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## PANAMA REPORT

### Follow-up on the Lima Agreement

### Citizen Corruption Observatory



Country: Panama — Local partner: Fundación para el Desarrollo de la Libertad Ciudadana  
Transparency International Chapter in Panama

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## Credits

### Working Group

Olga de Obaldía	Coordinator
Daniel Holness Carrasco	Researcher
Carlos Lee	Researcher
Cherty Mendieta	Researcher

### Representatives of Civil Society Organizations

<b>Representatives</b>	<b>Organizations</b>
Olga de Obaldía	Fundación para el Desarrollo de la Libertad Ciudadana, Transparency International Chapter in Panama
María Soledad Porcel	Alianza Ciudadana Pro Justicia (ACPJ)
Daniel Holness Carrasco	Asociación Centro de Estudios y Acción Social Panameño (ACEASPA)
Cecilia Moreno	Centro de la Mujer Panameña (CEMP)
Elva Quintero	Colegio Nacional de Investigación Criminal y Seguridad de Panamá (CNICSP)
Daniel Waterman	
Eduardo Campbell	
Leah de Boersner	Fundación Espacio Cívico
Olinda Castellón	Movimiento por la Defensa del Territorio y Ambiente de Bocas del Toro (MODETEAB)
Feliciano Santos	
Patricia Mckenzie Jacobs	Red de Mujeres Afropanameñas (REMAP)

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## Table of Contents

Document Acronyms	3
Introduction	4
Participating Organizations	5
Context of Panama	10
Results for Panama	13
1. Reinforcement of Democratic Governance	16
2. Transparency, Access to Information, Protection of Whistleblowers and Human Rights, including Freedom of Expression.	18
3. Financing of Political Organizations and Election Campaigns	20
4. Prevention of Corruption in Public Works and Public Procurement and Contracting	21
5. International Legal Cooperation; the Fight Against Bribery, International Corruption, Organized Crime, and Money Laundering; and Asset Recovery	23
Conclusions	24
Actions and Recommendations for Compliance with the Lima Agreement in Panama.	25
Final Thought:	27
References.	28
Annexes	30
Annex 1 Rating of the Lima Agreement in Panama	30

## Document Acronyms

CCO = Citizen Corruption Observatory

LACND = Latin American and Caribbean Network for Democracy

CFA = Citizen Forum of the Americas

CSPSA = Civil Society Participation in the Summit of the Americas

CSO = Civil Society Organizations

OAS = Organization of American States

NGO = Non-Governmental Organization

NPO = Non-Profit Organization

SDG = Sustainable Development Goals

DGPP = Directorate General for Public Procurement

MINSA = Ministry of Health (MINSA, by its Spanish initials)



## 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 of 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 agreements 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.

In this sense, the national report aims to present a summary of the results and conclusions of the follow-up on the progress and/or fulfillment in Panama of the commitments assumed in the 2018 Summit, prepared based on the Lima Agreement follow-up methodology document<sup>1</sup> and the review of information carried out by eight (8) civil society organizations. All information collected within the framework of the follow-up can be looked up on the CCO website<sup>2</sup>.

The follow-up on the Lima Agreement methodology allows civil society to assess the progress and/or compliance with the 19 commitments prioritized<sup>3</sup> by the CCO for follow-up on each of the countries participating in this observatory. The follow-up is based on the review of developments at both the normative<sup>4</sup> and practical levels made by national governments over the last two years in respect of the commitments made in the fight against corruption.

At the normative level, the current legislation was reviewed, based on 75 guiding questions regarding constitutional, legislative and jurisprudential developments. The analysis of practice 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 sustainability<sup>5</sup>.

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

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

<sup>3</sup> The 19 commitments were prioritized considering the possibility to perform comparative analyses in all CCO participating countries.

<sup>4</sup> The CCO developed a first balance sheet on regulatory indicators at the regional level. 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/>

<sup>5</sup> The methodological aspects of this follow-up will be presented in greater detail in the report.



## Participating Organizations

The Follow-up process begins with the preparation of a map of civil society organizations (CSOs) in Panama. Eighty (80) organizations (of all kinds) were identified that worked in one way or another on issues related to the 19 prioritized commitments to be qualified. The eighty (80) CSOs identified were invited by email to participate in the process. Fifty-two (52) of them replied to the invitation, expressing their interest in participating. All of the organizations in this group were invited to virtual information and training meetings, with thirty (30) of them attending the information and training sessions. Of these, eighteen (18) registered on the online platform.

The Working Group approached and followed up on all of them through emails, calls and WhatsApp messages, but in the end only eight (8) carried out the exercise on the platform. It is important to highlight the impact that the COVID-19<sup>6</sup> pandemic revealed, specifically that 81% stated that they did not have enough resources and 7 out of 10 of these organizations consider that COVID-19 has had and will have a high impact on their organization (69.5%) since more than half stated that they could stop operating due to lack of financial resources.

The survey showed that only 51% of CSOs offer services related to Human Rights issues, which generates a concern in relation to their management related to the service of CSOs and human rights, thus affecting access to resources, pedagogical dynamics and enforceability of the obligations that correspond to the State regarding respect for and protection and guarantee of human rights and that converge directly in actions of accountability and transparency in the management of public funds.

The organizations participating in the Observatory are as follows:



Fundación para el Desarrollo de la Libertad Ciudadana  
Capítulo Panameño de Transparencia Internacional

**Fundación para el Desarrollo de la Libertad Ciudadana – Transparency International Chapter in Panama<sup>7</sup>** is a non-profit civil society organization, founded in 1995, with a triple

mission: defending the fundamental freedoms of people; strengthening democracy through the promotion of transparency and the fight against corruption; and educating citizens on democratic citizen participation, as a counterweight to institutionalized political parties. The vision of the foundation: through citizen participation and advocacy on public opinion, we contribute to achieving a better democratic model, with transparent institutions, for the benefit of citizens. Since 1997, it is **Transparency International's Chapter in Panama** – Transparency International is the global movement whose vision is to achieve a world in which governments, companies, civil society and people's daily lives are free of corruption.

As the coordinating organization of the CCO Project of the Americas in Panama, it has organized and enabled key partnerships with co-executors CEASPA and ACPJ; organized and

<sup>6</sup> Survey of OSFL Panama-2020 CAPADESO-INDESA, p. 14.

<sup>7</sup> Organization website: <https://www.libertadciudadana.org/>



attended meetings with government actors to obtain timely information; representation of the project to private sector actors and civil society organizations; and administrative articulation of the project with regional partners and donors.



**Alianza Ciudadana Pro Justicia (ACPJ)**<sup>8</sup> is a non-profit organization, set up on July 11, 2000, which brings together important sectors of Panamanian civil society in the task of promoting the reform and improvement of the justice sector, carrying out permanent monitoring and analysis of justice administration problems. Its agenda is: (1) participate in civil society actions towards a constituent assembly; (2) disseminate information on the need for constitutional changes in the area of justice and democratic institutions; (3) support the activities of the Citizens' Action Assembly in favor of the constituent assembly; and (4) remain an active member of the State Commission for Justice.

