



ECUADOR REPORT

FOLLOW-UP ON THE LIMA
AGREEMENT
CITIZEN CORRUPTION
OBSERVATORY



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Acronyms used in the document:

CCO = Citizen Corruption Observatory
 REDLAD = Latin American and Caribbean Network for Democracy
 CFA = Citizen Forum of the Americas
 PASCA = Civil Society Participation in the Summit of the Americas
 CSO = Civil Society Organization
 OAS = Organization of American States
 NGO = Non-Governmental Organization



Introduction

The main purpose of the project entitled “Citizen Corruption Observatory (CCO) - Follow-up on the Lima Agreement” is to strengthen the Citizen Forum of the Americas (CFA) by co-creating, together with the Latin American and Caribbean Network for Democracy (REDLAD, by its Spanish initials) and the Citizen Forum of the Americas (CFA), an observatory that provides technical support for the implementation of the project entitled: “Civil Society Participation in the Summit of the Americas (PASCA, by its Spanish initials). Within the framework of the activities developed by the CCO, the progress of the Lima Agreement was monitored using a methodology that took into account both policy and practical developments, and which was based on the participatory discussion involving different civil society organizations in each of the 19 countries participating in this process.

In this context, the CCO is made up of a coalition of civil society organizations and social actors of the continent, created to follow up on compliance with the commitments adopted by the governments of the hemisphere at the VIII Summit of the Americas held in 2018 in Lima, Peru. The Lima Agreement, “Governance against Corruption,” a document resulting from the Summit, provided an opportunity to endorse and ratify previous international commitments on anti-corruption issues.

Based on the above, the country report aims to present a summary of the results and conclusions of the follow-up on the progress and/or fulfillment of the commitments of the 2018 Summit in Ecuador, built from the methodology document for follow-up of the Lima Agreement¹ and the review of information carried out by 10 Ecuadorian civil society organizations. All of the information collected within the framework of the follow-up is available on the CCO website².

The methodology for monitoring the Lima Agreement allows civil society to assess the progress and/or compliance with the 19 commitments prioritized³ by the CCO for monitoring in each of the countries participating in this observatory. The follow-up is based on the review of developments at both the policy⁴ and practical levels made by national governments over the last two years regarding the commitments made in the fight against corruption.

At the policy level, current regulations were reviewed, based on 75 guideline questions regarding constitutional, legislative and jurisprudential developments. The analysis of practice

¹ The methodology is available at: <https://occ-america.com/metodologia/>

² Available at: <https://occ-america.com/>

³ The 19 commitments are prioritized considering the possibility to perform compared analysis in all of the countries participating in the CCO .

⁴ The CCO drew up a first report on policy indicators per region. The document is available at: <https://occ-america.com/2021/07/29/primer-informe-del-observatorio-ciudadano-de-corrupcion-revela-avances-y-retos-normativos-para-la-lucha-anticorrupcion-en-la-region/>

consists of the review of concrete measures taken by the government in response to the commitments made. For this purpose, 64 questions were constructed, which were answered through requests for information, interviews, reference to media reports, reports and research on the subject, among others. This information is the basis for evaluating each commitment in terms of effectiveness, efficiency and sustainability⁵.

Partner Organizations



Fundación Ciudadanía y Desarrollo (FCD)⁶ is a civil society organization that was created in 2009 and which, through research and citizen education, promotes and defends the Rule of Law, democratic principles and individual freedom, as well as the promotion of citizen participation, social control, transparency, open government and public innovation. Its mission is to promote and defend the Rule of Law, democracy and transparency. FCD is the national contact for Transparency International in Ecuador and is the focal point for the Citizen Forum of the Americas. The organization has coordinated activities in Ecuador for the Citizen Corruption Observatory .



Centro Ecuatoriano de Desarrollo y Estudios Alternativos (CEDEAL)⁷ is a private social foundation set up in 1997. It was created with the objective of contributing to overcoming situations of social exclusion and inequality regarding gender and ethnicity, especially with regard to marginal urban and rural women: rural, indigenous, and Afro-descendant women. CEDEAL is the focal point of the Citizen Forum of the Americas in Ecuador. As part of the CCO, the organization has participated in CSO mapping and qualification activities, validation of prioritized commitments, validation of policy indicators, collection of practice indicators, and rating of commitments.



Corporación Diálogos por la Democracia⁸ is an organization that aims to broaden the participation of citizens in the political life of Ecuador, involving all Ecuadorian towns and villages in order for the interests and needs of all to be taken into account. Its members are young people who are committed to innovating democracy and improving the institutional framework of Ecuador. As part of the CCO, the organization has participated in validation activities for policy indicators, the collection of practice indicators, as well as the rating of commitments.

⁵ Later on in the report, the methodological aspects of this assessment will be presented in a more specific way.

⁶ For more information on this organization go to: www.ciudadaniaydesarrollo.org.

⁷ For more information on this organization go to: www.cedeal.org.

⁸ For more information on this organization go to: www.dialogosporlademocracia.org.



Corporación Participación Ciudadana⁹ (PC) is an Ecuadorian non-governmental, non-profit, non-partisan and pluralistic organization that was established in July 2002 to provide a civil society contribution to the strengthening of democracy in Ecuador. Its members are citizens who promote the deepening of democracy and the transparency of public activities and political processes. PC has a nationwide network of volunteers reaching 21 provinces and 7 cantons of Ecuador. As part of the CCO, the organization has participated in the activities for validation of policy indicators, survey of practice indicators and in the rating of commitments.



Diálogo Diverso¹⁰ is a citizen organization that works in the defense of human, animal and nature rights, with an emphasis on members of the LGBTIQ+ community, gender, and participatory democracy. It is the first organization working for the rights of LGBTIQ+ refugees and migrants in Ecuador. *Diálogo Diverso* is part of the Working Group on Refugees and Migrants, GTRM, and the Coordination Platform for Refugees and People in Mobility in Venezuela, R4V. As part of the CCO, the organization has participated in the activities for validation of policy indicators, collection of practice indicators and in the rating of commitments.



Fundación Ecuatoriana Equidad¹¹ is a non-profit, non-governmental organization created in October 2000. It was created as an initiative aimed at offering cultural, social, and health promotion services, as well as promoting mobilization of the LGBTI (lesbian, gay, bisexual, transsexual and intersex) community, prevention and research on HIV/AIDS in gay men and other men who have sex with men. As part of the CCO, the organization has participated in the validation of normative indicators, the collection of practice indicators and the rating of commitments.



Fundación Haciendo Ecuador¹² works on social projects and political-citizen advocacy within five lines of action including Leadership, Democracy, Justice, Education, and Entrepreneurship in order to enhance the development of society by planning inclusive programs, channeling resources and generating public-private-international partnerships that benefit various sectors of society and the strengthening of Democracy, Transparency, and Governance. As part of the CCO, the organization has

⁹ For more information on this organization go to: www.participacionciudadana.org.

¹⁰ For more information on this organization go to: www.dialogodiverso.org.

¹¹ For more information on this organization go to: www.fequidadecuador.org.

