



COLOMBIA REPORT

Follow-up on the Lima Agreement. Citizen Corruption Observatory.



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Acronyms used in the Document

DANE= National Administrative Department for Statistics
 FCA = Citizen Forum of the Americas
 CCO = Citizen Corruption Observatory
 SGG = Sustainable Development Goals
 OAS = Organization of American States
 NGO= Non-Governmental Organization
 CSO = Civil Society Organizations
 PASCA = Civil Society Participation in the Summit of the Americas
 Redlad= Latin American and Caribbean Network for Democracy
 SECOP= Electronic Public Procurement System
 SIGEP= Public Employment Information and Management System



Introduction

The main purpose of the project titled “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 to the implementation of the Project titled: “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 regard, the national report is intended to present a summary of the results and conclusions on the follow-up of the progress and/or compliance in Colombia with the commitments made at the 2018 Summit, based on the follow-up methodology document for the Lima Agreement¹ and on the information review carried out by 10 Colombian civil society organizations. All the information collected during 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 in respect of the commitments made in the fight against corruption.

At the normative level, current regulations were 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

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

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

³ The 19 commitments were prioritized considering the possibility of performing a compared analysis in all CCO participating countries.

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/>



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.

Participating Organizations

Seeking a diverse participation from civil society, the following 10 Colombian civil society organizations actively participated in the follow-up on the Lima Agreement:



Transparencia por Colombia⁶, a civil society organization with over 22 years of experience in the fight against corruption and local branch of Transparency International, has led civil society in the fight against corruption and the promotion of transparency, both in the public and private sectors, to foster active citizenship, strengthen institutions and consolidate democracy.



Ocasá⁷, focal point of the Citizen Forum of the Americas in Colombia. As a non-profit, non-partisan civil society organization, founded and made up of young people, Ocasá works for a transparent democracy and active citizenship. As part of the cross-cutting work done in the fight against corruption, the Ocasá Corporation is part of the UNCAC Coalition as a global network of civil society organizations committed to implementation and monitoring of the United Nations Convention against Corruption.



Transparencia en el Deporte⁸, an organization that is a member of the anti-corruption node based in Medellín. It is an organization outside the sports system, professional, civil and independent, which is responsible for facilitating education and compliance mechanisms for public and private actors in the sports system in Colombia and the region. This year, with participation in the Citizen Corruption Observatory, it is expected to positively influence the authorities to adopt better governance practices in the sports system, with the support of external, professional, civil and independent agents.

⁵ The methodological aspects of this monitoring will be presented in further detail later in the report.

⁶ Organization's website: <https://transparenciacolombia.org.co/>

⁷ Organization's website: <https://ocasa.org.co/>

⁸ Visit the Organization's website: <http://transparenciaeneldeporte.com/>



Asociación de Becarios de Casanare ABC⁹, An NGO with 14 years of experience, which promotes governance and conservation of the territories in the department of Casanare through three strategic areas:

i) Environmental Preservation and Sovereignty, where we conduct socio-environmental research processes, ii) Communication for Development, through which we create communication experiences to appropriate knowledge, document experiences, train communicators, and promote exchanges focused on territorial preservation and governance, iii) Education for Governance, the exchange of knowledge and cultures, and social and political participation so that the actors can revalue the territory.



Extitudo de Política Abierta¹⁰, an organization that works to strengthen social, political and collective leadership in political innovation practices that influence, occupy and inhabit decision-

making spaces, based on the pillars of Open Government, to achieve more open politics and a more solid democracy that redistributes power and is closer to citizens. Extitudo believes it is essential to strengthen institutions and co-create with these solutions that allow them to be more open, more transparent, closer to citizens and more inclusive, for this reason tools and technologies for political and democratic innovation are designed.



Funcicar¹¹, an independent, non-partisan citizen initiative that has been working for 28 years towards a democratic culture in Cartagena and the Colombian Caribbean. It influences by promoting a participatory citizenship, monitoring the performance of political actors and performing citizen oversight of public investment through its program Vigila Cartagena. Since

2018, it has protected \$3.7 billion pesos thanks to procurement and execution monitoring, preventive warnings, recommendations, complaints and public mobilization. Their work is echoed in the Administration, Control Bodies, media and city leaders recognize them as a major source of information for decision making.

⁹ Visit the Organization's website: <https://abccolombia.org/>

¹⁰ Visit the Organization's website: <https://www.extitudo.org/>

¹¹ Visit the Organization's website: <http://www.funcicar.org/>





Red Universitaria Anticorrupción (RedUva)¹², an independent foundation of young people, which sees the need to urgently combat the scourge of corruption that plagues the country, and to this end it is working on two fundamental objectives: (i) to educate the Colombian population in principles and values to create a culture of transparency, appreciation for the public sector and social duty to the country, and (ii) to raise awareness of both acts of corruption and good practices so that citizens become aware of the

current situation of the country, regain confidence in the institutions and be motivated to fight corruption, objectives that we achieve through our three lines of action: Communications, Social Transformation and Research.



Corporación REGIÓN para el Desarrollo y la Democracia¹³, a Colombian civil society organization created in January 1990 to contribute to the construction of a just, democratic and peaceful society through the promotion of human rights, the strengthening

of citizenship, gender equity and the defense of the public sphere. It is based in Medellín and works in different territories of the department of Antioquia and the country. It is involved in projects that seek to identify risks and alleged modes of corruption in Medellín in the fields of health and education and present an educational strategy for their prevention.



Diálogo Democrático¹⁴, an organization that promotes the “Sembrar la Palabra en el Corazón” reading promotion and encouragement project with the support of the Ministry of

Culture's national cultural cooperation program. Launched a democratic leadership school for youth leaders in Quindío. Supports educational workshops in public spaces as a way of supporting young people from Quindío who are on national strike, on issues related to the meaning of democracy, human rights and the political constitution of Colombia. Similarly, talks and workshops are held to raise awareness among citizens about the effects on the territory caused by economic extractive projects.



Corporación Desarrollo y Paz De Córdoba y Urabá-Darién, CORDUPAZ¹⁵, a civil society organization, founded in 2010, to contribute to the establishment of peace in Córdoba, the regions of Urabá, Antioquia and Darién, Chocó, promoting the value of life, facilitating capacities for dialogue between different actors,

participation and public advocacy, and promoting the achievement of consensus integrating shared visions of territory, which also allow for conflict transformation at the local, regional and national levels.

¹² Visit the Organization's website: <https://reduva.org/>

¹³ Visit the Organization's website: <https://www.region.org.co/>

¹⁴ Visit the Organization's website: <http://www.rendircuentas.org/>

¹⁵ Visit the Organization's website: <https://www.pdpcordobayuraba.org/>



Context of Colombia

Fight against corruption in the midst of the situation created by the pandemic and citizen mobilization.