Additionally, its agenda includes participating in the Inter-Institutional Commission for the Implementation of the Community Peace Justice Act, and in the Judicial Council as a representative of Civil Society, as well as promoting the use of complaints and hearing mechanisms before international organizations for the follow-up on the agreements of the State Pact for Justice. Finally, ACPJ monitors and pronounces itself on high-profile corruption cases and supports the actions of society in defense of human rights, transparency and institutionality in the country.

Within the process of the CCO as part of the research team, it collected all the information to draft the mapping of actors, policy and practice indicators, and prepared the Country Report. It actively participated in all the work meetings of the Country team and those held with the Regional team.



**Asociación Centro de Estudios y Acción Social Panameño (ACEASPA)**<sup>9</sup> is a non-profit organization created in 1977. Since its inception, it has aimed its actions towards the poor and excluded in Panama and the region, social justice and the participation of people in the construction of a better society. It has worked intensively in two fields: research-action and popular education. Its work seeks to raise citizen awareness regarding true participation, to improve and live fully within a democratic system. It follows three lines of action: Citizen Participation, Gender and Development, and Sustainable Development. At the CCO, it was responsible for monitoring activities with CSOs and working hand in hand with the National Coordination. It was responsible for organizing meetings and workshops. It supported CSOs in the correct use of the Platform and helped with the preparation of the Country Report.

<sup>8</sup> Organization website: <http://alianzaprojusticia.org.pa/>

<sup>9</sup> Organization website: <http://ceaspa.org.pa/>



**Centro de la Mujer Panameña (CEMP)<sup>10</sup>** is a non-profit non-governmental organization (NGO) legally constituted since 1990, which is made up of feminist leaders who promote the comprehensive development of women and youth, the creation of women's community groups for their empowerment

regarding gender and ethno-racial identity in order to generate businesses, cooperatives, environmental education, and other forms of participation, improve their income and improve their quality of life.

It keeps alliances with feminist and women's organizations such as CLADEM Panama and the National Coordination for Women's Organizations for Development, for the signing of Electoral Political Pacts with presidency candidates to position the demands of women in Panama, and it supports the election of women leaders in election campaigns.

It promotes actions for the empowerment of indigenous and Afro-descendant women in partnership with other organizations. It is part of the Network of Afro-Latin American, Afro-Caribbean, and Diaspora Women, the Central American Black Organization (CABO) and the Latin American and Caribbean Network for Democracy (LACND), from where it supports regional advocacy processes.

**Colegio Nacional de Investigación Criminal y Seguridad de Panamá (CNICSP)<sup>11</sup>** is a private



interest and non-profit organization (NPO). It is an entity comprising professionals and its nature is social, non-partisan, eminently unionist, technical, scientific and non-profit-oriented. It is regulated by Law 15 of February 20, 2018, which regulates the exercise of the profession of Criminal Investigation and Security in Panama.

The activities carried out by CNICSP are focused on promoting trade union progress, defending the free exercise of the profession and access to the work of CNICSP's professionals, among others.


Its mission: Colegio Nacional de Investigación Criminal y Seguridad de Panamá is committed to promoting trade union progress, fostering recognition of the profession, promoting ethical and moral principles, serving as a link between professionals, and promoting the registration of specialists in Criminal Investigation and Security. Its vision: CNICSP seeks to have professionals widely trained and specifically trained in Criminal Investigation and Security, who should be independent, capable and well-paid, as well as committed to democracy, the Rule of Law, the Administration of Justice and the correct and free exercise of the profession.

In the CCO, it actively participated in information and preparation meetings, and conducted a full assessment of the commitments on the Platform.

<sup>10</sup> Organization's Facebook site: <https://www.facebook.com/cemppanama/>

<sup>11</sup> Organization website: <https://www.cnics.org.pa/>



**espacio**  **cívico** **Fundación Espacio Cívico**<sup>12</sup> is a Panamanian non-profit organization focused on making a contribution to the strengthening of democracy, developing tools that facilitate access to information on parliamentary management, and promoting spaces for dialogue on issues of public interest. It is made up of an Advisory Committee that includes Fundación para el Desarrollo de la Libertad Ciudadana - Transparency International's Chapter in Panama (FDLC-TI Panama), Instituto Panameño de Estudios Cívicos (IPEC), Praxis Noticias, and Comisión Nacional Pro-Valores Cívicos y Morales.

They work along two lines of action:

- **Legislative observatory:** its tools facilitate access to information on the legislative and administrative management of deputies, promoting social control and promoting transparency and accountability. The observatory has managed to attract, in its first year, more than one hundred thousand visits.
- **Citizen participation:** it promotes spaces for dialogue aimed at enriching civic awareness in relation to current issues and public interest and provides training tools focused on the pillars of open government, namely democratic values, responsible digital activism, and leadership with integrity.



**Movimiento por la Defensa del Territorio y Ambiente de Bocas del Toro (MODETEAB)**<sup>13</sup>. This non-profit civic movement, set up in 2006, is located on the island of Bocas del Toro, in the northwest of the Panamanian Caribbean region.

It is a movement committed to human principles and values and citizen participation, which aims to recover the culture of indigenous communities, as well as to teach on the rights of indigenous peoples and land defense. MODETEAB's priority is to strengthen cultural traditions related to environmental and water protection, traditional agricultural practices, and coexistence with the land, and to ensure that these practices and customs of our indigenous peoples are preserved and consolidated.

In the CCO, it participated as one of the OCSs that completed the platform and rated the commitments. They were very active in the national meetings and workshops that were organized.

<sup>12</sup> Organization website: <https://espaciocivico.org/>

<sup>13</sup> Organization's Facebook site: <https://www.facebook.com/olinda.castrellon>



**Red de Mujeres Afro Panameñas (REMAP)**<sup>14</sup> is a non-governmental, non-profit organization that is made up of young and adult Afro-descendant women at the national level. It has been supporting women for 24 years in their efforts to empower themselves, through workshops, forums, conferences, and seminars. Its legal status is in process.

Its mission is to promote and empower Afro-descendant women through self-management and improvement of their quality of life and the defense of their ethnic-racial and gender rights, and its Vision is to contribute to the construction of a more just, equitable, democratic society, free of

racism and social exclusion.

REMAP has a volunteer group that provides support in the logistics of events. Most educational events, such as workshops, forums, conferences and seminars, as well as cultural programs are free for the Afro-descendant women's community, so that they have the opportunity to participate.

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<sup>14</sup> Organization's Facebook: <https://www.facebook.com/MujeresAfroPanama/>

## Context of Panama

Problems concerning public corruption in Panama have been escalating over the last 15 years, in particular in the last ten years, with huge corruption cases involving public infrastructure contracting (e.g., Odebrecht<sup>15</sup>, and FCC<sup>16</sup>, among others) and with large-scale deprofessionalization of public administration personnel, replacing key professionals with political actors. In addition, since March 2020, the government has been operating under a "State of Emergency" due to the pandemic., without regular pre- or post-accountability controls.

