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English - Or. English

10 January 2025

**DIRECTORATE FOR FINANCIAL AND ENTERPRISE AFFAIRS
WORKING GROUP ON BRIBERY IN INTERNATIONAL BUSINESS TRANSACTIONS**

OECD Anti-Bribery Convention Phase 4 Additional Report Submitted by Costa Rica

Implementing the Convention and related legal instruments

10-13 December 2024
Paris, France

This report was submitted by Costa Rica for the December 2024 plenary meeting of the Working Group on Bribery in International Business Transactions. It does not reflect the views or opinions of the Working Group on Bribery.

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Instructions

This document seeks to obtain information on the progress that Costa Rica has made in implementing recommendation 3 of its Phase 2 evaluation report. Further details concerning the written follow-up process is in the [Phase 2 Monitoring Information Resources](#) (page 18).

Please submit completed answers to the Secretariat on or before 11 November 2024.

Name of country:	COSTA RICA
Date of approval of Phase 2 Report:	11 March 2020
Date of approval of Phase 2 Two-Year Follow-Up Report:	11 March 2022
Date of information:	11 November 2024

Part I: Recommendation for Action

Regarding Part I, the response to the first question should reflect the current situation in your country, not any future or desired situation or a situation based on conditions which have not yet been met. A separate space has been allocated for describing future situations or policy intentions.

Text of recommendation 3:

Regarding whistleblower protection, the Working Group recommends that Costa Rica, as a matter of priority, adopt legislation that provides clear and comprehensive protection from retaliation to whistleblowers in the public and private sectors [2009 Recommendation III(iv), IX(i) and (iii)].

Actions taken as of the date of the follow-up report to implement this recommendation:

Costa Rica has enacted Law No. 10437, titled Protection of Whistleblowers and Witnesses of Corruption Acts Against Labor Retaliation. This legislation offers comprehensive protection to individuals who report acts of corruption, ensuring they are shielded from any form of reprisal and even the threat of a retaliation, particularly in employment-related matters. The law is designed to safeguard whistleblowers both in the public and private sectors.

Law 10437 establishes that a reporting person is the natural or legal person who reports the alleged commission of an act of corruption, whether in the public or private sector, including public reporting. Also specifies that a witness person of an act of corruption is the one that has knowledge of the commission of an act of corruption and is a witness in the administrative or criminal proceedings that is been carrying out.

This law is aligned with the standards set forth in the 2021 OECD Anti-Bribery Recommendation, establishing a strong legal framework aimed at protecting those who come forward with information on corruption. In doing so, it underscores Costa Rica's commitment to international best practices in combating corruption.

This law establishes a labor protection jurisdiction (*fuero de protección laboral*) that covers the whistleblower and the witnesses of domestic corruption acts and transnational bribery. It also covers and protects third persons connected to the reporting person who could suffer retaliation in a work-related context.

One of the most important provisions that the law has, is that it sets free legal assistance, paid by the State, for the protection of the complainant and witness to protect and ensure their labor rights.

The law covers and protect the anonymous whistleblowers and reports made.

The new law, ensure the confidentiality of the identity of the reporting person and the content of the report, in particular on investigations by competent authorities or judicial proceedings.

Regarding measures to prohibit or render invalid any contractual provisions designed or intended to waive, terminate, diminish, or modify the claims and legal protections of persons

who make reports that qualify for protection to competent authorities, this Law creates these measures.

It also covers all types of retaliation, because it provides a broad definition of retaliation against reporting persons that is not limited to workplace retaliation and also include actions that can result in reputational, professional, financial, social, psychological, and physical harm. The law has an open list that can be filled with any other form of labor retaliation against the complainant or witness, their relatives up to the fourth degree of consanguinity or affinity, as well as third parties related to them, when generated in the same work context.

About reporting channels, the employers in the private sector shall define a channel for receiving and following up on reports of alleged corruption acts when they have more than fifty employees. This channel must be properly identified, easily accessible, offer the possibility to report anonymously, and allow electronic reporting. The employer shall facilitate the reporting of allegations, keep the information about the means of receiving and following up on reports accessible, and periodically publicize the guarantees of confidentiality regarding the identity of the whistleblower and the possibilities for protection against potential labor retaliation. Regarding this matter, the public sector has the same rules in other precedent laws.

Law 10437 provides for effective, proportionate, and dissuasive sanctions for those public or private sector employers who retaliate against reporting persons, but also ensures appropriate remedies for reporting persons to get compensation from direct and indirect consequences of retaliatory action following a report that qualifies for protection, including financial compensation (fines), and interim relief pending the resolution of legal proceedings, that will be defined by the labor judge.

Regarding the burden of proof, in the labor proceedings, the Law 10437 shift the burden of proof on retaliating natural and legal persons and entities to prove that such allegedly adverse action against a reporting person was not in retaliation for the report. And also creates another step to allow the employer to dismiss the reporting person, for objective and different reasons than filling the report, because it demands the participation and authorization of the National Directorate of Labor Inspection in that process, any dismissal that does not follow the procedure is illegal.

Among other provisions, the law under study also establishes that the Public Ethics Office is responsible for the training and awareness of the law, and that every employer or authority shall have the duty to periodically disseminate the content of the law 10437.

The official publication of Law No. 10437 is available in Costa Rica's Official Gazette, accessible via the following link: [Costa Rica's Official Gazette - 08 February 2024](#).

Additionally, a courtesy English translation of the law has been prepared and attached for ease of reference.

If no action has been taken to implement this recommendation, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Not applicable, as the recommendation has been implemented