For 2020, Colombia ranked 92 out of 180 in the Corruption Perceptions Index -CPI-, with a score of 39 out of 100. This index measures the levels at which corruption is perceived in the public sector and the score obtained by Colombia points to a stagnation because, since 2012, the country has fluctuated between 36 and 39 points.

This stagnation is partially attributable to the fact that, while there is a broad policy framework that addresses issues such as the promotion of integrity in the public service, transparency and access to public information and accountability of campaign financing, the country has a high level of corruption in the public sector¹⁶; gaps still remain in the regulation and implementation of these policies, as well as situations of social and political context that hinder their practical application.

The current situation in Colombia has been marked by the Covid 19 pandemic, which has led to deepening inequality in the country¹⁷, while also challenging the system of checks and balances of the democratic system. An example of this is the marked concentration of power in the hands of the executive, the decrease in checks on public procurement of resources earmarked for pandemic response, and the deterioration in the independence of oversight institutions and bodies, as highlighted in the reports by Transparencia Salva Vidas (2020).

The combination of social discontent, the lack of confidence in the institutional framework, and the economic crisis aggravated by the isolation measures were factors that between 2020 and 2021 contributed to the recent social outbreak¹⁸ which revisited the grievances reflected in previous demonstrations such as the 2017 teachers' strike¹⁹, the 2018 university strike²⁰ and the 2019 national strike.²¹ Within the framework of this mobilization, the need to move forward on measures for accountability and access to public information on situations that constitute human rights violations, the review of the balance of powers and independence of control and investigation bodies, the protection of groups in vulnerable conditions in a context

¹⁶ See Inter-American Commission on Human Rights (2019), Regional Alliance for Free Expression and Information (2020) and the first balance of the Citizen Corruption Observatory "Regulatory Indicators" (2021).

¹⁷ According to DANE, the inequality measure for 2021 is 0.54, the highest since 2012.

¹⁸ Since April 28, 2021, a series of demonstrations began throughout the country. Protests against the introduction of a tax reform bill and the increase in inequality and poverty due to the pandemic worsened due to human rights violations in the context of the demonstrations and the non-compliance with the peace agreement, among others. See more at: <https://www.france24.com/es/am%C3%A9rica-latina/20210506-colombia-razones-paro-nacional-protestas-gobierno-ivan-duque>

¹⁹ The teachers' strike brought into discussion the quality and financing of public education in the country. More information can be found at: <https://www.las2orillas.co/dejo-paro-maestros-2017/>.

²⁰ The 2018 university strike continued mobilizations calling for increased funding for public education in Colombia. More information can be found at: <https://www.eltiempo.com/vida/educacion/razones-del-paro-de-estudiantes-y-profesores-de-universidades-publicas-278998>

²¹ The 2019 national strike brought together a series of protests against the pension, labor and education reforms, as reported in <https://www.bbc.com/mundo/noticias-america-latina-50520302>



aggravated by the pandemic and the investigation, and the reparation of acts of corruption, has become evident. (Transparencia por Colombia, 2021)

The current situation of the country highlights the importance of advancing in anti-corruption actions to build trust in public institutions and contribute to democratic governance. To this end, mechanisms such as independent public management audits, the promotion of open data and citizen participation, reforms to strengthen the integrity of judicial systems and ensure merit-based appointments, among many others, are part of the set of measures that the Colombian State has committed to promote for this purpose, and which in turn were included in the Lima Agreement.

The participatory follow-up on compliance with the Lima Agreement was developed by 10 Civil Society Organizations, which from a national and local approach, address different issues such as participation and guarantee of young people's rights (Corporación OCASA and RedUva, Diálogo Democrático), corruption in the sports sector (Transparencia en el Deporte), political innovation (Extituto), peace building and territorial approach (ABC Casanare, Funcicar, Cordupaz and Corporación Región).

The diversity of contributions in terms of territory and work themes of these social organizations made it possible to follow up on compliance with these anti-corruption commitments from a broad perspective, as well as from an approach that recognizes the effects of this phenomenon on the guarantee and provision of basic human rights and the barriers it generates for the effective enjoyment of civil and political rights.

The main results of this exercise are presented below. This analysis is supplemented with the information contained in Annex 1 "Assessment of the Lima Agreement in Colombia".

Colombia Results

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 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 Agreement, 19 of the 57 commitments were selected on the basis of four criteria: (i) commitments that could be sustainable over time, (ii) commitments that have a greater possibility of becoming institutionalized, (iii) commitments that embody new approaches in anti-corruption actions, and (iv) commitments that involve the perspective of the population in condition of classified vulnerability. 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.



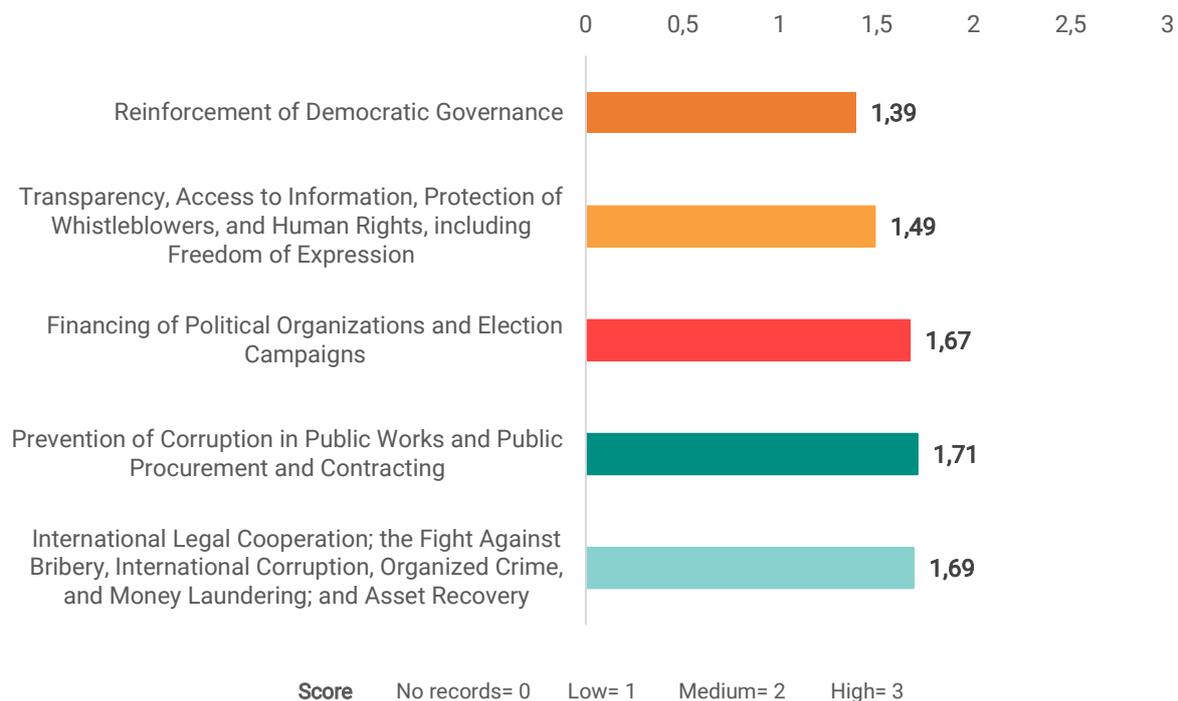
- D. Prevention of Corruption in Public Works and Public Procurement and Contracting.
- E. International Legal Cooperation; the Fight Against Bribery, International Corruption, Organized Crime, and Money Laundering; and Asset Recovery.