The drivers of corruption in the country are several: from a "society of transactional culture" (where exploiting any angle to gain an advantage is considered normal) to economic and social inequality, which is among the highest in the world (as indicated by a Gini coefficient of 49.8 in 2019<sup>17</sup>), added to the factor of a legacy of political clientelism that continues to shape the relations of citizens with the State, where one in five Panamanians admitted - in the 2019 Global Barometer survey<sup>18</sup> of direct experiences of corruption of citizens in Latin America - to having paid a bribe to obtain a basic service from the State, just as 79% of respondents felt that the government is doing a poor job in the fight against corruption. Weak institutional accountability, coupled with an ineffective Justice System, fosters corruption and leaves citizens with few resources to combat the scourge. Thus, the Rule of Law Index, World Justice Project<sup>19</sup>, ranks Panama 63rd out of 128 countries, with a score of 0.52 (scale ranging from 0 to 1, with 1 being the maximum adherence to the Rule of Law), and with an abysmal Criminal Justice performance index of 0.33 out of 1.

Since 2012, Panama has lost 3 points in the 2020 Global Corruption Perceptions Index<sup>20</sup>, published by Transparency International in January 2021, with a score of 35/100 and a rank of 111 out of 180 countries studied. The space of civil society to fight corruption has been shrinking. Also, in the evaluation of the capacity to fight corruption in the region, published by the Vance Center for International Justice in 2021, Panama ranked next to last with 3.97/10.<sup>21</sup> The evaluation found that "mechanisms for reporting acts of corruption in general are not accessible. There is no regulatory framework in Panama that considers the protection of whistleblowers against acts of intimidation or reprisals as a consequence of their complaints or testimonials."

Recommendations to combat public corruption include: promoting the institutional strengthening of anti-corruption agencies and public officials; including the allocation of adequate financial and human resources; staff training; using of technology and equipment;

<sup>15</sup> <https://www.laestrella.com.pa/nacional/210526/exministros-lobistas-politicos-juicio-caso>

<sup>16</sup> [https://elpais.com/economia/2019/10/30/actualidad/1572438853\\_383908.html](https://elpais.com/economia/2019/10/30/actualidad/1572438853_383908.html)

<sup>17</sup> <https://www.worldbank.org/en/country/panama/overview>

<sup>18</sup> [https://www.libertadciudadana.org/wp-content/uploads/2019/10/GCB\\_LAC\\_Report\\_ES-WEB.pdf](https://www.libertadciudadana.org/wp-content/uploads/2019/10/GCB_LAC_Report_ES-WEB.pdf)

<sup>19</sup> <https://worldjusticeproject.org/rule-of-law-index/country/2020/Panama/Fundamental%20Rights/>

<sup>20</sup> <https://www.transparency.org/en/cpi/2020/index/pan>

<sup>21</sup> <https://www.vancecenter.org/wp-content/uploads/2021/05/Latin-America-Anticorruption-Assessment-2020.pdf>



and supporting CSO efforts to prevent, detect and denounce corruption by promoting formal mechanisms for civil society participation in the design and implementation of anti-corruption public policies.

These measurements coincide with what was detected in the Shadow Report on the Implementation of SDG16 in Panama<sup>22</sup>, published by Transparency International's Chapter in Panama in June 2021, regarding access to justice and adherence to the rule of law. Additionally, the report highlights an endemic problem in the country, which is the lack of political will to implement laws and international commitments, when it states: "In recent years, Panama has approved some norms aimed at strengthening its legal framework to combat corruption and promote probity and transparency in public institutions. In particular, regulatory progress has been made, in part significant, in part half-hearted, in terms of prevention, punishment of arms trafficking, prevention of money laundering, as well as probity in public procurement and political campaigns, bearing in mind that the substantial challenges for the country lie in their implementation, which requires efficient institutions."

The impact of the ineffectiveness of Justice in all aspects of national life is highlighted by the United States Department of State in its Panama Human Rights Report 2020<sup>23</sup>, where it points out that corruption remained a serious problem in Panama in the Executive, Judicial and Legislative branches, as well as in security forces. It also states that, although the law establishes criminal sanctions for corruption involving officials, the government has not implemented the law effectively. In fact, according to the report, multiple cases involving high-profile officials, including former presidents and ministers, have been dismissed or are in danger of being dismissed due to technicalities that guarantee impunity. The report also addresses respect for civil liberties, including freedom of expression, and points out that "the constitution establishes freedom of expression, which includes freedom of the press. In general, the government respected this right, but journalists and media outlets noticed an increase in criminal and civil defamation lawsuits, which they considered a threat to freedom of expression and freedom of the press."

The COVID-19 pandemic has had a devastating effect not only on the health of the population, but on the country's economy, employment, and the social fabric itself. Most importantly, the government has lacked transparency in handling the relief programs undertaken, such as in the following cases:

- Purchase of health supplies and implements, which took place at higher costs than market prices<sup>24</sup>.
- Construction of a hospital to care for patients affected by COVID-19, which to date has not had a clear and detailed investment report<sup>25</sup>.

<sup>22</sup> [https://www.libertadciudadana.org/wp-content/uploads/2021/06/Informe\\_ODS16-Panama-2021.pdf](https://www.libertadciudadana.org/wp-content/uploads/2021/06/Informe_ODS16-Panama-2021.pdf)

<sup>23</sup> Panama 2020 Human Rights Report

<sup>24</sup> <https://www.prensa.com/sociedad/grupo-asesor-del-minsa-preocupado-por-compra-de-ventiladores-a-precios-excesivos/>

<sup>25</sup> <https://www.prensa.com/impresia/panorama/el-mp-investiga-el-hospital-modular-de-albrook/>

- "Panama Solidario" program, whose assistance bonds component has received important complaints, not only regarding the way the bonds have been distributed, but also because of their small number, as confirmed by a social audit by Justicia y Paz<sup>26</sup>. The other program component, the distribution of bags with food supplies, has not reached all the people requiring them. The political and proselytizing management evidenced in their distribution has been denounced.<sup>27</sup>

Another aspect regarding the pandemic, which is no less important, is the rigidity and authoritarianism of the administrative measures that limited free movement during 2020, even with gender restriction affecting vulnerable communities.

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<sup>26</sup> <https://www.juspaxpanama.org/post/informe-de-audioria-social-2020>

<sup>27</sup> <https://www.prensa.com/imprensa/panorama/las-anomalias-detectadas-en-el-plan-solidario/>



## Results for Panama

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," which established 57 commitments, in order for member states to implement concrete actions to build citizen's trust in institutions and reduce the negative impact of corruption on the effective enjoyment of human rights and sustainable development of the peoples in the American hemisphere.

To follow up on the implementation of the Lima Summit agreements, 19 of the 57 commitments were selected based on four criteria: (i) commitments that could be sustainable over time, (ii) commitments that have a greater possibility of institutionalization, (iii) that incorporate new approaches in anti-corruption actions, and (iv) that include the perspective of population in condition of vulnerability classified.