¹² For more information on this organization go to: www.haciendoecuador.org.

participated in the validation of policy indicators, the collection of practice indicators and the rating of commitments.



Grupo Rescate Escolar¹³ is a program aimed at raising awareness and at preventing and eradicating bullying at schools and colleges in the country. This program seeks to implement systems to prevent violence at both schools and colleges nationwide. It fights for the enactment of a law against school violence. *Grupo Rescate Escolar* seeks to change educational culture, raising awareness, preventing, designing, and proposing positive strategies to eradicate all forms of school abuse in Ecuador. As part of the CCO, the organization has participated in the validation of policy indicators, the collection of practice indicators, as well as the rating of commitments.



Humanamente¹⁴ is a think tank that seeks to promote citizen participation in political and social issues and strengthen the institutional pillars of civil society, highlighting the importance of a free society and the Rule of Law. As part of the CCO, the organization has participated in activities for validation of policy indicators, survey of practice indicators and in the rating of commitments.



Coordinadora Ecuatoriana de Organizaciones para la Defensa de la Naturaleza y el Medio Ambiente (CEDENMA)¹⁵ is a private, non-profit organization that was created in 1988. With a national structure, it is a third-degree organization that was set up with the purpose of politically representing the expression or collective opinion of the group of Ecuadorian organizations and networks engaged in the conservation of nature and the environment, the projection of the environmental dimension, and the promotion and achievement of a respectful and sustainable use of natural resources. As part of the CCO, the organization has participated in activities for validation of policy indicators, the collection of practice indicators and the qualification of commitments. It should be pointed out that CEDENMA did not participate in the survey and rating of all of the commitments, but only in the commitments related to its area of work.

¹³ For more information on this organization go to: www.rescateescolar.org.

¹⁴ For more information on this organization go to: www.humanamente.com.ec.

¹⁵ For more information on this organization go to: www.cedenma.org.



Civil Society Participatory Process

Within the framework of the participatory process with civil society for the collection of information that was used in this report, activities were carried out to identify and link the CSOs mentioned in the previous section, and to work with them.

Firstly, a mapping and assessment of actors was carried out alongside CEDEAL, as points of contact for the FCA. Based on this mapping, FCD contacted potential CSO partners for the CCO, by sending letters to each of the organizations, explaining the general aspects of the initiative and inviting the organizations to be part of it. Likewise, together with CEDEAL, the prioritized commitments were validated.

During the last week of February 2021, a first CCO Ecuador workshop was held. This space focused on presenting the CCO and the activities that would be carried out to follow up on the Lima Agreement, as well as a detailed explanation of the methodology to follow up on the prioritized mandates.

On March 10, a second workshop was held, at which the preliminary results of the policy indicators were presented and the operation of the platform for recording information on the indicators was explained. The CSOs that are part of the consortium were given a deadline to provide feedback on the policy indicators. In addition, as part of the agreements reached at this meeting, a first advocacy exercise was carried out by sending a letter to the public institutions responsible for compliance with the mandates, informing them regarding the creation of CCO Ecuador and explaining its purpose.

Subsequently, bilateral meetings were held with each CSO, where details of the methodology were discussed in greater depth and doubts regarding the information gathering process for the practice indicators were dispelled. It should also be noted that, as part of the research and information gathering process, the organizations that are part of the consortium made 9 requests for public information. Likewise, the consortium of organizations selected the people who were interviewed as part of this process, and also provided specific questions for the interviews conducted.

In the months following this procedure, bilateral meetings were held, focusing on the support provided by FCD in the mandate evaluation process. Finally, a draft report, together with the consolidated ratings by mandate, was shared with the CSOs in the consortium for feedback and validation. This way, participation of the organizations was continuous, as was communication throughout the follow-up process to the Lima Agreement.

Context of Ecuador

In April 2018, the heads of state of the hemisphere met in Lima in order to address, within the context of the VIII Summit of the Americas, the corruption-related challenges to governance in the region, and to sign a commitment to promote progress. In Ecuador, the meeting revolved around the same topic, as one year earlier Lenín Moreno had won the presidency and presented the anti-corruption fight and asset recovery as part of the main axes of his administration (El Universo, 2018). However, the results have been few and the institutional framework in terms of transparency and anti-corruption as of 2018 has been marked by instability.

At the beginning of 2018, through referendum and popular consultation, the termination of the councilors of the Council for Citizen Participation and Social Control (CPCCS) was approved and a transitory CPCCS was formed, with extraordinary powers to evaluate and, if necessary, replace the authorities appointed by the previous CPCCS. During this period, the transitional body appointed the heads of 11 key bodies to maintain the checks and balances of the rule of law. In February 2019, the Anti-Corruption Secretariat of the Presidency was created, just to be dissolved 15 months after its creation amid claims of interference of functions. That same year, the Commission of International Experts Against Corruption in Ecuador was created, which to date has not managed to operationalize activities due to the lack of political will of the Moreno government and the lack of coordination with the United Nations. Institutionalism is also affected by cases of possible corruption among the heads of some bodies of the Transparency and Social Control Function, such as the CPCCS and the Comptroller General's Office, as well as by proposals to eliminate or restructure these institutions (FCD, 2020).

In relation to international measurements, Ecuador obtained 39 points out of 100 in Transparency International's Corruption Perceptions¹⁶ Index 2020, achieving its best score ever, but ranking below the average for the Americas (43/100).

During the three years since the signing of the Lima Agreement, there have been other advances and weaknesses. In terms of progress, the 2019 report on the state of civil society, prepared by Civicus, reports a *"shift towards greater respect for human rights and democratic freedoms (...) that has led to the opening of civic space"* (p. 178). This document also recognizes the political reforms aimed at limiting the reelection of authorities, the reforms to the Organic Law of Communication and the openness of the administration of then President Lenín Moreno to international initiatives that seek to enhance transparency and joint work between government and civil society. These perceptions were shared by the 2018 annual report of the Inter-American Commission on Human Rights as it *"takes note of the efforts to reinforce human rights in 2018 [and] highlights the actions taken by the State in passing legislation guaranteeing greater freedom of expression"* (p. 305).

¹⁶ The full index is available at: <https://www.transparency.org/en/cpi/2019/index/nzl>

As for weaknesses, it is noted that the measures adopted since 2018 have not benefited all actors equally. While attempts to rebuild the institutional structure of the State were made, the IACHR showed concern about the 2018 referendum and popular consultation due to a possible failure to comply with constitutional precepts and the institutional instability described above (IACHR 2018, p. 305 and 306). The same body also told off the Ecuadorian State due to a high level of discretion in the resolution of disputes related to the presentation of candidacies in view of the 2021 general election process (IACHR, 2020, p. 459).

As of 2015, Ecuador has been facing complex macroeconomic and fiscal conditions that have led the government to implement austerity measures. These measures generated social protests that intensified as of 2018 and reached their peak during October 2019. The latter were marked by unusual levels of violence by protesters and a response by law enforcement officers outside the principles of respect for human rights and the progressive use of force (IACHR, 2020, p. 344.). It is important to mention that many of these mobilizations were called by organized civil society and union groups that were accused by President Moreno of being financed by opposition forces and the Venezuelan government (Civicus, 2020, p. 81). This makes police repression and judicial persecution two of the main threats to the work of civil society.