These commitments were analyzed by identifying policy and practical developments which were rated on a scale of 0 to 3,²² 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 1 shows the overall results obtained for Colombia in the five areas in which the commitments are classified:

Graph 1²³. Results by theme under the Lima Agreement



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

²² Rated on a scale of 0 to 3: 0=no records, 1=low, 2=average and 3=high.

²³ The colors implemented in the graphs herein reflect the color allocation to each of the CCO central themes and do not refer to a number scale.

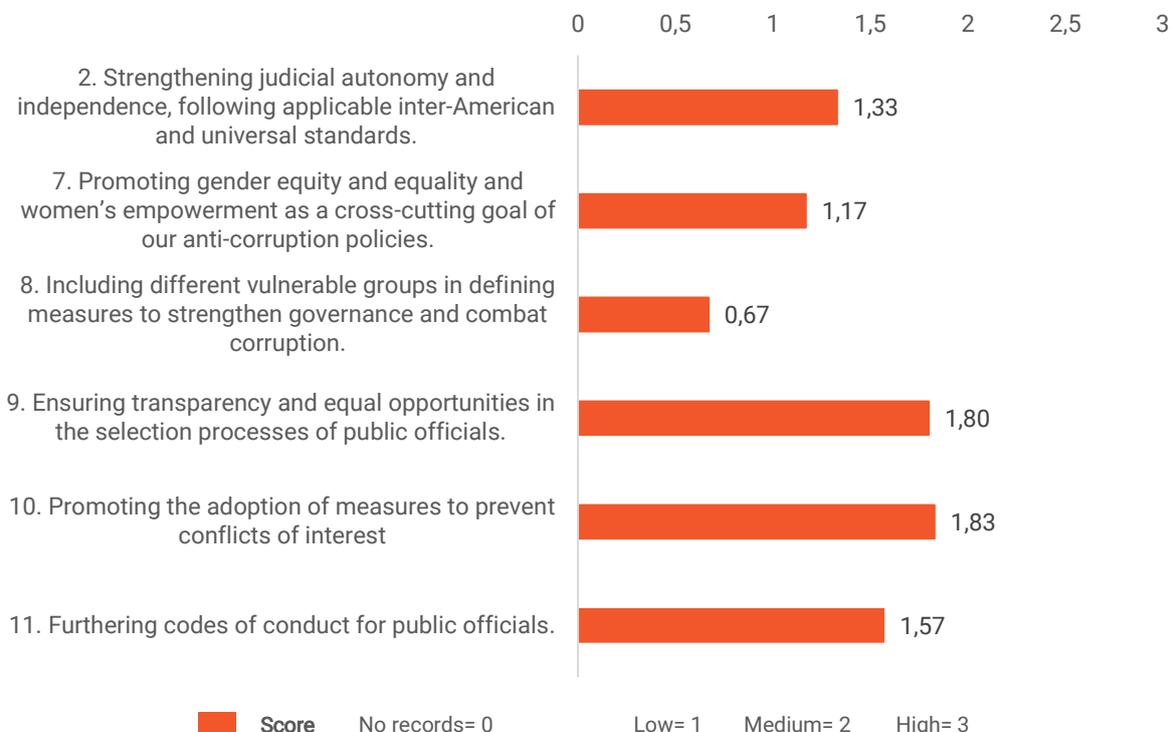
- According to the follow-up methodology, progress in anti-corruption actions did not reach an average score (2.0/3.0) in any of the central themes. This despite the fact that the First Report on Policy Indicators of the CCO (2021) highlighted Colombia as one of the countries in the region with the greatest policy development for compliance with the Lima Agreement.

In order to review policy development towards the practical implementation of the Lima Agreement in the country, the following are the most detailed results regarding the commitments classified under each theme.

1. Reinforcement of Democratic Governance

Overall, all six commitments reviewed under this theme received medium/low scores in terms of sustainability, relevance, and effectiveness. This shows that, in some cases, even though scores were high on identification of policy developments, they dropped significantly when it came to their practical application. This is particularly evident in Commitment 2—rated at 1.33/3.0— since, while a broad policy framework providing for judicial autonomy and independence exists, in practice, objections have been raised concerning the election of the current Attorney General of the Nation due to his close relationship with the President of the Republic (Más información + derechos. 2020).

Graph 2. Results of commitments related to reinforcing democratic governance



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

- The highest rated commitment by CSOs (1.83/3.0) is the adoption of measures to prevent conflicts of interest (commitment 10). In this case, the sustainability criterion was highly rated since Act 2013 of 2019 established the mandatory filing of statements of net worth, income and conflicts of interest for all public officials in the country, a step that has been significant for public access to this information, greater follow-up on conflicts of interest and the ability to cross-check this information with other data, given that the Act also provided for the creation of a mechanism to systematize and disclose this information.

However, despite the fact that the information is being published on the SIGEP Public Employment Information and Management System, ²⁴ processing of this information has not ensured the prevention of conflicts of interest. In addition, there was evidence of shortcomings in the compliance with open data standards, and instances of incomplete or outdated information were reported.