These 19 commitments are grouped 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 policy and practical developments which were rated on a scale<sup>28</sup> of 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.
- **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 2 shows the overall results obtained for Panama in the five topics in which the commitments are classified:

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<sup>28</sup> Rated on a scale from 0 to 3: 0 = no records, 1 = low, 2 = medium, and 3 = high

Graph 2<sup>29</sup>. Results by Lima Agreement topic



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

- The results in general terms show that Panama has not effectively complied with the commitments established at the Lima Summit, as evidenced by the rating of each of the commitments.
- As can be seen in the graph, the results of this follow-up show that there is no public mechanism for monitoring the fulfillment of the commitments assumed by the country. When we say that there is no public monitoring mechanism for the Lima Summit, it refers to the absence of a methodology and sustainability that may, within our country, empower civil society to evaluate these commitments. On the other hand, there are also shortcomings in identifying the people responsible, from the Executive Power, in assuming that duty to be in compliance with the commitments. Within the Ministry of Foreign Affairs, the Directorate of International Organizations and Conferences is responsible for contact and formal dialogue with the Summits mechanism, but not for compliance or monitoring by the various entities whose scopes are addressed by the commitments.
- The results regarding the commitment to reinforce democratic governance are alarming. This was the commitment rated lowest by the social organizations that participated in the Observatory. The current health crisis has highlighted the weakness and need for prioritization in our main public services: the health, education, and justice

<sup>29</sup> In this context, CCO Ecuador wishes to thank Elizabeth Ernst, Agustín Acosta and Xavier Andrade for the contributions provided in the interviews.

services. The current cases of bribery, cases of corruption in the vaccination process, political favoritism in the distribution of food bags or digital vouchers of the State as social aid in times of pandemic, the interference of the Executive Branch in judicial processes, the inequality in Panamanian education, absence of protocols to provide non-face-to-face and virtual education for students aged 0 to 17, and the increase of crime in our country are some of the factors that make up the social context that have become worse and more evident in our society and that directly affect the rating of this commitment.<sup>30</sup>

- Although the corruption prevention topic achieved the best rating, it does not achieve an average index on the scale proposed by the methodology. Therefore, this and all other indicators should be promoted with greater emphasis to raise these indices to acceptable levels.
- As it is not possible to identify a national mechanism that officially follows up on the commitments made at the Lima Summit, it becomes difficult, if not impossible, to be able to identify the existing obstacles or difficulties such as to improve the indicators of compliance with these agreements.

It is urgent to define the body that will systematically coordinate, both nationwide and locally, the handling of the process to comply with the commitments. Such coordinating body must be endowed with sufficient authority to assist the various government entities that have to incorporate these commitments into their government plans and programs.

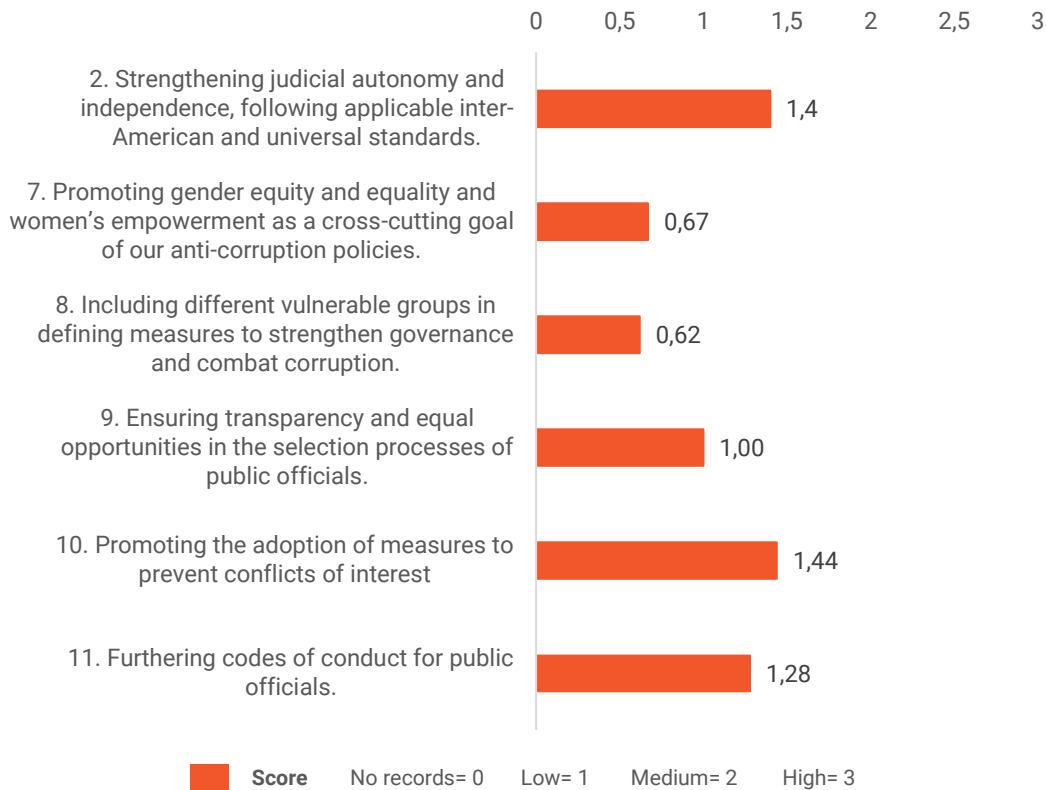
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<sup>30</sup> <https://asamblea.gob.pa/noticias/copeme-rinde-informe-sobre-desercion-escolar-en-la-pandemia>