It is important to mention that, from January to May 2021, Ecuador was immersed in an election process marked by polarization where all of the members of the National Assembly were renewed and a new president and vice-president of the Republic were elected. As a result, Guillermo Lasso and Alfredo Borrero of the CREO 21-PSC 6 alliance were elected; during the campaign they had given the fight against corruption a central place in their discourse. On the other hand, the new National Assembly is characterized by political fragmentation that makes consensus difficult.

The context generated by COVID-19 in Ecuador deserves special attention. Among the most important advances it is important to mention the creation of an open data platform for emergency contracting. This tool allowed civil society organizations, the media and citizens to access data on emergency procurement during the pandemic.

Despite these advances, important setbacks were also noted. Among them, we can mention the high number of corruption cases related to the acquisition of medical supplies and other goods necessary for the management of the pandemic. Apart from the health threat, which in itself is and was an important limitation for social control, the government of Ecuador did not integrate the work of civil society at the time of developing the plans and protocols to deal with the pandemic. Regarding access to public information, the Saber Más XI Report by the Regional Alliance for Freedom of Expression and Information states the following in relation to Ecuador: *"Although the right of access to public information was not officially suspended due to the emergency - the deadlines for responding to requests were not modified and the guarantor body continued to work normally - it was affected in practice ... the response time*



has been longer than established by law" (Alianza Regional por la Libertad de Expresión, 2020, p. 26).

This is also reflected in the development of this report. Out of eight requests for access to information submitted, only four were answered, most of which did not meet the legal deadlines. The lack of official information was compensated with interviews with experts selected by the Ecuador Consortium¹⁷, as well as sources documented by the media.

Results for Ecuador

As a result of the VIII Summit of the Americas, a process in which the Citizen Forum of the Americas had an active participation, the countries of the region signed the Lima Agreement, entitled "Democratic Governance against Corruption," in which 57 commitments were made in order for member states to implement concrete actions to build up the citizens' trust in institutions and reduce the negative impact of corruption on the effective exercise of human rights and sustainable development of the peoples in the American hemisphere.

For the follow-up, four criteria were taken into account to select the commitments: they must be representative for analyzing anti-corruption actions in the countries of the region, they must be sustainable over time and with the possibility of becoming institutionalized, they must include new approaches in anti-corruption actions, and they should include the perspective of vulnerable populations. As a result, 19 commitments were selected, which were classified into 5 specific topics:

- A. Reinforcement of Democratic Governance,
- B. Transparency, Access to Information, Protection of Whistleblowers and Human Rights, including Freedom of Expression,
- C. Financing of Political Organizations and Election Campaigns,
- D. Prevention of Corruption in Public Works and Public Procurement and Contracting,
- E. International Legal Cooperation; the Fight Against Bribery, International Corruption, Organized Crime, and Money Laundering; and Asset Recovery.

These commitments were analyzed by identifying regulatory and practical developments which were rated on a scale¹⁸ ranging from 0 to 3, taking into account the follow-up criteria below:

- **Effectiveness:** Establishes to what extent the actions developed by the government as a result of the Lima Agreement contribute to the fight against corruption in the country.

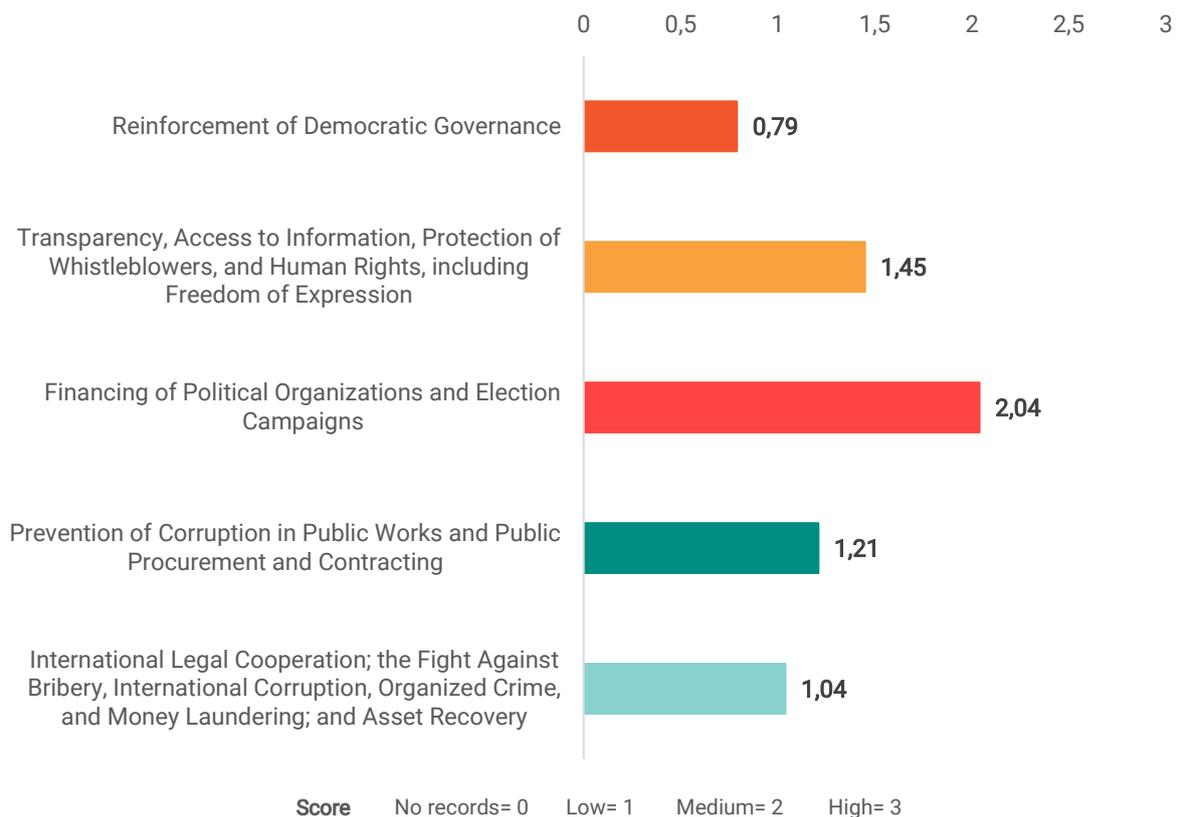
¹⁷ In this context, CCO Ecuador wishes to thank Elizabeth Ernst, Agustín Acosta, and Xavier Andrade for the contributions they provided during the interviews.

¹⁸ Valued on a scale from 0 to 3: 0= no records, 1= low, 2 = medium, and 3 = high

- **Relevance:** Establishes to what extent the actions developed by the government are timely, convenient and adequate according to the economic, institutional and/or social context of the country.
- **Sustainability:** Determines to what extent the actions carried out to fulfill the commitment will have continuity over time.

Graph 1 shows the general results obtained by Ecuador in the five topics the commitments are broken down to.