- In contrast, the lowest scored commitments include commitment No. 7, which refers to the promotion of gender equity and the empowerment of women as a cross-cutting objective of anti-corruption policies (1.17/3.0). In this regard, while progress has been made at the national and local levels in the inclusion of women in decisionmaking positions²⁵, there is no consistency between anti-corruption actions and the gender agenda.
- Commitment 8, which seeks to “include different vulnerable groups in defining measures to strengthen governance and combat corruption”, received the lowest score throughout the follow-up (0.67/3.0). While protection of groups in vulnerable situations is a constitutional principle, during implementation of this follow-up, it was not possible to identify any rule providing for or creating a mechanism to include groups in vulnerable situations in defining anti-corruption measures. The importance of prioritizing these differentiated approaches in the fight against corruption lies in the fact that, on the one hand, it makes it possible to tackle the phenomenon from a broad perspective and understand the scope of damage and rights violations caused by corruption and, on the other hand, it contributes to following up on other commitments undertaken by the country, including compliance with the Sustainable Development Goals (SDGs).²⁶

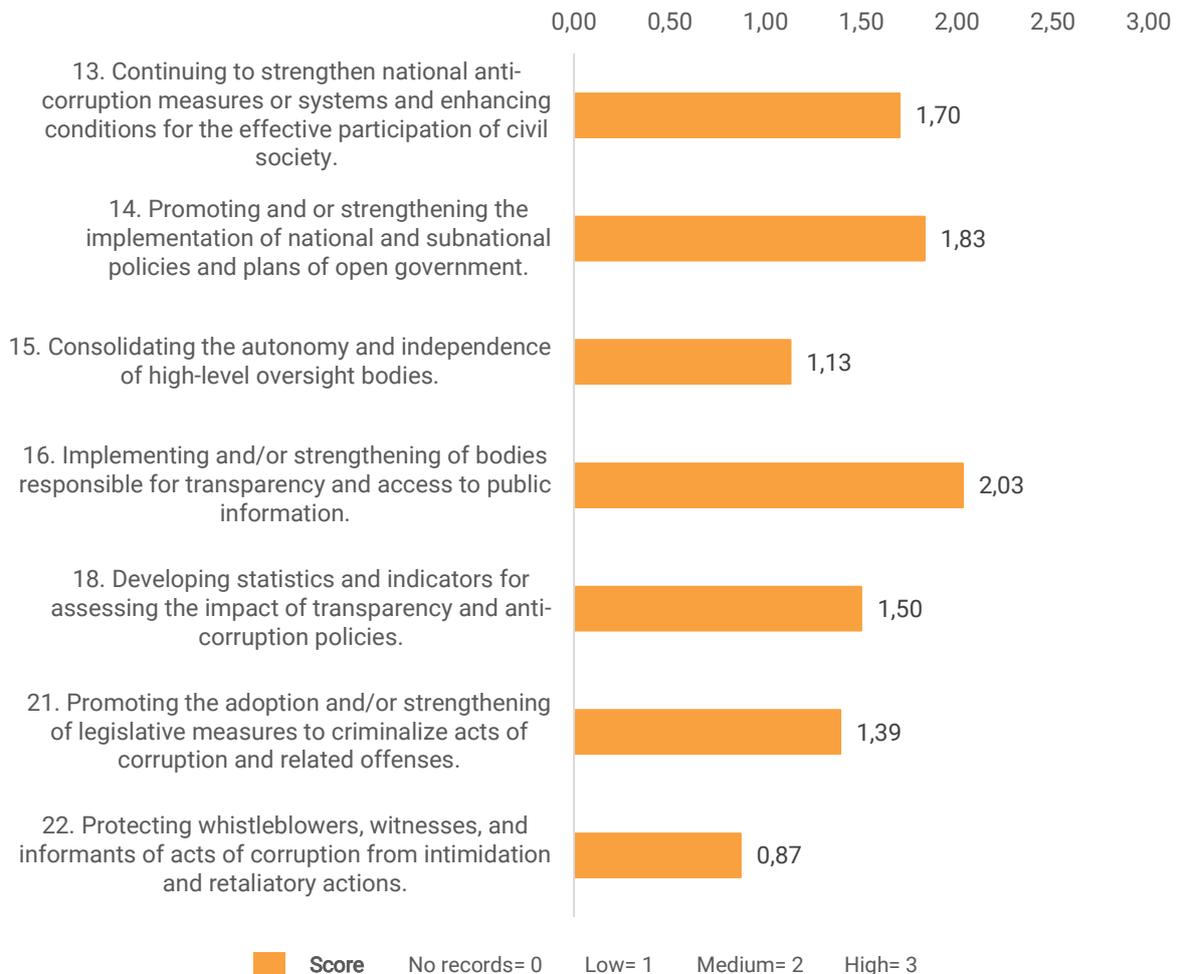
²⁴ For further information please visit <https://www.funcionpublica.gov.co/web/sigep/que-es>

²⁵ It should be noted that this progress is even lower at the territorial level of the country; there are departments and municipalities where the gender equity and women's empowerment agenda does not show progress. Likewise, the sports sector shows strong lags in the inclusion of women in decision-making positions.

²⁶ This commitment is related to Goal 10 on reducing inequalities and Goal 16 “Peace, justice and robust institutions” of the SDGs.

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

Graph 3. Results of commitments related to transparency, access to information, whistleblower protection, and human rights, including freedom of expression.



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

- In general, the commitments related to transparency and access to information received medium and high scores on the criteria of effectiveness, relevance and sustainability. However, three commitments - No. 15, No. 21 and No. 22 - that address other issues such as advancing in the criminalization of offenses and whistleblower protection, received medium to low scores.
- The commitments related to measures to ensure transparency of public information - No. 14 and No. 16, received medium to high ratings. This assessment is based on the fact that, at the policy level, Colombia has been a member of the Open Government

Partnership (OGP)²⁷, since 2012 and has enacted the 2014 Transparency and Access to Information Act and the 2016 Act of 2020, which creates the public integrity system. However, implementation of these regulations reveals shortcomings related to the capabilities of the institutions to develop the actions set forth in the commitment:

- The exercise conducted by CSOs showed that most of the information provided by public entities does not comply with open data standards.
 - According to the Digital 2021 report, nearly 30% of the Colombian population does not have access to internet, which generates a direct limitation in terms of access to information. (DataReportal. 2021)
 - In recent years there has been a decline in the activities carried out to meet commitments related to these issues, as reflected in surveys such as the Open Budget Survey Index (2019).²⁸.
- One of the lowest rated commitments is No. 22, which concerns protection for whistleblowers, witnesses and informants of acts of corruption. In fact, among the commitments that comprise this second central theme, it is the one with the lowest rating (0.87/3.0). This assessment from civil society is based on the following reasons:
 - In Colombia, legislation on whistleblowing and whistleblower protection is very limited. On the one hand, it is essentially restricted to one category of whistleblower: the public servant, and, on the other hand, it covers issues related to whistleblowing in a very scattered manner (Transparencia por Colombia. 2021a). In addition, the legislative initiatives on the matter have lacked political will for enactment. An example of this is that Chapter I of Bill 341²⁹ which envisaged protection measures for complainants, whistleblowers or those who report acts of corruption, was removed from the text.
 - In practice, the number of corruption complaints has increased both at the national and local levels, and even in the sports sector.³⁰. However, the lack of knowledge of the whistleblowing channels and the lack of effectiveness of authorities in carrying out appropriate investigation processes, as well as the lack of political support for the proposed bills on whistleblower protection, are visible obstacles to the fulfillment of this commitment in the country.