## 1. Reinforcement of Democratic Governance

Graph 3. Result of Commitments Related to Reinforcement of Democratic Governance



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

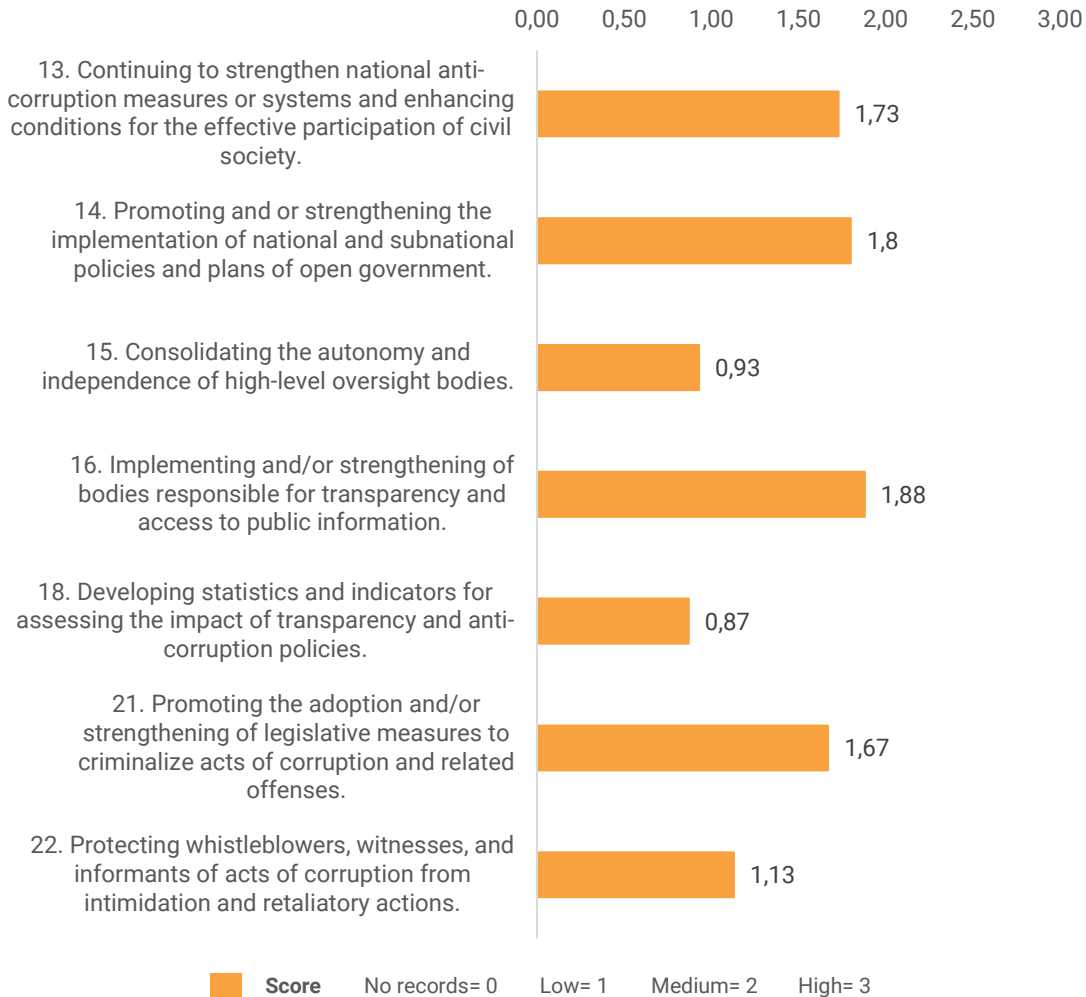
- From the point of view of the organizations that participated in this process, in Commitment 2, which refers to strengthening judicial autonomy and independence, little progress has been made, so the Administration of Justice acts with total autonomy and independence (1.4/3.0). For participating organizations, the Panamanian judicial system lacks true judicial independence. There are many scandals that point to acts of corruption. There are also denunciations by officials in high positions, including prosecutors and magistrates, who have informed the media about situations that question the autonomy that should exist in a Social State of Democratic Law, where there should not be any interference or pressure from other organs of the Platform or powerful sectors. This suggests that there is constant meddling by other entities of power in justice matters. The groups agree that a determining factor in guaranteeing the independence and autonomy of this important component of the Social Rule of Law is to provide it with financial autonomy, complying with the first paragraph of Article 214 of the Constitution, which establishes a special prerogative, both in relation to the Supreme Court and to the Public Prosecutor's Office, in the sense that it is they who prepare its budget and send it to be included in the General State Budget.

The partial implementation of Law 53 of 2015 on the Judicial Career, which had not been implemented due to lack of budget, stands out as positive until last year when the public selection processes for the Court of Integrity and Transparency were started. To date, most justice officials hold temporary positions because neither open selection processes nor promotions have been implemented yet in accordance with the law. In the Accusatory Criminal System, which was implemented throughout the country on September 2, 2016, to date officials hold temporary positions, which seriously compromises judicial independence. Only 20.5% of the total of 4,272 judicial officials are judicial Career Officials. According to the participating organizations, nepotism and influence peddling still exist in Panama in the hiring of public servants.

- Commitments 7 and 8, which refer to promoting public policies on issues of gender equality and equity, as well as inclusion in the different groups in situations of vulnerability, and promoting anti-corruption measures are topics for which no evidence was found, so they have not been considered within the anti-corruption actions.
- Commitment 10 has been the highest-rated by organizations. This refers to promoting the adoption of measures that prevent conflicts of interest and the worst rated is the one concerning the inclusion of the various groups in a situation of vulnerability in anti-corruption measures (1.44/3.0). The latter is of relevance in the processes of inclusion and sectoral integration in public anti-corruption policies. In Panama, public policies, in response to anti-corruption issues, have not been rated in these sectoral contexts or vulnerable groups. These are policies that have been built on the basis of the transparency of public management in general and with an absence of their transversal impact broken down by group in a situation of vulnerability.
- Commitments 7 and 8, which refer to promoting public policies on issues of gender equality and equity, as well as inclusion in the different groups in situations of vulnerability, and promoting anti-corruption measures are topics for which no evidence was found, so they have not been considered within the anti-corruption actions.

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

**Graph 4. Result of Commitments Related to Transparency, Access to Information, Protection of Whistleblowers and Human Rights, including Freedom of Expression.**



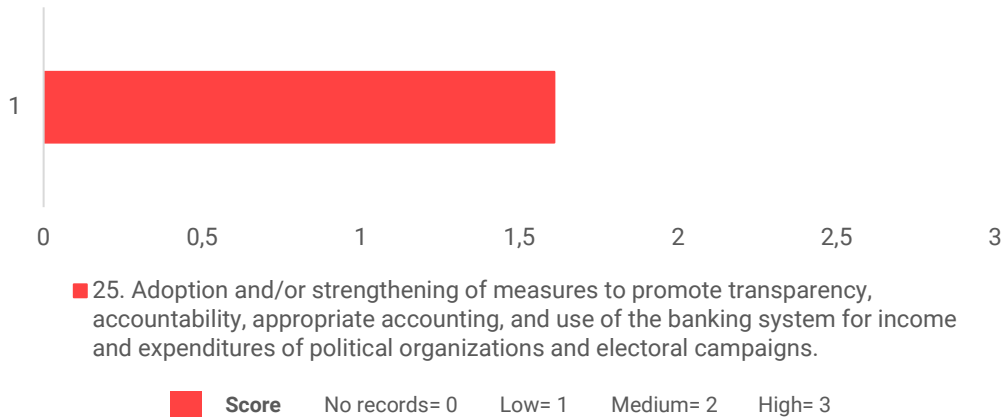
Prepared by author on the basis of information provided by CSOs participating in the CCO Platform.

- The organizations that have participated in this follow-up have rated commitment 16 highest. This commitment refers to "Strengthening the instruments of transparency and access to public information" (1.88/3.0). This is because they all consider it positive that the Intelligent Platform and Line 311 have been improved to facilitate complaints against possible acts of corruption and request access to information. For organizations, the National Authority for Transparency and Access to Information (NATAI) has carried out constant monitoring of government institutions, ensuring that they adjust so as to duly comply with the Law on Transparency and Access to Public Information, Law 6 of 2002.

