

Increased participation by civil society and equal treatment during on-site visits will contribute to a more effective MESICIC

**18th Meeting of the Committee of Experts of the MESICIC
Washington DC, March 21, 2011**

Over the next weeks, we will be celebrating the 15th anniversary of the entry into force of the Inter-American Convention against Corruption (IACAC). The Convention constituted a milestone: it was the first global attempt to draft an international treaty to reduce corruption levels in America and represented a response to the continuous corruption scandals that rocked the countries in the region. In 2002, a mechanism (MESICIC) was established for States Parties to report on the IACAC's implementation.

Since the 1990s, Transparency International (TI) has played a particularly active role in promoting and supporting the Inter-American Convention and its oversight mechanism. TI contributed to the creation of the MESICIC and provides it with independent information periodically regarding the status of its implementation. Civil society organisations from 21 countries have been actively engaged in this process. State representatives responsible for assessing the progress made in the implementation of the Convention recognise this contribution as a valuable input. TI also works to ensure that the MESICIC is more effective and transparent and that civil society is engaged in all the stages.

For nearly 10 years, the MESICIC has proved helpful for the advancement of certain anti-corruption issues in the region, but significant reforms are still needed to achieve its goal. Progress was made in this respect during the Conference of States Parties to the MESICIC held in Brasilia in 2010, where the parties expressed the need to adopt a methodology for implementing on-site visits.

Methodology of on-site visits

1. Ensuring that country visits may be conducted without the reviewed State's consent - The proposed methodology for on-site visits expressly requires the reviewed State's consent to conduct visits, and the absence of any official State response is interpreted as denial (paragraphs 5, 6 and 7 of the proposed document)

We believe that visits should not be subject to consent by the reviewed State, as this infringes the principle of equal and impartial treatment of States set forth in the *Report of Buenos Aires* that governs the MESICIC.

In the event that a State, as a matter of exception, is unable to conduct a visit for valid reasons, these should be clearly stated.

2. A plural civil society should play a key role during visits - Under the methodology proposed, States are able to invite civil society, private sector or professional organisations which have not submitted independent reports, at their discretion. Measures should be taken to ensure that the subgroup meets with a plurality of social actors during the visit, taking into account that in some countries no independent reports will be submitted by civil society.

In addition, they should not be required to submit a written summary of the specific issues that will be discussed during the visit or any other requirement that may limit or complicate their participation. Every effort should be made not to hamper civil society participation.

3. Interviews with civil society should be part of the formal agenda for the visits - We believe that the concept of informal interviews with civil society established in the proposed methodology should be replaced exclusively with formal *interviews*, as these are already broadly regulated and, as a result, are not informal. These terms may distort the process.

Civil society participation

4. Amendment to Article 34 of the Rules of Procedure of the Committee of Experts - Civil society participation has been weakened and limited by article 34 of the Rules of Procedure of the Committee of Experts, which provides that the participation of civil society organisations (CSOs) in the MESICIC shall be governed by the “internal legislation of the respective State Party.”

This article has been invoked to prevent the participation of legitimate civil society organisations and to grant States the power to veto certain organisations that seek only to exercise their social oversight role or their freedom of opinion.

Pursuant to Section 2 of the Organization of American States Guidelines, civil society organisation is understood to mean “any national or international institution, organization, or entity made up of natural or juridical persons of a nongovernmental nature”. In the opinion of the OAS Department of Legal Services, published on May 15, 2006, “this definition is extremely broad. For example, it does not require the entity applying for CSO status in the OAS to have a recognized legal personality under the laws of any Member State, and it does not require the applying 'institution, organization or entity' to have civil society status under the laws of any Member State.”

In this respect, the requirement for CSO participation in the MESICIC not only violates the right of association established in the American Declaration and the American Convention on Human Rights, but also infringes Resolution CP/RES. 759 (1217/99) adopting the Guidelines on Participation by Civil Society Organizations in OAS Activities.

We therefore request that this article be amended to eliminate the words “and in accordance with the internal legislation of the respective State Party” in order to ensure that a plurality of sources of information are available for the assessment and to ensure compliance with the OAS guidelines and the above-mentioned international agreements.

5. Including annual reports by the civil society - Pursuant to articles 31 and 32 of the Rules of Procedure of the Committee of Experts of the MESICIC, only the States may report annually on the progress achieved in implementing the IACAC and the recommendations made during the rounds of review. We request that annual reports prepared by the civil society are also taken into account.

6. Engaging CSOs as special observers - CSOs should be engaged as special observers of the Committee's work, and receive detailed and relevant information on the MESICIC process. For such purpose, we request that States accept the participation of CSOs as observers during meetings of the MESICIC Committee of Experts.

Accessibility to information

7. Developing compliance indicators - The MESICIC Secretariat must develop and disseminate compliance indicators to monitor results and progress made by the State Parties with respect to the implementation of the Convention, as agreed during the Third Conference of State Parties to the MESICIC.

8. Facilitating the use of available information on the implementation of the IACAC - The MESICIC Secretariat must prepare an executive summary covering the answers submitted by the States.

9. Publishing the database of the Committee of Experts - The OAS website should include the contact details of the members of the Committee of Experts.

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