²⁷"It is a multilateral initiative involving more than 70 States that promotes effective participation and improves the responsiveness of governments to their citizens through the implementation of strategies on transparency, access to information, citizen participation and the use of new technologies to generate concrete and visible changes." For further information, please visit the transparency secretariat website at <http://www.secretariatransparencia.gov.co/internacional/alianza-para-el-gobierno-abierto>

²⁸ See Colombia's score: <https://www.internationalbudget.org/es/open-budget-survey/country-results/2019/colombia>

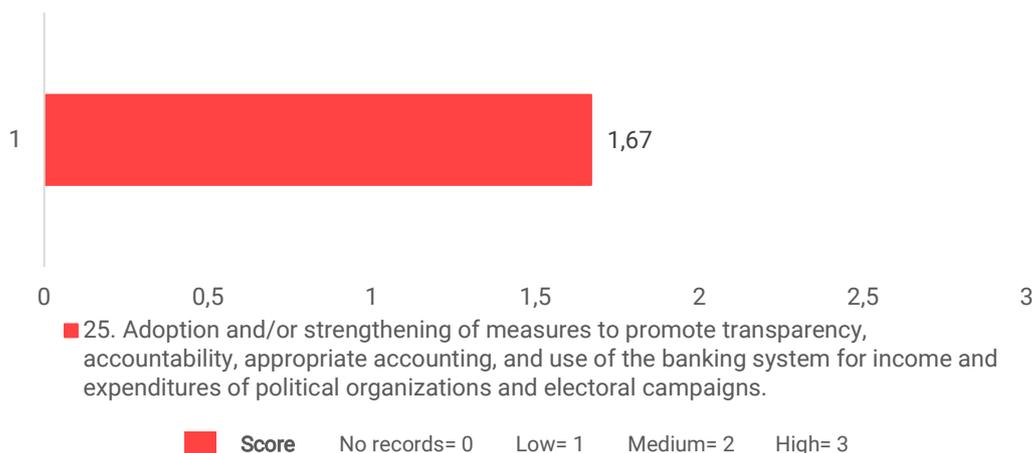
²⁹ Bill 341 of 2020 was introduced by the Colombian Government as an update of the Anti-Corruption Statute, which seeks to reinforce the pillars of prevention and punishment and institutional strengthening. The bill was approved in the House of Representatives and is currently in the Senate of the Republic.

³⁰ Data available from the Transparency Secretariat (2018), provided by the Group for the Review and Analysis of Corruption Petitions, Complaints and Claims of that entity, show that in 2013, 1,516 complaints were reported and in 2017 a total of 3,608 were received, showing a substantial increase (2092) in just four years. More information at: <https://transparenciacolombia.org.co/wp-content/uploads/doc-caracterizacion-denuncia.pdf>

- Regarding Commitment 15 related to the autonomy and independence of high-level oversight bodies, follow-up on its implementation yielded a low score (1.13/ 3.0). The review of information to assess this issue highlights as a common element that the election of people close to the government to lead control bodies, such as the Ombudsman's Office (Espectador, 2020), the Attorney General's Office (La Silla Vacía. 2020), and the Comptroller General's Office (Razón Pública. 2020) is perceived negatively by civil society, since it can lead to the absence of control and investigation of alleged acts of corruption. The same scenario is replicated at the local level where the closeness between directors of local control bodies and governors and mayors has become evident, as in the case of the Casanare's comptroller and the former governor of the same department. (Prensa Libre, 2020).

3. Financing of Political Organizations and Election Campaigns

Graph 4. Results of the commitment related to the financing of political organizations and electoral campaigns.



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

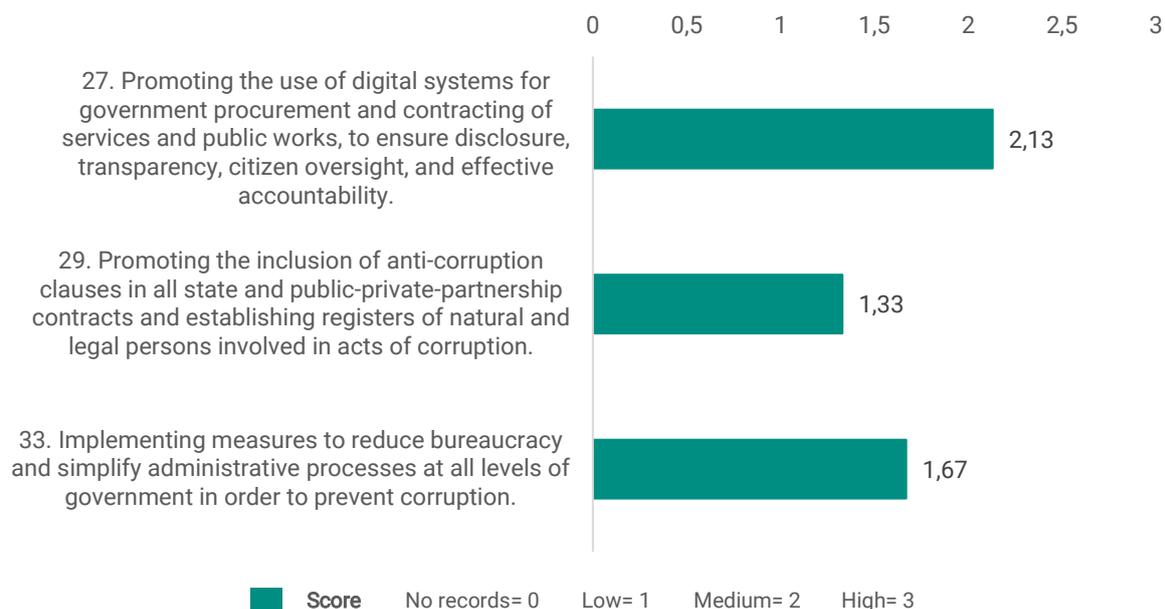
- Regarding measures to control the financing of political-electoral processes, Colombia has a broad policy framework, which addresses aspects of transparency, accountability, equity and auditing, among others. In practice, the accountability platform for political campaigns, Cuentas Claras³¹, represents a major step forward in guaranteeing transparency in political financing.
- In the follow-up on the Lima Agreement, the participating CSOs expressed the existing challenges in understanding the information and how to consult the data recorded in