- A significant step forward (1.73), is the design of an intelligent platform that allows citizens to access information and, likewise, to file complaints with the National Authority for Transparency and Access to Information, when their right to information is violated or limited, as set forth in Commitment No. 13, in relation to access to information, as well as to the filing of corruption complaints with administrative authorities and judicial authorities. The Public Prosecutor's Office is the body in charge, by constitutional mandate, of investigating possible crimes in general and in particular crimes of corruption. It should be highlighted, with regard to the Public Prosecutor's Office, that the Anti-Corruption Prosecutor's Offices, which handle the investigations of corruption crimes, have been professionalized and have been staffed with specialized teams to carry out this increasingly complex task.
- Rules, both criminal and procedural, have been modified to provide the Public Prosecutor's Office with the legal tools to help respond to the challenges of the new criminal forms of corruption, which are transnational in nature, use complex mechanisms of public limited companies that hide the final beneficiaries, and take advantage of a banking system that is not efficient when it comes to tracking the circulation of embezzled money coming from acts of corruption.
- On the other hand, Commitment 18 (0.87) on the production of statistics for the evaluation of transparency policies has been rated lower. The institutions handle statistical data on transparency and the fight against corruption, but this data or the databases containing all that information are not properly evaluated in terms of the impact they have or do not have on transparency and anti-corruption policies. So, in this sense, the possibility of promoting the strengthening of state capacities through statistical data on the matter is at a standstill. Participating organizations mention that on the websites of the Office of the Comptroller General of the Republic, "Other Links" section, "National Directorate of Complaint and Citizen Participation" subsection, as of 2017 it is possible to look up statistics on the complaints dealt with; on the website of the Court of Auditors, there are statistics that allow citizens to know the number of precautionary measures that have been taken, the resolutions of reparation and the impacts on the National Treasury, among others; Investigations and the Public Prosecutor's Office forward all the information to the Ministry of Security, which collects the data from the National Integrated System of Criminal Statistics (ISCS). Additionally, the website of the National Authority for Transparency and Access to Information (NATAI), "Transparency" section, "Reports" subsection, allows citizens to review and download reports on the impact of the transparency and anti-corruption policies.

### 3. Financing of Political Organizations and Election Campaigns

Graph 5. Result of Commitments Related to Financing of Political Organizations and Election Campaigns.



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

- The rating made by organizations that participated in this exercise shows that, on the topic of financing of political organizations and election campaigns, progress has been made in the implementation of greater transparency in public and private financing, both for political organizations and election campaigns.

The Election Tribunal has strengthened the mechanisms for oversight and accountability by political organizations that receive financing, both for the operation, training of these political organizations, and for election campaigns. The Election Code is completely modified at the end of the general election process in order to correct failures detected during the election process.

It is also noteworthy that Panama has established the obligation to keep a single account in a state bank in order to manage the funds granted for public and private financing of parties and campaigns. An Audit Directorate has been set up within the Election Tribunal, whose functions include assessing the revenues and disbursements of both political parties and independent candidates.<sup>31</sup>

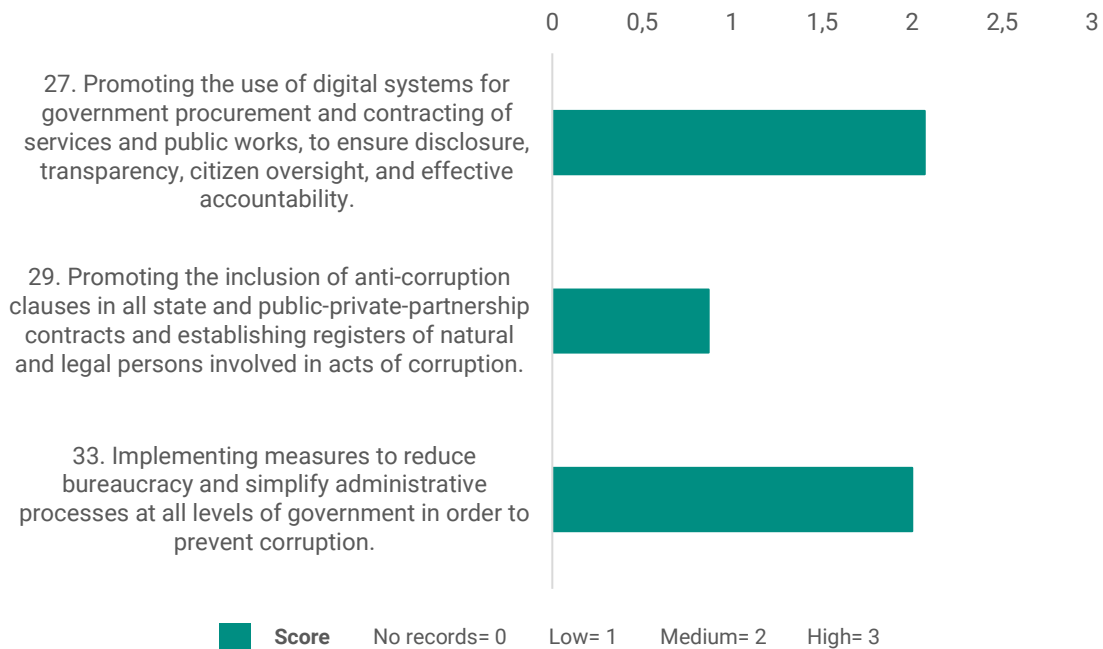
- The score obtained is below the average rating since, despite some regulations and controls, private election campaign donations of dubious origin continue, as has been revealed in bribery investigations that are being carried out, but have not yet achieved a judicial definition.<sup>32</sup> Nevertheless, for some of the participating organizations, there has been significant progress with the creation of the Audit Directorate through Decree 2 dated January 8, 2018, whose functions include the assessment of the revenues and disbursements by political parties, their candidates and independent candidates.

<sup>31</sup> <https://www.tribunal-electoral.gob.pa/financiamiento-politico/informacion/>

<sup>32</sup> <https://www.laestrella.com.pa/nacional/politica/201114/limitan-donantes-campanas-politicas>

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

Graph 6. Results of Commitments Related to Prevention of Corruption in Public Works and Public Procurement and Contracting



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

- Commitment 27 obtained the highest rating (2.07/3.0) since Panama has an electronic platform called “[www.panamacompra.gob.pa](http://www.panamacompra.gob.pa)”<sup>33</sup> that is mandatory for all public or private institutions that execute public funds, when contracting services for the State. Although the information uploaded to the platform is publicly accessible, the information is not easy to use and interpret by all citizens.

Participating organizations have agreed that the last reform to the current Law on Public Procurement (Law 153 dated May 8, 2020, which reformed the Single Text of Law 22 of June 27, 2006, which regulates public procurement and establishes other provisions<sup>34</sup>) was positive but insufficient to close the door to corruption (direct contracting, exceptions). The organizations also requested that companies that are investigated or sanctioned in other countries should be submitted to certain conditions before allowing them to contract with the Panamanian State.