Graph 1¹⁹. Results by Topic of Lima Agreement



Prepared on the basis of information provided by CSOs participating in the CCO Platform

- The topic related to strengthening of democratic governance ranks lowest. This is mainly due to the weaknesses shown by the Ecuadorian State in the inclusion of women and vulnerable groups in the fight against corruption. There are currently no regulations or institutions in charge of promoting and guaranteeing the participation

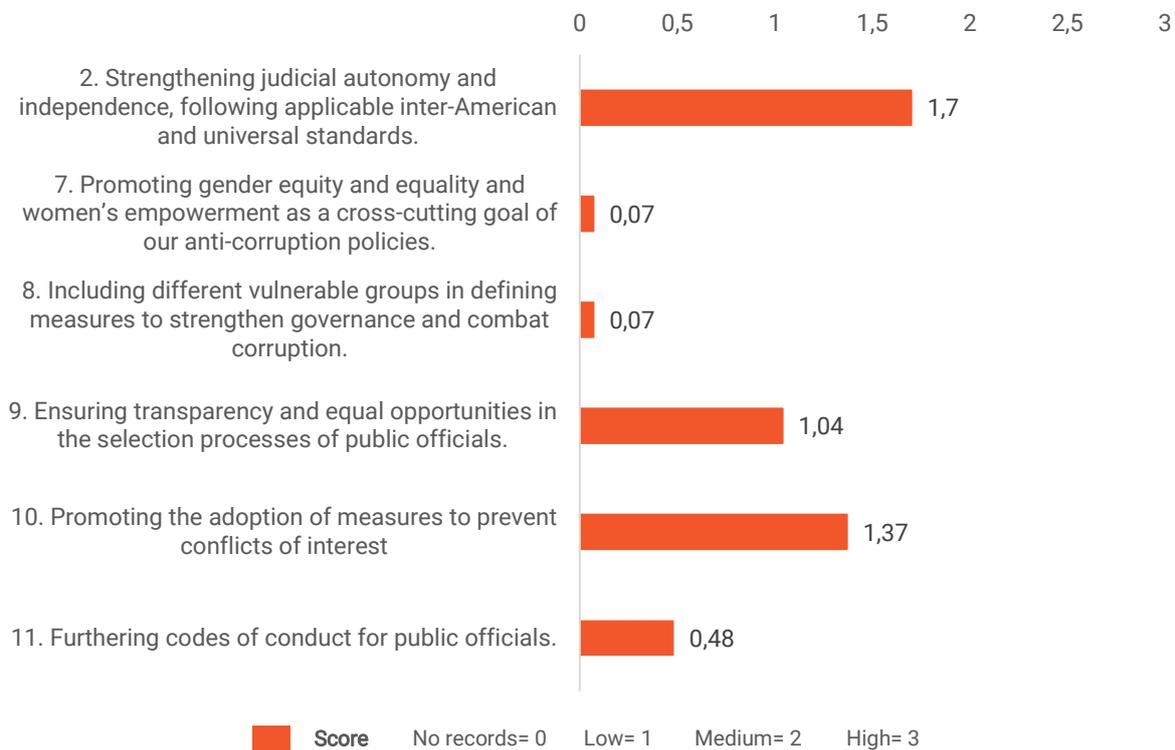
¹⁹ The colors used in the graphs included in this document correspond to the color assignment given to each of the central topics for the CCO and do not correspond to a numeric scale.

of these groups in the construction, implementation or evaluation of integrity and anti-corruption policies. In this area, weaknesses are also identified in regulations and in the management of conflicts of interest.

- In contrast, the topic political financing ranks highest. These positive results are due to the recent reforms made to the Organic Electoral Law - Democracy Code - which strengthen accountability and control of political organizations. However, an exhaustive evaluation of their effectiveness is not possible at the moment due to the fact that the reforms have only just been approved.

1. Reinforcement of Democratic Governance

Graph 2. Results obtained for the Commitments Related to the Reinforcement of Democratic Governance²⁰



Prepared on the basis of information provided by CSOs participating in the CCOPPlatform

The results obtained from the follow-up process for this central topic make it the lowest rated of the five included in this report. They also show a significant gap between policy and practical progress. The lack of attention of the Ecuadorian State in the inclusion of vulnerable groups and gender perspective in the formulation of public

²⁰ CEDENMA, an organization that is part of the Ecuador Consortium, performed a partial assessment based on its experience. Taking this into account, Commitment 2 would have a national average of 1.55/3, while the national average for Commitment 9 is 1,03/3.

policies on transparency and anti-corruption is highlighted as a result of the follow-up. Although the State has made an effort to increase the participation of women in different areas, and as *Corporación Participación Ciudadana* points out, "especially in electoral issues, there are advances in terms of gender parity", these measures are not a guarantee of equal participation in decision-making processes regarding the formulation of anti-corruption policies.

Shortcomings were also identified in terms of conflicts of interest and declarations. Regarding the lack of legislation to prevent conflicts of interest, *Humanamente* points out that "Ecuador still lacks a unified code of conduct. It would be a great step forward to have a form issued by the Comptroller's Office and applicable to all public institutions". Regarding the declarations, *Grupo Rescate Escolar* states that "the modality of reporting asset and income declarations has been improved" (2021). However, it is important to mention the lack of an interconnected system to analyze the declarations of assets and income.

- The highest rated commitment in the central topic of strengthening democratic governance is the second one, on strengthening judicial autonomy and independence, with a score of 1.7 out of 3²¹. This is mainly due to the fact that the Ecuadorian constitution establishes the independence of all oversight bodies and the separation of powers. However, in practice, independence is called into question due to repeated interference by the executive branch, which has been reflected in the country's worrying results in international rankings such as the Public Integrity Index²², where Ecuador's lowest-ranking pillar is judicial independence with a score of 3/10, placing it 107th among the 117 countries included in the Index. In the Rule of Law Index, Ecuador's criminal justice pillar scored 0.36/1, below the regional (0.42/1) and global (0.46/1) averages²³.

The regularization of the legal figure known as "inexcusable error", which allowed great discretion in sanctioning judges, stands out as an advance. This figure was defined as the "*act contrary to an express provision that causes gravamen, and is inexcusable because no one with minimal legal training to administer justice could justify the breach of the legal rule*". (Judiciary Council, 2014) The wording was ambiguous and allowed the sanction of those magistrates who ruled contrary to the considerations of the executive²⁴. Another contribution to the fulfillment of this mandate, according to *Corporación Diálogos por la Democracia*, is that during the last government, "the

²¹ Idem

²² The full index, prepared by the European Research Centre for Anti-corruption and State-Building, is available at: <https://bit.ly/3dRDUMZ>.

²³ The full index, prepared by World Justice Project, is available at: <https://bit.ly/3hGRWCd>

²⁴ To find out more about the impacts of the inexcusable error in legal independence, see: <https://bit.ly/36lIQpk>.

judiciary has followed democratic and participatory mechanisms for the election of its authorities" (2021).

