

Issuance of the Protocol to Protect Corruption Whistleblowers

On October 19, 2020, the Ministry of the Public Function (“MPF” or the “Ministry”) published in the Federal Official Gazette, the Protocol to Protect Corruption Whistleblowers. This Protocol provides the guidelines for granting, implementing, and following up on measures aimed to protect whistleblowers, as we explain below.

Whistleblowers who report acts of corruption have become highly relevant in the fight against corruption. Their complaints filed before the Citizen Whistleblower System have allowed Mexican authorities to have knowledge of potential acts of corruption.

In this regard, the Protocol regulates the granting of different measures to protect whistleblowers and encourage citizens to continue cooperating in the fight against corruption.

The procedure to obtain these protective measures will be:

1. Whistleblowers will be able to request, through the platform implemented for this purpose, the protective measures, indicating the risks to themselves, their family, common law spouse, partner, close friends, job or belongings.
2. The Whistleblower Coordinator, belonging to the MPF, will analyze the situation and determine if there are enough elements to proceed to a risk assessment, as a first step to the granting of the protective measures. This risk assessment will take place within five days after the reception of the protective measures request and will consider all the risk factors relative to the case.

The level of risk goes from *low*, when possible retaliations are not detected or minimal consequences could occur, to *high*, which could result in serious consequences for the whistleblowers or their close circle such as deprivation of their liberty, physical violence, threats, among others.

Additionally, the risk evaluation will consider the segment to which the alert belongs. There are some areas in which the reported corrupt acts could constitute a high-level risk or an extremely high-level risk, such as in national security matters.

The Protocol also considers the evaluation of collective risks for those cases where the corrupt acts were communicated by a group and this situation poses risks to the group of whistleblowers. These risk evaluations will operate with agricultural, indigenous, or afro-Mexicans communities. The risks that collective whistleblowers may suffer could be: threats related to land dispossession, harassment to encourage forced displacement, community reputation damages, among others. Any risk detected for collective whistleblowers will be considered as a high-level risk or as an extremely high-level risk.

3. If applicable, the Citizen General Coordinator will establish different protective measures in accordance with the particularities of each case, which can be the following:

- i. Preventive: such as the safeguarding and the protection to all kinds of personal information belonging to the whistleblower.
- ii. Work-related: intended to protect the whistleblower from any consequence resulting from the corruption alert, such as preventing dismissals, suspensions, changing of assigned areas; maintaining positions, salary, labor benefits; preventing any harassment, bullying, or inconvenience during the performance of their work; safeguarding their physical and integrity and career; preventing any retaliation against the individual, among others.
- iii. Individual: such as medical and psychological care, and legal advice for any procedure filed against the individual as a result of the alert.
- iv. Psychosocial: such as medical and psychological care, providing the individual with temporary housing, among others.
- v. Security: such as surveillance and patrolling around the whistleblower's residence, the relocation of residence, the assignment of security guards to protect the whistleblower and his close circle, among others.
- vi. Collective: regarding the collective alerts, the Coordinator will be able to grant protective measures to prevent land dispossession, protect their customs, among others.

The Citizen General Coordinator will be responsible for obtaining the protective measures before the competent authorities, which must be implemented even during fortuitous events or force majeure, pandemics, or any suspension of work for reasons not established in the law.

4. Finally, the Citizen General Coordinator will also oversee the following up of the protective measures, reevaluating the cases to determine the necessity of granting any new protective measure, and to determine if the measures granted are no longer needed because the risk has been eliminated.

The implementation of this Protocol will encourage all individuals that have knowledge of corrupt acts to cooperate with the MPF.

To obtain additional information contact our experts:

Diego Sierra, Partner:

+52 (55) 5258 1039 | dsierra@vwys.com.mx

Pablo Fautsch, Associate:

+52 (55) 5258 1039 | pfautsch@vwys.com.mx

Raymundo Soberanis, Associate:

+52 (55) 5258 1039 | rsoberanis@vwys.com.mx

S I N C E R E L Y

VON WOBESER Y SIERRA, S.C.

Mexico City, October 26, 2020.

VON WOBESER Y SIERRA, S.C.

Paseo de los Tamarindos 60
05120 Mexico City
+52 (55) 5258 1000
vonwobeser.com