- Commitment 29, which refers to the inclusion of anti-corruption clauses in all State agreements, was the lowest rated (0.87/3.0). This rating is because these clauses

<sup>33</sup> Website: <https://www.panamacompra.gob.pa/Inicio/#/>

<sup>34</sup> <https://www.dgcp.gob.pa/sala-de-prensa/1205-8-9-2017-implementacion-de-la-ley-153-de-2020-que-regula-las-contrataciones-publica>

have not been implemented in Panama. Panama's current Public Procurement Law, mentioned above, does not establish any obligation to include this clause in the main body of the public contract, hence its rating by CSOs on the rating scale of this commitment. It establishes an intermediate formula in Integrity Pacts since it requires that, in each tender, it should be mandatory for contracting parties and must include subcontractors. DGPP has already issued a model of this type of Integrity Pacts<sup>35</sup> whose breaches include two consequences: the non-awarding of the tender and the administrative resolution of the agreement, without including specific sanctions. This new Panamanian Law of Public Procurement establishes the conditions that companies must meet to be suppliers or service providers with the State. The main reforms and additions in this new law, in relation to this point, include the following:

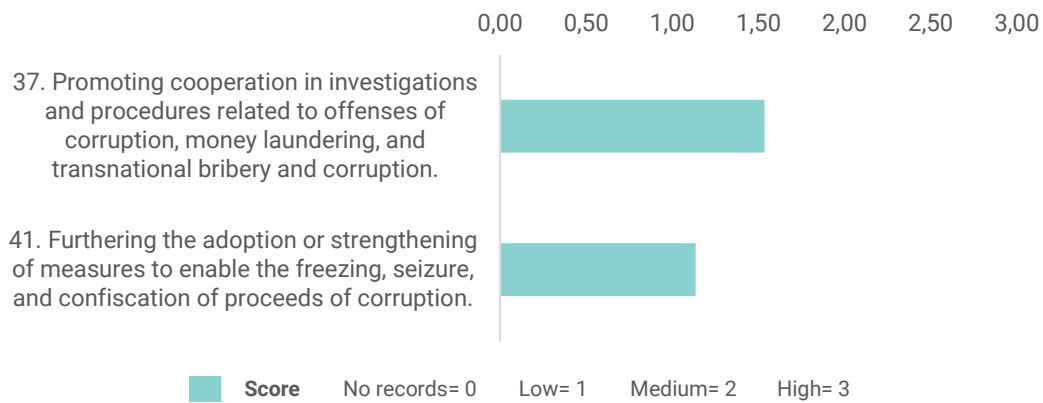
- **Disqualification for contracting with the State when participating in an act of corruption.** Companies and individuals who have been convicted of crimes against the Public Administration by a national or foreign court will be temporarily disqualified.
- **It is established that, in public acts that do not exceed \$5,000,000.00, only national companies may participate, except for limitations established in international treaties.**
- **The Law obliges the Directorate General for Public Procurement (DGPP) to develop a Code of Ethics applicable to all persons who participate in contracting processes** with the State. It must also develop an anti-corruption manual and an integrity pact to be signed by all bidders participating in public events. Additionally, "the Observatory of Public Procurement" is created. It should be pointed out that this observatory has been digitally active since June 2021 on the website <https://www.panamacompraencifras.gob.pa/#/> . It allows citizens to look up the total number of contracting companies, purchasing officials and suppliers, the total number of public events that are fruitless (unsuccessful), canceled, awarded, authorized, and published between 2008 and 2021.
- **The use of standardized forms prepared by the Directorate General for Public Procurement is mandatory, while** all documentation available in public offices and which can be validated electronically is no longer required.
- **The promotion of socially responsible, sustainable, and viable purchases is established.** The Directorate General for Public Procurement has the mission to establish sustainability, energy efficiency and innovation criteria, as well as social and ethical aspects criteria in procurement procedures for all public entities.

35

[https://www.panamacompra.gob.pa/Documentos/doc%20estandares%202.0/Formato%20PRL-0201%20-%20Pacto%20de%20Integridad%20V%201.0%20\(Final\).docx](https://www.panamacompra.gob.pa/Documentos/doc%20estandares%202.0/Formato%20PRL-0201%20-%20Pacto%20de%20Integridad%20V%201.0%20(Final).docx)

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

**Graph 7. Result of Commitments Related to International Legal Cooperation; the Fight Against Bribery, International Corruption, Organized Crime, and Money Laundering; and Asset Recovery.**



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

- Concerning International Legal Cooperation; the Fight Against Bribery, International Corruption, Organized Crime, and Money Laundering; and Asset Recovery, the country is a signatory to multiple treaties, conventions, and agreements, both multilateral and bilateral, that establish the obligation of the exchange of information relevant to the investigations of these types of crimes or for asset recovery processes. However, the collaboration process is not always effective and timely since there is no procedural homogeneity in the different countries and this collaboration will always be determined or dependent on the internal structure and the bureaucracy of each country. It is urgent to define and adopt a uniform protocol to facilitate the effectiveness of this international cooperation, in order to overcome the possible barriers caused by a lack of procedural uniformity.
- The results of the commitment lowest rated by CSOs in this follow-up are interesting. This is, first, because Panama does not have a law or legal norm that legalizes the instrument of forfeiture, and second, forfeiture is an instrument that most citizens do not understand and they ignore how this instrument can help in the fight against organized crime. Therefore, it is necessary for Panama to be on a par with the countries of the region, such as El Salvador and Honduras, to combat organized crime in a systemic way, including this judicial instrument in the national legal system. Also, Panama should establish citizen education mechanisms on illicit ownership and on how to denounce it to initiate an informal investigation without affecting fundamental rights. Recently, the Executive, through the Minister of Security, presented Bill No. 625 of 2021 to the National Assembly <sup>36</sup> to regulate the forfeiture of assets obtained as a product of illicit activity or used mainly for criminal activities, i.e., money laundering.

<sup>36</sup> [https://www.asamblea.gob.pa/APPS/SEG\\_LEGIS/PDF\\_SEG/PDF\\_SEG\\_2020/PDF\\_SEG\\_2021/2021\\_P\\_625.pdf](https://www.asamblea.gob.pa/APPS/SEG_LEGIS/PDF_SEG/PDF_SEG_2020/PDF_SEG_2021/2021_P_625.pdf)



## Conclusions

It was not an easy task to bring civil society organizations into the process of monitoring the prioritized commitments. Despite exhaustive mapping and an invitation process, the expected number of participating organizations was not achieved, which is why the contributions of those who participated, which are here presented, is even more valuable.

As we set out in the section on the context of Panama, the CSO sector has been severely hit by the pandemic in terms of material and human resources. It is also evident that social organizations do not feel addressed by the space that resulted from the Summits of the Americas, so they do not feel a real motivation to participate in the Citizen Corruption Observatory of the Americas.

Secondly, it is important to point out that national authorities do not have a permanent structure to follow up on the fulfilment of the commitments, nor has an intergovernmental coordination mechanism been defined to permanently and systematically promote the fulfillment of the commitments by each of the bodies that is responsible for their execution.

The commitments prioritized for the follow-up on the Lima Agreement took on a special significance during the pandemic, precisely because they would have required each country to define the fight against corruption as a State Policy to prevent opportunism and the resurgence of corruption – an ever-present scourge in the Americas. States of emergency and non-existent or simplified controls have resulted in abuses in the administration of resources and authoritarianism in security sectors.

Modern democracies had taken important steps in promoting the active participation of citizens, but the pandemic has generated a setback, and a decrease in the spaces for citizen participation. This is all the more a reason why, in these times of change, international structures and spaces should go beyond the vision of giving governments the exclusive responsibility of being a valid dialogue partner. It is important that spaces, such as the "Summit of the Americas," review their structure and open it to a greater integration of the social organizations of the different countries, so the new paradigms to give spaces such as the summit meetings sustainability and effectiveness can be taught by example, especially in the context of the setbacks that the COVID-19 Pandemic has meant for the region.

