26. By the extent and different forms of personal and professional retaliation suffered by individuals reporting wrongdoing in the public interest;
27. By the disparities and gaps in the various whistleblower protection systems, resulting in inconsistent treatment of the reported facts as well as unequal consideration of their contribution;

28. By the lack of consideration of whistleblowers in society, the lack of valuation of their initiative and the lack of sensitivity as to the multiplicity of their experiences and backgrounds.

WE UNDERTAKE

29. To continue the work of the new AOMF advisory committee, the Integrity Committee, whose creation was approved on 23 October 2023 with the objective of collaborating with AOMF member institutions working to promote sound governance in the public sector and fostering a culture of ethics, integrity and transparency in public administration;
30. To facilitate the exchange of best practices and information sharing among AOMF member institutions, as well as within national administrations, to foster cooperation and a horizontal approach to the implementation of public integrity management policies;
31. To raise awareness among member institutions of the issues of public integrity as well as within the Francophonie space;
32. To promote the development, beyond the public sphere and according to the mandate of the member institutions, of a culture of ethical whistleblowing and reflection around the protection of all whistleblowers;
33. To encourage transparency across the public sector regarding the statistical analysis of whistleblower complaints and the results obtained, as well as through the publication of decisions on investigations carried out and by means of information bulletins, interpretation or application of national laws in this area;
34. To encourage academic research on whistleblowers and public integrity issues.

INVITING STATES AND GOVERNMENTS

35. To recognize the importance of whistleblowers by developing systems to detect violations of the integrity standards that they bring to light, and by ensuring internal and/or external channels that deal with their reports in a diligent, impartial, independent and procedurally fair manner;

36. To adopt rules and institutions that effectively protect whistleblowers, notably through measures to ensure the confidentiality of the whistleblower's identity and to prevent retaliation in connection with the disclosure;
37. To ensure accessibility of disclosure mechanisms by limiting regulatory and procedural constraints on reporting;
38. To allow the reception and processing of disclosures by persons who do not wish to be identified while guaranteeing the necessary measures to protect their anonymity;
39. To invest in secure systems, notably digital systems, for receiving and processing disclosures, to ensure better protection of whistleblowers in a globalized context;
40. To ensure effective protection against retaliation through efficient legal remedies that can be quickly activated, as well as appropriate redress mechanisms;
41. To value and consider free and accessible out-of-court mediation as a tool for resolving cases of retaliation;
42. To invest resources in prevention, awareness-raising and education measures on public integrity issues, the role of whistleblowers, knowledge of disclosure mechanisms, the risk of penalties incurred, and protection against retaliation;
43. To promote the systematization of a culture of integrity through high-level engagement of state actors, and the private sector according to the mandate of member institutions, as well as the accountability of executives to this issue, through prevention strategies and standards that underpin the legislative framework;
44. To support this culture of integrity through communication tools, by training the entire public service, by promoting a merit-based professional public sector with a deep commitment to the values of public service and good governance, and by encouraging an open working culture and free communication around these issues so that violations of integrity can be reported safely;
45. To support whistleblowers by providing them with psychological and legal assistance throughout the reporting process as well as in the event of reprisals, in order to enable them to maintain dignified livelihoods and living conditions. This protection could be extended to their loved ones;

- 46. To remain active in the periodic review of laws and regulations concerning whistleblowers so as to ensure their updating and continuous improvement;
- 47. To promote the cooperation and collaboration of institutions and organizations that protect whistleblowers and implement public integrity policies.

FOLLOW-UP TO THIS DECLARATION

- 48. Task the AOMF Office with monitoring the implementation of this declaration. To this end, the AOMF Office will draw up a report, three years after the adoption of this declaration, aimed at analyzing the developments observed in the various countries, and will submit it to the members of the said Association.

Adopted in the city of Québec on October 17, 2024, by the members of the *Association des Ombudsmans et Médiateurs de la Francophonie*.