³¹ The Cuentas Claras application is a web-based tool developed by Transparencia por Colombia with the technical and financial support of NDI/USAID, for candidates and political organizations to report the accounting movements of their campaigns in accordance with the Colombian regulatory framework. This tool was donated by the National Electoral Council in 2011. The electoral authority made the use of this application mandatory through the issuance of resolutions 1044 of 2011 and 3097 of 2013. Cuentas Claras allows public consultation of the reported information. See www.cnecontasclaras.gov.co

the Cuentas Claras platform. Likewise, in the information analysis and follow-up developed by civil society, several shortcomings have been identified in the quality of information available on income and expenditures of political campaigns, as well as the lack of more effective and timely penalties for illegal campaign financing. (Transparencia por Colombia, 2019 & 2019a)

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

Graph 5. Results of commitments related to the Prevention of Corruption in Public Works, Public Procurement and Contracting



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

- In general, all three commitments analyzed in this central theme were rated with scores between low and medium. However, it should be noted that commitment 27 received the highest score of the entire Follow-up. This commitment focuses on the promotion of electronic systems for government procurement, service contracting and public works.

Particularly for the case of Colombia, this score in terms of sustainability is based on the issuance of Act 1882 of 2018, which provides for the mandatory publication of all procurement stages on the platform of the Government Procurement and Contracting System - SECOP, and Act 2022 of 2020, which regulates the use of standard specifications for preparation of any specifications for public procurement. In addition, in terms of practical developments, the country uses SECOP as a tool for reporting all public procurement of goods and services by national and territorial entities. However, the analysis of information published in SECOP also identified issues related to the quality of data recorded, the publishing times and the platform updating.

- Commitment 29, which refers to the promotion and inclusion of anti-corruption clauses in all government contracts, received the lowest score in this fourth central theme (1.33/3.0). While the country has Act 80 of 1993, which comprehensively regulates public procurement and addresses the exceptional clauses through which the State may terminate the contract, these do not provide for their application on grounds based on acts of corruption.

Now, within the pre-contractual process, the bidder must submit the “Anti-Corruption Commitment”³² in which it represents and undertakes to take the necessary steps to ensure transparency in the contract conclusion and execution; this only allows the withdrawal of the bid in the event of non-compliance by the bidder, so that once the contract is signed, it has not binding force.

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

Graph 6. Results of commitments related to international legal cooperation; the fight against bribery, international corruption, organized crime and money laundering; and asset recovery.



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

- Actions aimed at promoting international legal cooperation, fighting bribery, international corruption, organized crime and money laundering, and asset recovery have been highlighted as central elements to advance in the fight against corruption in the hemisphere, as indicated by the Group of Experts on Corruption in the document “Lima Statement on Corruption Involving Vast Quantities of Assets”³³.

³² Colombia Compra Eficiente created the annex “Anti-corruption commitment”, which has been incorporated as a requirement in the contracting process, see in:

http://www.nuevalegislacion.com/files/susc/cdj/conc/cext_ancp_15_14.pdf

³³ The statement is the result of the meeting of more than 80 experts specialized in investigating and prosecuting corruption called the Global Expert Group Meeting on Corruption Involving Large Amounts of Assets and is available for consultation at

“https://www.unodc.org/documents/corruption/LimaEGM2018/Outcome_Statement_Lima_EGM_2018.pdf”

- Commitment 41, concerning the adoption of actions to facilitate the seizure, forfeiture and confiscation of assets resulting from corruption, received the highest rating (1.77/3.0) under this theme. In this regard, actions such as the new public policy against Money Laundering and Terrorist Financing, which was spearheaded by the National Planning Department and the implementation of memorandums of understanding and joint activities between control entities are noteworthy.
- On this last central theme, Commitment 37, which refers to steps to promote cooperation between judicial authorities to investigate and prosecute corruption-related crimes (1.6/3.0), received the lowest rating. Despite the fact that in the investigation of information on these actions, progress was noted in developing inter-administrative agreements to promote cooperation, the prosecution and punishment of acts of corruption depend to a large extent on media and citizen pressure.

Conclusions

Within the framework of the follow-up on the Lima Agreement, an analysis was carried out of the policy developments, their implementation in practice and an assessment of these actions from a perspective that includes three fundamental criteria for effective compliance with these commitments: the effectiveness of these actions, their relevance and their ability to be sustainable over time. As a result of this exercise, achievements, weaknesses and calls for action in the fight against corruption in Colombia are presented.

Achievements in the Fight against Corruption.

The Lima Agreement provided an essential opportunity to endorse previous international commitments assumed by the Colombian Government, as well as to identify suitable scenarios for discussion, development and implementation of anticorruption measures in the country, including the following:

- I. **The enactment and dissemination of the code of conduct for all public officials and the development of the public policy on corruption**, government initiatives that are characterized by being the outcome of participatory processes in which spaces for dialogue were opened up to incorporate national and local entities and experts on anti-corruption issues.
- II. **The process of abolishing unnecessary formalities** carried out by means of Decree 2106 of 2019 was a step forward in that it facilitates citizens' access to government services. The abolishment of formalities is the result of a participatory process in which the perspective of the entities and their officials, and the citizens in general, was taken into account. The regulations of Act 2052 of 2020 -focused on the executive branch- and the effective inclusion of measures for its implementation in each entity through anti-corruption plans, is a significant example and highly valued by the CSOs that participated in this follow-up exercise.



- III. **The mandatory disclosure of public officials' income tax returns.** This was a pending task of the Colombian government since the United Nations Convention Against Corruption³⁴. In Colombia, the enactment of Act 2013 of 2019 making the publication of this information mandatory made possible to create and make available a platform for recording and querying the returns. As a result, according to the Administrative Department of Public Function (2020), during the first year of implementation of the Act, a compliance percentage of 86% was reported for Senators of the Republic, 77% for Representatives to the Chamber, 59% of Governors, 54% of Deputies, 31% of mayors, 24% of councilors and 2% of municipal councilors.
- IV. **Since 2018, the Secretariat for Transparency has been developing the Anti-Corruption Public Policy,** which, as indicated, will include priority elements to move forward in compliance with the Lima Agreement, the United Nations Convention Against Corruption and the Sustainable Development Goals, among others, by including differentiated elements in the actions to fight corruption, such as the gender approach and the analysis from the perspective of human rights violations. It should be mentioned that, although the Public Policy has not been released, the strategy implemented for its preparation³⁵ shows an effort to prioritize citizen participation in the development of anti-corruption measures.