The signing of the Lima Agreement has acted for the countries of the Americas as a thermometer to measure and know where we are and where we should go, at the national and regional level, for the implementation of sustainable, efficient, participatory and inclusive public policies in anti-corruption matters. It has also allowed to be hand in hand with the Citizen Corruption Observatory that has given voice and connection to civil society organizations in the exercise of public power which, in the Panamanian case, is enshrined in Article 2 of the Political Constitution.

Finally, it is necessary to create campaigns aimed at the next generations to teach them the importance of transparency and the fight against corruption in any instance. We must make

changes in attitudes and awareness in the face of the corruption our politicians have wanted to get us used to for decades.

### Actions and Recommendations for Compliance with the Lima Agreement in Panama.

Topic 1. Reinforcement of Democratic Governance
<b>Recommendations</b>
It is urgent that the independence and real separation of the three organs of the State (Executive, Legislative and Judicial) be guaranteed, in such a way that they really balance each other in the exercise of power and control the possible abuses of power by one of the organs to the detriment of the others.
The Executive and Legislative organs are political spaces that are established from electoral processes in an exhausted system that has hijacked democracy in the hands of political parties. At this time, as work is being done on electoral reforms, non-partisan participation in elections must be strengthened, so other social forces have access to govern through these two organs of the State.
The administration of justice must be strengthened institutionally through the implementation of the new Judicial Career Law, which establishes the incorporation of judicial officials based on meritocracy. However, financial independence must also be guaranteed in such a way that the judicial system is not subject to the will of the political or economic class.

Topic 2. Transparency, Access to Information, Protection of Whistleblowers and Human Rights, including Freedom of Expression
<b>Recommendations</b>
Information must be sufficiently clear and easy to use by citizens, so that institutions and officials who are held accountable for management can be followed up and the reports are adequately formulated.
Strengthening the national system for the protection of human rights, including those of a jurisdictional nature, so - through the activation of legal protection mechanisms - there are urgent and immediate protection responses from courts, but also including those of a non-jurisdictional nature, such as the Ombudsman's Office, which should be an entity as far away from political control as possible.
Establishing an alliance of both the Ombudsman's Office and the National Authority for Transparency and Access to Information with social organizations that work on these issues, in such a way as to give these institutions the necessary legitimacy.

Topic 3. Financing of Political Organizations and Election Campaigns
<b>Recommendations</b>
In the electoral reforms that are being developed, private financing of all political activity must be reduced as much as possible, both in terms of political organizations and in electoral campaigns. Understanding that all political activity is of a public nature and its purpose is the search of the Common Good and guarantee the public interest,

### Topic 3. Financing of Political Organizations and Election Campaigns

it must be avoided that economic interests take over the public mission of the exercise of power and that the public service become an instrument of economic power to gain better conditions and preferential treatment for economic actors.

Election campaigns must be regulated in such a way as to allow spaces to educate voters to vote responsibly and based on impartial information, supporting candidates who demonstrate greater commitment to democratic values and respect for human rights.

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

#### Recommendations

It is urgent that a risk analysis be prepared with the broad participation of social organizations that can alert those responsible for public procurement of any danger that could be present when contracting with companies that are a risk to public interests.

Public procurement should prohibit the participation of companies that are or have been involved in acts of corruption both nationally and internationally.

It is necessary that the anti-corruption clause be included in any public procurement process, so the State can penalize those responsible more quickly or invoke the termination of the contract without having to assume civil liability.

All public procurement must be inspired by social welfare and the public interest; therefore, there cannot be contracts that violate the social interest, which must always prevail over the private interest.

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

#### Recommendations

Panama is a party to all multilateral and bilateral treaties and conventions that regulate international legal cooperation mechanisms to combat organized crime, bribery crimes, bribery, as well as asset recovery. However, it has not established the national mechanisms that make such cooperation effective.

Financial support is required, so both the Public Prosecutor's Office that must investigate and the courts that must judge these acts have a strong structure, based on professionals competent and trained to respond to the needs both to provide rapid and efficient cooperation, and when required, this technical and specialized team should know what cooperation it should request, who to address and how to make such a request.

Prompt adoption of appropriate legislation for the effective recovery of assets resulting from unlawful acts.

## Final Thought:

The monitoring shows the reality of a Panama whose government is in debt with the development of pro transparency and anti-corruption public policies with defined objectives, resources and within a realistic timeframe on the one hand, and a population that requires more information and articulation to be a protagonist in demanding and participating in these anti-corruption policies on the other.

There is an urgent need for a sustainable and permanent socialization process in Panamanian society on the importance of complying with the Commitments of the Lima Summit and to restore the confidence of citizens in the democratic model through their power to influence the development, monitoring and reform of public policies, mechanisms and laws aimed at preventing and fighting corruption.

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## Annexes

### Annex 1 Rating of the Lima Agreement in Panama

**Table 1. Follow-up Criteria for Commitments related to 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.	2	1.2	1	1.4
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.	0.67	0.67	0.67	0.67
8. Including different vulnerable groups in defining measures to strengthen governance and combat corruption, recognizing their serious impact on these populations.	0.57	0.71	0.57	0.62
9. Ensuring transparency and equal opportunities in the selection processes of public officials, based on objective criteria, such as merit, equity, and aptitude.	1	1.22	0.78	1
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.	1.5	1.5	1.33	1.44
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.	1.67	1.17	1	1.28

**Table 2. Follow-up Criteria for 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	2.2	1.4	1.6	1.73

possible acts of corruption and facilitating the work of watchdogs, including other citizen oversight mechanisms, and incentivizing the adoption of digital means of participation.				
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.	1.8	1.8	1.8	1.8
15. Consolidating the autonomy and independence of high-level oversight bodies.	1.2	0.8	0.8	0.93
16. Implementing and/or strengthening of bodies responsible for transparency and access to public information, based on applicable international best practices.	2	1.88	1.75	1.88
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.	1	0.6	1	0.87
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).	2	1.4	1.6	1.67
22. Protecting whistleblowers, witnesses, and informants of acts of corruption from intimidation and retaliatory actions.	1.4	0.8	1.2	1.13

**Table 3. Follow-up Criteria for Commitments related to Financing of Political Organizations and Election Campaigns.**

Commitment	Effectiveness	Relevance	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.	1.67	1.5	1.67	1.61

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

Commitment	Effectiveness	Relevance	Sustainability	Country Average
27. Promoting the use of digital systems for government procurement and contracting of services and public	2.2	2.2	1.8	2.07



works, to ensure disclosure, transparency, citizen oversight, and effective accountability.				
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.	0.8	1	0.8	0.87
33. Implementing measures to reduce bureaucracy and simplify administrative processes at all levels of government in order to prevent corruption.	2.2	2	1.8	2

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

Commitment	Effectiveness	Relevance	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 crimes of corruption, money laundering, and transnational bribery and corruption.	1.6	1.4	1.6	1.53
41. Furthering the adoption or strengthening of measures through relevant institutions to enable the prejudgment attachment, seizure, and confiscation of proceeds of corruption.	1	1.2	1.2	1.13