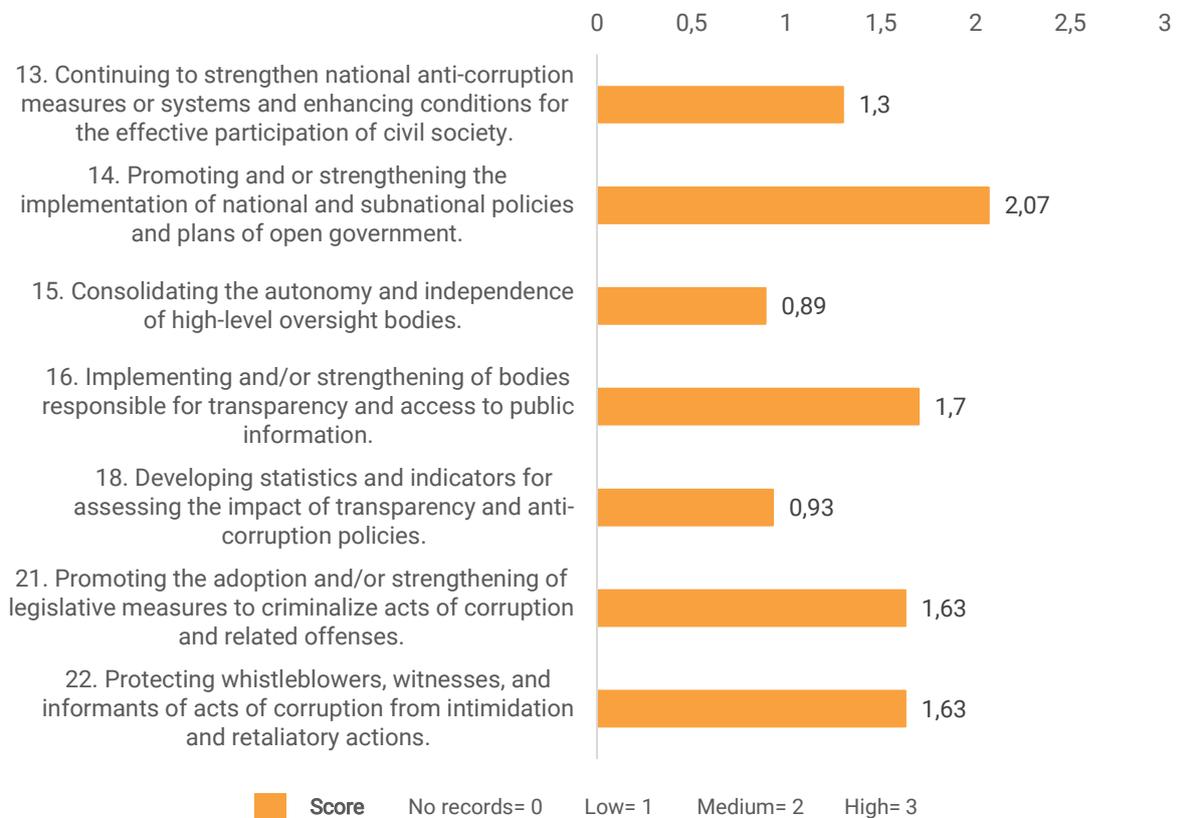
- Commitments 7 and 8 corresponding to gender equity and equality and the empowerment of women as a cross-cutting objective of anti-corruption policies and the inclusion of vulnerable groups in the definition of transparency and anti-corruption measures are the lowest-rated of this central topic, both with a rating of 0.07/3.0.

This rating is the result of the inexistence in Ecuadorian legislation of regulations that guarantee the participation of these specific groups in anti-corruption policies. In practice, there is a lack of statistics that make it possible to understand the differential impact that corruption has on the vulnerable population and women in their diversity. Regarding participation mechanisms, the Transparency and Social Control Function, through a request for access to public information, informed that it includes, within its planning, projects for the inclusion of children, adolescents and women, although these have been halted due to health conditions and budgetary limitations.



2. Transparency, Access to Information, Protection of Whistleblowers and Human Rights, including Freedom of Expression ²⁵

Graph 3. Result for Commitments Related to Transparency, Access to Information, Protection of Whistleblowers and Human Rights, Including Freedom of Expression



Prepared on the basis of information provided by CSOs participating in the CCO Platform

- As for policy indicators, over the past years important progress has been identified, such as the modification of the Comprehensive Criminal Code, which has allowed the classification of crimes according to international standards, the protection of the identity of whistleblowers, and progress aimed at promoting the independence of oversight bodies. However, in practice, progress is limited due to the fact that a real separation of powers and independence of control bodies is still pending in Ecuador; many reforms are recent and their real impact cannot yet be evaluated.
- Commitment 14, which includes, among others, issues related to open government, digital government, and open data, is the highest-rated in this central topic with a score

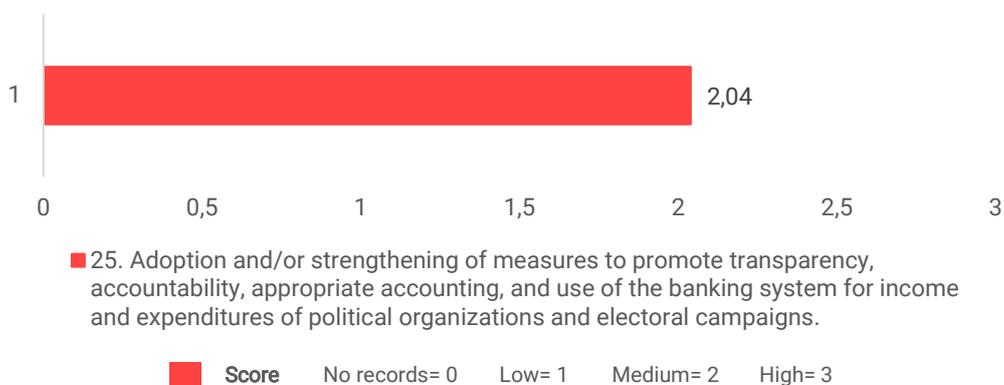
²⁵ CEDENMA, an organization that is part of the Ecuador Consortium, carried out a partial assessment based on its experience. Taking this into account, the national average for Commitment 13 would be 1.26/3.0, for Commitment 14 it would be 2.02/3.0, and for Commitments 15, 16, and 22, the national average would be 0.9/3.0, 1.53/3.0, and 1.46/3.0, respectively.

of 2.02/3.0. Among the advances are the co-creation process and current implementation of the First Open Government Plan in Ecuador, Ecuador's adherence to the Construction Transparency Initiative (CoST) and the Extractive Industries Transparency Initiative (EITI). It also highlights the existence of regulations and three-year plans for the implementation of e-government and the delegation, by executive decree, to the Ministry of Telecommunications and Information Society as the governing body. In this regard, CEDENMA points out that "during the pandemic, the use of electronic mechanisms has helped validate the transparency of legislative and judicial entities". On the other hand, despite some progress, CEDEAL assures that improving the dissemination mechanisms to increase citizen participation is key because "the weakness of this issue is that there are few spaces where people participate, and there is also a lack of dissemination by the government" (2021).