Weaknesses in the Fight against Corruption

Information gathered from the policy and practice indicators, together with the evaluations of each commitment based on effectiveness, efficiency and sustainability criteria, reveal weaknesses in aspects that require special attention and strengthening, including the following:

- I. **Low implementation of policy measures.** During the gathering of policy indicators, it became evident that in Colombia -with the exception of the new anti-corruption approaches on the inclusion of groups in vulnerable conditions and the gender approach in anti-corruption policies- a broad and diverse policy framework of anti-corruption measures is in place. However, upon closer analysis of its regulation and implementation, it is found that most of the commitments observed have little practical development in terms of mechanisms, channels, or public policies supporting the provisions of the law. Thus, it is understood that, while the existence of comprehensive policy developments is essential to address this phenomenon, in practice there is a lack of progress in implementing measures to ensure due compliance.
- II. **Concentration of power in the hands of the executive, which hinders compliance with commitments 2 and 15 regarding the independence of the judicial branch and oversight bodies respectively.** This power concentration has been reflected in the questions

³⁴ The technical guide to the United Nations Convention against Corruption views it as a step towards the promotion of integrity, honesty and accountability among public officials.

³⁵ Measures such as conducting focus groups in 2019, queries by means of surveys such as the glass ballot box and working groups with some territorial entities were combined.

raised surrounding the appointment of high-level officials to control bodies due to their closeness to the government, and the lack of investigation and punishment regarding possible acts of corruption, which risks increasing the population's distrust of public entities.

In this regard, the Edelman Trust Barometer 2021 survey states the following: *“The institution most distrusted by Colombians continues to be the government. Colombia ranks fourth as one of the nations with the greatest distrust in this institution, 20 points below the global average of 53 percent.”* The civil society organizations participating in the CCO point to this imbalance in the system of checks and balances as a limiting factor for exercising control and oversight of the entities, which also has a negative impact on the conditions for exercising public oversight by citizens.

Power concentration has become a common practice, to such an extent that private sectors that manage public resources, such as sports, are experiencing the same type of challenges in ensuring the administration and redistribution of the resources allocated to them.

- III. **Lack of regulations regarding the protection of whistleblowers, informants and those reporting acts of corruption.** On October 29, 2020, Bill 341 "whereby measures on transparency, prevention and fight against corruption and other provisions are adopted" was filed in the Congress of the Republic, the first chapter of which provided for measures for the protection of whistleblowers, witnesses and informants. However, in the middle of the discussion in the Senate, the chapter was fully removed.

This decision is contradictory not only with previous discussions carried out in Congress regarding the importance of legislating on the matter, a point addressed in the Anti-Corruption Consultation³⁶ and in the Pedro Pascasio Martínez Bill³⁷, but also with the signing of international commitments such as the Lima Agreement and the Inter-American Convention Against Corruption.

- IV. **Human Rights Violations and Corruption.** In light of the fact that corruption impairs people's effective exercise and enjoyment of their human, economic, social and cultural rights, corruption and the lack of effective responses by government entities generate citizen discontent, with particular emphasis on vulnerable groups such as women, indigenous people and young people.

In this sense, crucial aspects addressed in Commitments 7, 8 and 22 related to citizen participation in the creation and implementation of anti-corruption strategies should

³⁶ In August 2018, a Public Consultation process was held seeking to toughen the penalties for corruption, however, it did not meet the threshold required to continue its processing, however, as a result thereof, in the Congress of the Republic, initiatives were filed that echoed the intentions of the consultation.

³⁷ In 2019, the Pedro Pascasio Martínez project, which focused on protection of whistleblowers of acts of corruption, was filed in the Congress of the Republic, but was withdrawn in order to include this section in the Anti-Corruption Statute.

be especially taken into account in the country, in order to strengthen trust in the institutional framework and consolidate spaces between citizens and the government.

Calls for Action

Within the framework of the follow-up on the progress or compliance with the Lima Agreement in Colombia, carried out in a participatory manner with different civil society organizations, priority issues in the fight against corruption were identified.

The following are four calls for action to the Colombian government in the fight against corruption:

Use the Lima Agreement as a tool to articulate the anti-corruption measures already existing in different international conventions. Given that the Lima Agreement provides for the inclusion of new approaches in the fight against corruption, making it a broad and useful tool to be taken into account in the follow-ups carried out by the OAS and for the discussion at the IX Summit of the Americas.

Strengthen the implementation of anti-corruption measures at the local level. In assessing anti-corruption measures in Colombia, the organizations participating in the Observatory noted that, while regulatory developments focused on the fight against corruption exist at the national level, the gap in their practical implementation hinders more decisive contribution to the prevention of this scourge, as implementation at the local level is low and shows delays.

Ensure the implementation of policy developments. While legislative instruments are of vital importance as they are consolidated as framework tools for the government agenda, the issuance of regulations is not a suitable measure to consolidate the fight against corruption. Therefore, it is necessary for the Colombian government to create practical tools for the effective implementation of the strategies already provided for in the regulations.

Promote citizen participation in the construction, discussion and implementation of anti-corruption measures. Given the low scores in Commitments 7 and 8 of the Lima Agreement, it is necessary for the measures implemented by the national government to provide opportunities for public participation both in the construction -to identify needs- and the implementation -to promote citizen oversight- of anti-corruption measures.

Actions and Recommendations for Compliance with the Lima Agreement in Colombia.

Theme 1. A. Reinforcement of Democratic Governance	
Action	Recommendations
Strengthen territorial capacities for implementation of anti-corruption policies.	Create and strengthen coordination mechanisms between national and local entities to create and implement anti-corruption policies.