- The lowest-rated commitment of this topic axis is commitment 18, which evaluates the development of statistics and impact evaluation indicators for anti-corruption policies, with a score of 0.93/3.0. This low score is explained by the lack of a body explicitly responsible for the evaluation of transparency and anti-corruption policies. This may make it easier for "institutions to provide only the information they consider necessary" according to the Ecuadorian Equity Foundation, which recognizes this shortcoming but identifies the potential for sustainability for this commitment "if the authorities show a commitment in this regard". On the other hand, the Transparency and Social Control Function, legally designated as the body that develops the National Plan for the Prevention and Fight against Corruption, does not have a system to allow efficient policy monitoring.

3. Financing of Political Organizations and Election Campaigns

Graph 4. Result for Commitment Related to Financing of Political Organizations and Election Campaigns



Prepared on the basis of information provided by CSOs participating in the CCO Platform

- This central topic is the one that has obtained the highest score, due to the reforms to the

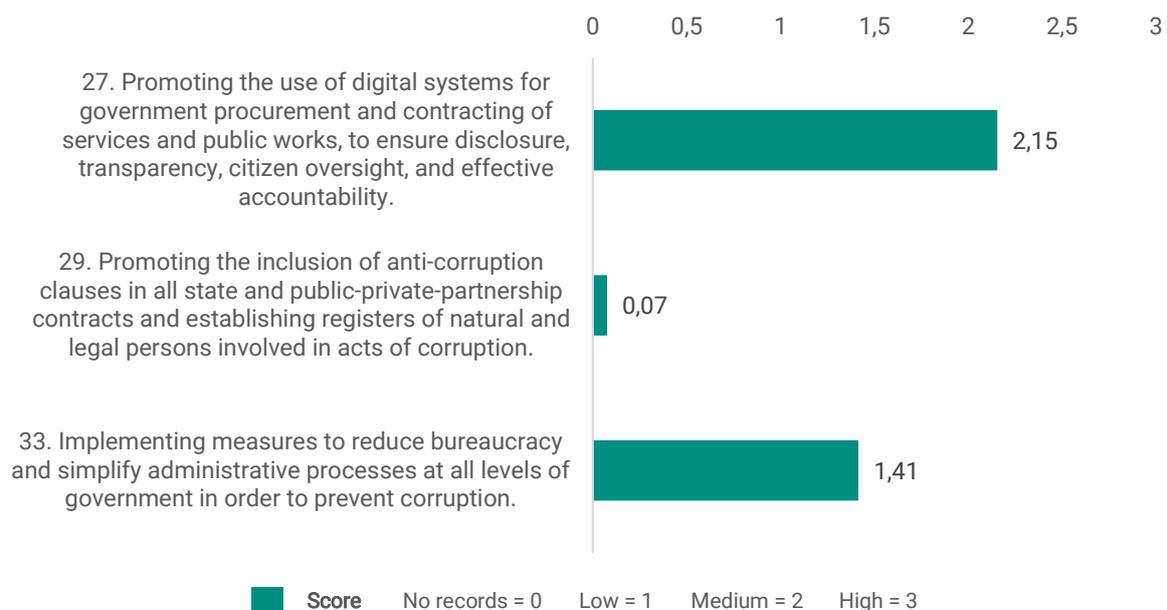


Democracy Code carried out in 2020, which create, among other elements, an interconnected data system and an accounting system for the control of the financing of political organizations. However, due to their recent approval, these systems are not yet operational.

- The contributions of the organizations that are part of the consortium allow identifying that the new reforms have weaknesses regarding the determination of deadlines and lack clarity in some provisions. For its part, FCD highlights that during the general elections held in February 2021, certain reforms of the Democracy Code were already implemented, however, "several mechanisms proved insufficient; deficiencies are evident in the lack of clarity regarding the provisions, implementation and established deadlines of certain mechanisms, such as the accounting system for CNE campaign accounts" (2021). Additionally, the quality of the information submitted by political organizations continues to be deficient in practice. Currently, citizens can access this information since, as *Fundación Haciendo Ecuador* reminds, campaign accountability reports are "a jurisdictional guarantee according to the Constitution of Ecuador and the Organic Law of Jurisdictional Guarantees and Constitutional Control" (2021).

4. Prevention of Corruption in Public Works and Public Procurement and Contracting

Graph 5. Results from Commitments related to Prevention of Corruption in Public Works and Public Procurement and Contracting



Prepared on the basis of information provided by CSOs participating in the CCO Platform

- Significant progress has been made in this area, due to the promotion of computer systems within public procurement processes. However, regulatory improvements are still

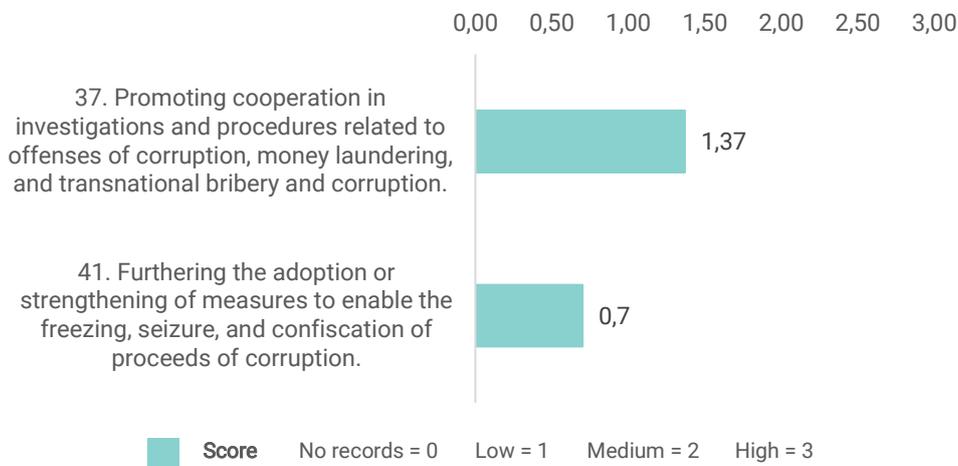


needed, mainly with the approval of a new Law on Transparency and Access to Public Information and instruments that make the inclusion of anti-corruption clauses mandatory. On the other hand, although Ecuador has national plans to reduce paperwork, their real effects are limited; the inclusion of mechanisms such as virtual appointment systems has generated waiting times of several months for citizens to obtain basic documents such as driver's licenses, identity cards or passports.

- Commitment 27, on electronic systems for government procurement, is the one highest-rated on this axis, with a score of 2.15/3.0. This is mainly due to the legal obligation to publish public procurement processes digitally in the *Sistema Oficial de Contratación Pública del Ecuador* (SOCE) and the existence of the Single Registry of Suppliers, where basic information on all bidders can be found. In addition to this, recent advances include the implementation of an electronic signature that allows the information uploaded to the SOCE to be in a machine-readable format and the implementation of open data standards in public procurement. Although the positive rating of this commitment reflects some progress in policies, according to *Diálogo Diverso* "it is necessary to improve transparency and break with the naturalization of corruption... since it is very different to publish information for the proper management of processes internally" (2020).
- Commitment 29, on the inclusion of anti-corruption clauses in all State contracts, is the one lowest-rated, with a score of 0.07/3.0. There is no legal obligation, nor an explicit section within the SERCOP model contracts, to include anti-corruption clauses in public procurement processes. This comes in addition to the non-existence of a registry of companies and persons related to money laundering and corruption, which has caused companies already sentenced for such crimes to continue contracting with the State.

5. International Legal Cooperation; the Fight Against Bribery, International Corruption, Organized Crime, and Money Laundering; and Asset Recovery

Graph 6 Results for Commitments Related to International Legal Cooperation; the Fight Against Bribery, International Corruption, Organized Crime, and Money Laundering; and Asset Recovery



Prepared on the basis of information provided by CSOs participating in the CCO Platform

- In the 2018-2021 period, there has been regulatory progress with respect to this axis, highlighting the approval of the Law on the Extinction of Ownership and other regulations that protect and facilitate judicial cooperation. However, the recent approval of the Law makes it impossible to evaluate its effectiveness at this time. On the other hand, internal cooperation mechanisms, which have included task forces, secretariats attached to the presidency and commissions of international experts, have not shown concrete results either.
- Commitment 37, on cooperation between authorities in investigations and proceedings related to corruption offenses, is the highest-rated with a score of 1.37/3. This is thanks to the creation of joint task forces and cooperation agreements between Ecuadorian control bodies. However, it is not possible to determine the effectiveness of these mechanisms, due to lack of information to identify the concrete results of these initiatives. On the other hand, the need to criminalize international bribery in Ecuadorian legislation has been identified.
- The lowest-rated commitment is number 41, on measures to allow for the seizure, forfeiture and confiscation of assets resulting from corruption, with a score of 0.7/3.0. This is due to the fact that Ecuador only passed its asset forfeiture law in April 2021 after a long debate in the legislature and the subsequent declaration of partial unconstitutionality by the Court. For this reason, it is not yet possible to consider its effectiveness. Moreover, before the approval of this regulatory framework there was

no



preventive confiscation but only precautionary measures such as the prohibition of alienation of assets.

Conclusions and Calls to Action

1. Progress and Weaknesses in Anti-Corruption Actions Based on Follow-up to Lima Agreement.

The Lima Agreement represented a fundamental opportunity to endorse previous international commitments assumed by the Ecuadorian State, as well as to identify favorable scenarios for the discussion, preparation and implementation of anti-corruption measures in the country. In reference to the progress achieved since April 2018, the following should be highlighted:

The ongoing co-creation and implementation process of the First Open Government Plan, as well as Ecuador's adherence to international initiatives such as EITI and CoST, which contribute to mitigate the risk of corruption in areas highly sensitive to corruption such as extractive industries and public infrastructure. In addition to these alliances, the National Public Procurement Service, the Open Contracting Partnership and civil society have worked together to implement the open data platform for public procurement. On the other hand, the approval of an open data policy by the executive is noteworthy.

Similarly, in recent years, issues related to transparency and the fight against corruption have been central to the legislative agenda. As a result, we have the approval of the "Anti-Corruption Law" which allowed for amendments to the Integral Penal Code to include or modify the classification of crimes according to the commitments made on the matter, as well as to include identity protection measures and incentives for corruption whistleblowers. On the other hand, reforms are being made to the regulations governing the justice bodies so as to contribute to their independence and autonomy. Further progress to be highlighted is that in 2021 the Law for Ownership Extinction was approved, which will strengthen the capacity of the State to carry out preventive confiscation and recover the capital and other assets resulting from acts of corruption.

In spite of these advances, there have also been worrying setbacks during this period. For example, in May 2021 the Office of the Comptroller General of the State limited public officials' search capacity regarding asset declarations through the inclusion of new parameters in the search engine, included illegal restrictions to the dissemination of declaration information violating the rights to freedom of expression, press and social control, and implemented mechanisms to expose the personal data of citizens who access the declarations.

2. Calls to Action on Anti-Corruption Issues



Based on the results of the evaluation of the commitments prioritized by CCO Ecuador, we present the following recommendations:

Reinforcement of Democratic Governance

- Promote the participation and empowerment of gender movements and priority attention groups in the preparation, implementation and evaluation of public transparency and anti-corruption policies. Likewise, enhance the generation of data and the analysis of the differentiated effects of corruption on women in all their diversity, gender diversities, and vulnerable attention groups established in the Constitution. It is recommended that the State appoint an entity responsible for coordinating efforts and following up on the fulfillment of this commitment to achieve concrete results.
- Adopt legal and practical measures aimed at guaranteeing that members of High Courts and Tribunals are appointed through public merit-based competitive examinations that fully comply with the necessary publicity and transparency. Likewise, the full implementation of the Open Justice parameters is recommended to guarantee transparency, user participation and permanent accountability.
- Adopt regulations aimed at preventing and managing conflicts of interest, including the regulation of revolving doors. There are currently bills pending on this issue, so the National Assembly is urged to continue their discussion and approval process. Regarding asset declarations, the Comptroller General's Office needs to remove obstacles to access to information, social control and freedom of expression, as well as measures that violate the personal data of citizens who access this data, imposed in May 2021.
- It is recommended that the Comptroller General's Office co-create a model Code of Ethics or Code of Conduct, which will be the basis for the code formulation processes for each public institution, based on international standards. It is also recommended to create a system that allows the Comptroller General's Office and the public to verify the existence of the codes of ethics of each institution, ensuring their timely publication on the web pages of each institution, as well as their availability through non-electronic mechanisms. Also, a need has been identified to create secure channels for reporting non-compliance.

Transparency, access to information, protection of whistleblowers and human rights, including freedom of expression

- Adopt mechanisms that guarantee standards for transparency and free access to information in public tenders for access to public services, strengthening the Socio Empleo network. Likewise, regulate the use of occasional contracts and provisional



appointments, and review the processes related to permanent appointments to strengthen the civil service. It is also recommended to adopt legal and institutional measures to eliminate discretion and equalize parameters for the entry into public service related to the so-called free appointment and removal of civil servants.

- Adopt measures to ensure the continuity and consolidation of open government initiatives in Ecuador, and the multi-sector transparency initiatives that are part of the Open State ecosystem.
- Conduct an evaluation of the current structure of the Comptroller General's Office and other control entities, in order to identify shortcomings and elements requiring improvement, allowing for technical, professional, efficient and autonomous control.
- The National Assembly is urged to discuss and approve a new Law on Transparency and Access to Public Information, which fully guarantees access to public information, in line with Inter-American model laws, international standards and applicable new technologies. Likewise, it is recommended to create a platform that allows placing requests for access to information more easily, to follow up on the process and to monitor compliance with the deadlines established in the regulations.
- Urge the State to collect data that provides national information on the perception of corruption among the population, as well as other parameters that account for the objective and subjective impact of corruption in the country.