Theme 1. A. Reinforcement of Democratic Governance	
Action	Recommendations
	<p>Identify specific courses of action so that the implementation and evaluation of anti-corruption policies take into account the social contexts and institutional capacities at the departmental and municipal levels. For now, these actions are more of a central and nationwide nature.</p> <p>Promote citizen training spaces for the implementation of effective oversight exercises.</p>
Ensure the independence of the judicial branch.	<p>Strengthen transparency and independence in the processes of nomination and election of judges in the high courts, taking into account meritocracy criteria and considering possible conflicts of interest.</p> <p>Promote the reporting and due processing of conflicts of interest as a measure to prevent possible acts of corruption.</p>
Strengthen the gender approach in the creation of anti-corruption public policies.	<p>Implementation of the Anti-Corruption Public Policy should be coordinated with offices dealing with the gender approach at the departmental and municipal levels.</p> <p>Promote participation of experts, entities and organizations with a gender perspective in fundamental processes to prevent corruption, such as the development of participatory budgets.</p>
Include vulnerable groups in measures to fight corruption.	<p>Once the Public Policy is enacted, advance in its coordination with the needs of vulnerable groups.</p> <p>Promote participation of vulnerable groups in anti-corruption measures at the departmental and local levels.</p>
Strengthen meritocratic processes, reducing competition and waiting times for the appointment of civil servants.	<p>Ensure expeditiousness in the meritocratic processes for the appointment of public officials. Review and reduce as much as possible the temporary nature of public positions.</p> <p>We recommend collecting and presenting to local entities the best practices implemented by Cartagena Mayor's Office in a program for registration and selection of civil servants through meritocracy, even in service provision contracts.</p>

Theme 2. B. Transparency, Access to Information, Protection of Whistleblowers, and Human Rights, including Freedom of Expression	
Action	Recommendations
Ensure autonomy of control bodies.	Strengthen procedures to ensure the independence of appointments to management positions in oversight bodies.
	Promote the reporting and due processing of conflicts of interest as a measure to prevent possible acts of corruption.
Promote creation and dissemination of statistics on the implementation of anti-corruption policies throughout the territory.	Strengthen the financial and technical capacities of the Transparency Secretariat to analyze and process data on the implementation of anti-corruption policies.
	Strengthen the financial and technical capacities of oversight bodies in charge of collecting and processing data on the implementation of anti-corruption policies.
	Highlight and disseminate the assessment and technical assistance reports to the Mayors' and Governors' Offices on anti-corruption matters prepared by the Secretariat for Transparency.
	Highlight the reports on the effective and sustainable implementation of tools such as (RITA), the National Network of Observatories and the Anti-Corruption Portal (PACO).
Ensure protection of whistleblowers and witnesses in corruption cases.	Create a comprehensive public policy on whistleblowing and whistleblower protection.
	Design from the Ministries of Interior and Justice, with the support of the Comptroller's Office, the Prosecutor's Office and the Ombudsman's Office, a Bill for the protection of corruption whistleblowers.

Theme 3. Financing of Political Organizations and Election Campaigns	
Action	Recommendations
Strengthen the accountability system for campaigns and political parties.	Promote a political reform initiative that strengthens the principles of transparency in the financing of political parties and campaigns, prioritizing public financing.
	Make changes to the electoral system to establish that advertising on social media is regarded as a campaign expense.
	Promote greater oversight over information recorded in the Cuentas Claras portal, by candidates and political parties, in order to increase public oversight and punishment due to illicit

Theme 3. Financing of Political Organizations and Election Campaigns

Action	Recommendations
	financing of political campaigns and, at the same time, to achieve greater effectiveness in the monitoring of this issue by the electoral authority and the control and oversight entities.

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

Action	Recommendations
Strengthen the public procurement process.	Strengthen dialogue mechanisms with territorial entities to identify existing gaps between the SECOP II platform requirements and the technical and human talent capacities of the reporting entities.
	Include anti-corruption clauses as an integral part of public contracts as a preventive measure for potential acts of corruption.
	Draw up a plan for the effective control of the execution of resources allocated through direct contracting due to the state of emergency justified by the Covid 19 health crisis.
Strengthen the use of electronic systems to ensure transparency, publicity, citizen oversight and effective accountability.	Provide through an electronic platform relevant information for the selection of the best contractors and public oversight such as: contractors' experience, status of past contracts signed by public entities, positive aspects and issues during past contracting processes, contractors' qualifications, whether contractors are contributors to political campaigns, members of administrative bodies of the companies, and the main relationships of the company or contractor that could warn about potential conflicts of interest (among others).
Continue strengthening the National Procurement Agency Colombia Compra Eficiente, and accelerate the consolidation of SECOP II.	Continue with the purging and standardization of data in the SECOP II database.
	Advance in the implementation of the standard bidding documents for the different contracting scenarios.
	Advance in the identification of corruption risks by economic sector.

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

Action	Recommendations
Expand the application of anti-corruption policies to the private sector.	Identify the most sensitive economic sectors for society and prioritize in them the accompaniment of the Transparency Secretariat through the Business Integrity Route.

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

Action	Recommendations
Ensure that the administration of assets subject to asset forfeiture proceedings for corruption offenses promotes due reparation for the victims of corruption in Colombia.	Provide tools whereby citizens can access information regarding the administration of assets subject to asset forfeiture.
	Strengthen inter-institutional tools to ensure reparation to victims through the liquidation and sale of assets subject to asset forfeiture.
Strengthen cooperation between authorities in investigations and proceedings related to corruption offenses.	Facilitate the exchange of information between government entities to avoid contracting with natural and legal persons involved in investigation processes involving acts of corruption.

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Annexes

Annex 1 Assessment of the Lima Agreement in Colombia

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.	1.30	1.20	1.50	1.33
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.	1.10	1.20	1.20	1.17
8. Including different vulnerable groups in defining measures to strengthen governance and combat corruption, recognizing their serious impact on these populations.	0.70	0.70	0.60	0.67
9. Ensuring transparency and equal opportunities in the selection processes of public officials, based on objective criteria, such as merit, equity, and aptitude.	1.60	2.10	1.70	1.80
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.	1.70	1.60	2.20	1.83
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.	1.60	1.40	1.70	1.57

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	1.70	1.70	1.70	1.70

Commitment	Relevance	Effectiveness	Sustainability	Country Average
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.				
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.	1.70	1.50	2.30	1.83
15. Consolidating the autonomy and independence of high-level oversight bodies.	1.10	1.00	1.30	1.13
16. Implementing and/or strengthening of bodies responsible for transparency and access to public information, based on applicable international best practices.	1.80	2.10	2.20	2.03
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.	1.60	1.40	1.50	1.50
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).	1.27	1.45	1.45	1.39
22. Protecting whistleblowers, witnesses, and informants of acts of corruption from intimidation and retaliatory actions.	0.90	0.70	1.00	0.87

Table 3. Follow-up criteria for commitments related to Financing of Political Organizations and Election 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.	1.70	1.70	1.60	1.67

Table 4. Follow-up criteria for 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.	2.00	2.00	2.40	2.13
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.	1.40	1.50	1.10	1.33
33. Implementing measures to reduce bureaucracy and simplify administrative processes at all levels of government in order to prevent corruption.	1.40	1.70	1.90	1.67

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	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 offenses of corruption, money laundering, and transnational bribery and corruption.	1.60	1.60	1.60	1.60
41. Furthering the adoption or strengthening of measures through relevant institutions to enable the freezing, seizure, and confiscation of proceeds of corruption.	1.70	1.80	1.80	1.77