Financing of political organizations and election campaigns

- It is recommended to promote transparency and facilitate access to public information to citizens, establishing clearer standards regarding the reporting of accounts of political organizations and in terms of their mandatory dissemination of information.
- It is recommended that the CNE publish detailed information on the use of the Electoral Promotion Fund by candidates. Also, it is recommended to carry out a participatory process in the development of the Accounting System of Political Financing by the CNE.

Prevention of corruption in public works, public procurement and contracting

- It is recommended to simplify the procedures for submitting complaints of possible acts of corruption, through channels that guarantee security and enable the anonymity of the complainant. It is also recommended to establish information flows that allow the whistleblower to follow up on their report.

- Develop, in a participatory manner, mechanisms for following up and evaluating public anti-corruption policies, in such a way as to enable two-way accountability, follow-up and timely social control by citizens.
- Ensure the continuity of efforts for the implementation of open data standards in public procurement. Likewise, enhance the adoption of measures for the transparency of beneficial ownership in public procurement.
- It is recommended to adopt measures that explicitly oblige contracting entities to incorporate anti-corruption clauses in public contracts.

International Legal Cooperation; the fight against bribery, international corruption, organized crime, and money laundering; and asset recovery

- It is recommended that the Transparency and Social Control Function co-create a true National Plan to Prevent and Combat Corruption in order to duly fulfill its constitutional mandate. This plan should integrate the four remaining State Functions (Executive, Legislative, Judicial and Electoral) and directly involve non-state actors.
- Criminalize transnational bribery, in accordance with the United Nations Convention against Corruption. Finally, it is recommended to establish inter-institutional cooperation relationships that make the adoption of the measures considered in the recently approved Law on Extinction of Ownership feasible in practice.



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Annexes

Annex 1: Rating of Lima Agreement in Ecuador

Reinforcement of Democratic Governance

Table 1. Follow-up criteria for commitments related to the Reinforcement of Democratic Governance

Commitment	Relevance	Effectiveness	Sustainability	Country Average
2. Strengthening judicial autonomy and independence following applicable inter-American and universal standards on this matter to promote respect for the Rule of Law and access to justice, as well as to promote and encourage policies of integrity and transparency in the judicial system.	1.67	1.67	1.78	1.70
7. Promoting gender equity and equality and women's empowerment as a cross-cutting goal of our anti-corruption policies, through a task force on women's leadership and empowerment that will actively promote cooperation among inter-American institutions and synergies with other international agencies.	0.00	0.22	0.00	0.07
8. Including different vulnerable groups in defining measures to strengthen governance and combat corruption, recognizing their serious impact on these populations.	0.00	0.22	0.00	0.07
9. Ensuring transparency and equal opportunities in the selection processes of public officials, based on objective criteria, such as merit, equity, and aptitude.	1.00	1.11	1.00	1.04
10. Promoting the adoption of measures to prevent conflicts of interest, as well as the submission of declarations of assets and financial information by public officials, as appropriate.	1.22	1.67	1.22	1.37
11. Furthering codes of conduct for public officials that contain high standards of ethics, probity, integrity and transparency, using as a point of reference the "Guidelines for the Management of Policies for Probity in the Public Administrations of the Americas" and urging the private sector to develop similar codes of conduct.	0.56	0.56	0.33	0.48

Transparency, Access to Information, Protection of Whistleblowers, and Human Rights, including Freedom of Expression

Table 2. Follow-up criteria for the commitments related to Transparency, Access to Information, Protection of Whistleblowers, and Human Rights, including Freedom of Expression

Commitment	Relevance	Effectiveness	Sustainability	Country Average
13. Continuing to strengthen national anti-corruption measures or systems and enhancing conditions for the effective participation of civil society, social organizations, academia, the private sector, citizens, and other social actors in monitoring government performance, including the development of prevention mechanisms, channels for reporting possible acts of corruption and facilitating the work of watchdogs, including other citizen oversight mechanisms, and incentivizing the adoption of digital means of participation.	1.44	1.33	1.11	1.30
14. Promoting and/or strengthening the implementation of national and subnational policies and plans of open government, digital government, open data, fiscal transparency, open budgeting, digital procurement systems, public contracting and a public registry of state suppliers, considering towards that end the participation of civil society and other social actors.	2.33	2.00	1.89	2.07
15. Consolidating the autonomy and independence of high-level oversight bodies.	1.00	1.00	0.67	0.89
16. Implementing and/or strengthening of bodies responsible for transparency and access to public information, based on the best applicable international practices.	1.78	1.67	1.67	1.70
18. Developing statistics and indicators in our countries for assessing the impact of transparency and anti-corruption policies and advancing government capacity in this field.	0.89	0.78	1.11	0.93
21. Promoting the adoption and/or strengthening of legislative measures to criminalize acts of corruption and related offenses consistent with the United Nations Convention against Corruption (UNCAC), the United Nations Convention against Transnational Organized Crime, and the Inter-American Convention against Corruption (IACAC).	1.78	1.33	1.78	1.63
22. Protecting whistleblowers, witnesses, and informants of acts of corruption from intimidation and retaliatory actions.	1.89	1.67	1.33	1.63

Financing of Political Organizations and Election Campaigns

Table 3. Follow-up Criteria of commitments related to Financing of Political Organizations and Electoral Campaigns

Commitment	Relevance	Effectiveness	Sustainability	Country Average
25. Encouraging adoption and/or strengthening of measures to promote transparency, accountability, appropriate accounting, and use of the banking system for income and expenditures of political organizations and parties, especially those related to their electoral campaigns, in order to guarantee the licit origin of the contributions and penalizing anyone involved in accepting illicit contributions.	2.11	1.67	2.33	2.04

Prevention of Corruption in Public Works and Public Procurement and Contracting

Table 4. Follow-up Criteria related to commitments related to Prevention of Corruption in Public Works and Public Procurement and Contracting

Commitment	Relevance	Effectiveness	Sustainability	Country Average
27. Promoting the use of digital systems for government procurement and contracting of services and public works, to ensure disclosure, transparency, citizen oversight, and effective accountability.	2.44	2.11	1.89	2.15
29. Promoting the inclusion of anti-corruption clauses in all state and public-private-partnership contracts and establishing registers of natural and legal persons involved in acts of corruption and money laundering with a view to ensuring that they are not contracted.	0.11	0.11	0.00	0.07
33. Implementing measures to reduce bureaucracy and simplify administrative processes at all levels of government in order to prevent corruption.	1.89	0.78	1.56	1.41

International Legal Cooperation; Fight Against Bribery, International Corruption, Organized Crime, and Money Laundering; and Asset Recovery.

Table 5. Follow-up criteria for commitments related to International Legal Cooperation; Fight Against Bribery, International Corruption, Organized Crime, and Money Laundering; and Asset Recovery

Commitment	Relevance	Effectiveness	Sustainability	Country Average
37. Promoting the broadest possible cooperation among judicial, police, and prosecutorial authorities, financial intelligence units, and administrative authorities in investigations and procedures related to	1.22		1.44	1.37

offenses of corruption, money laundering, and transnational bribery and corruption.				
41. Furthering the adoption or strengthening of measures through relevant institutions to enable the freezing, seizure, and confiscation of proceeds of corruption.	0.67	0.67	0.78	0.70