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PLATFORM TO PROTECT WHISTLEBLOWERS IN AFRICA

WHISTLEBLOWERS IN MAURITANIA:

Overview of the Legal Framework and
Practices

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Whistleblowers in Mauritania: Overview of the legal framework and practices

The publication of this report was funded by the [European Union](#) as part of the [OCWAR-M](#) project, the West African response to money laundering and the financing of terrorism. The 5-year project started in 2019 and covers ECOWAS Member States and Mauritania. Its main objective is to contribute to the understanding and effective implementation of international anti-money laundering and countering the financing of terrorism (AML/CFT) standards.

To this end, OCWAR-M works with civil society actors involved in the AML/CFT field. In partnership with PPLAAF, the project is implementing a training activity for investigative journalists and lawyers on whistleblower protection and cooperation with these key actors in the fight against financial crime, as part of which this report is published.

● List of acronyms

ECOWAS - Economic Community of West African States

AML/CFT - Anti-Money Laundering/Countering the Financing of Terrorism

COMITE: National Committee for the Fight against Money Laundering and the Financing of Terrorism

CPI - Corruption Perceptions Index (Transparency International)

CRF : Cellule de renseignement financier

IRA - Initiative for the Resurgence of the Abolitionist Movement

MFWA - Media Foundation for West Africa

OCWAR-M - Organised Crime, West African Response to Money Laundering and the Financing of Terrorism

OGRAC - Office for the Management of Frozen, Seized, and Confiscated Assets and the Recovery of Criminal Assets

NGO - Non-Governmental Organisation

UN - United Nations

CSO - Civil Society Organisation

PPLAAF - Platform to Protect Whistleblowers in Africa

RPM - Mauritanian Press Group

RSF - Reporters Sans Frontières

FIU - Financial Intelligence Unit

● Legal sources

[Constitution of Mauritania](#)

[Penal Code of Mauritania](#) (Ordinance 83-162 of July 9, 1983, establishing a Penal Code)

[Labour Code](#) (Law No. 2004-017 establishing the Labor Code)

[Law on the Fight against Corruption](#) (Law No. 2016-014)

[Decree implementing the law on the fight against money laundering and the financing of terrorism](#)

[Press Freedom Law](#) (Ordinance No. 017-2006 on press freedom)

[Cybercrime Law](#) (Law No. 2016-007 on cybercrime)

[Nouakchott Declaration on Transparency and Sustainable Development in Africa](#)

[Decree No. 2017-127 of November 2, 2017 establishing the organisation and functioning of a public administrative establishment called the Office for the Management of Frozen, Seized, and Confiscated Assets and the Recovery of Criminal Assets \(OGRAC\)](#)

- **Executive Summary**

Mauritania's legal system combines civil law with Sharia, imposing severe penalties for offences related to religion.

There are no specific laws to protect whistleblowers, and individuals who disclose sensitive information have no recourse against retaliation.

The media operates in an ambiguous legal environment, where freedoms are constrained by the law, and law enforcement may appear arbitrary. Journalists appear to practise self-censorship, especially when addressing sensitive topics such as the military, corruption, Islam, and slavery. A particular case that has sparked outrage among human rights advocates involves the death sentence of a blogger for critical statements about Islam.

1. ANALYSIS OF THE LEGAL FRAMEWORK

1.1 Whistleblower laws and policies

Whistleblower protection is a crucial aspect of the fight against financial crime. This section explores the laws, measures, and mechanisms implemented in Mauritania to ensure the protection of whistleblowers. It examines the rights and guarantees afforded to whistleblowers, the protection mechanisms in place, as well as the persistent challenges related to this protection.

- **Limited Protection of Witnesses, Experts, Whistleblowers, and Victims in Mauritania's Anti-Corruption Law**

[Law No. 2016.014 on the fight against corruption](#) establishes protection for witnesses, experts, whistleblowers, and victims in Article 19. Indeed, this article stipulates that they "shall be provided with special protection by the State" and "any person who resorts to revenge, intimidation, or threat, in any form or manner whatsoever, against witnesses, experts, victims, whistleblowers, or their family members or other close persons, shall be punished with imprisonment from one (01) to five (05) years and a fine of two hundred thousand (200,000) to one million (1,000,000) ouguiyas." The article specifies that a decree will organise the modalities of protection, but this decree is not available online to date.

This law also penalises "non-disclosure" of offences; in this sense, Article 20 states: "any person who, by his function or profession, permanent or temporary, becomes aware of one or more offences provided for in this law, and does not inform the competent public authorities promptly, shall be punished with imprisonment from one (01) to five (05) years and a fine of two hundred thousand (200,000) to one million (1,000,000) ouguiyas."

The implementation of this protection is commendable even though it remains inadequate because the modalities and measures of protection are not defined, nor are its areas of application. It is also important to note that there is no evidence to indicate whether these provisions are effectively applied.

Therefore, it is evident that there is no specific legal provision for protecting whistleblowers. However, the provisions on the protection of witnesses, experts, victims, and whistleblowers, although insufficient, can apply to whistleblowers in certain cases.

1.2 Laws and measures related to combating financial crime

This section focuses on the measures taken by the Mauritanian government to combat financial crime. It examines legislative reforms, policies, and initiatives aimed at promoting transparency, integrity, and accountability in the management of public affairs. While acknowledging the efforts made, it also highlights persistent challenges and prospects for improvement in the fight against financial crime in Mauritania.

- **Corruption in Mauritania: Political Accusations and a Worrying Position in Transparency International's Ranking**

Following his election in June 2021, President Mohamed Ould Ghazouani promised to make the fight against corruption a priority. In March 2021, former President Mohamed Ould Abdel Aziz and fourteen other members of his government were accused of corruption, money laundering, and embezzlement of public funds.

A [national anti-corruption alliance](#) has been established, bringing together religious leaders, lawyers, intellectuals, and university professors to shed light on the embezzlement during President Ould Abdel Aziz's tenure. This alliance advocates for the majority of the embezzled funds to be returned to the people. The alliance sought to become a civil party in the trial of the former president who was [arrested by the police](#) at his home on Tuesday, January 24, 2023, on the eve of the opening of his trial after he allegedly refused to surrender to the police. The trial, which has been [postponed several times](#), is still ongoing. The prosecutor has requested a [20-year prison sentence](#) for the former president, along with confiscation of his assets.

In its [2022 Corruption Perceptions Index \(CPI\)](#) report, Transparency International ranks Mauritania 130 out of 180 countries with a score of 30/100. The country thus finds itself at the bottom of the ranking.

- **Fight against corruption**

The [Penal Code](#) penalises the corruption of public officials and employees of private companies under Articles 171 to 177.

The country has adopted [Law No. 2016.014 on the fight against corruption](#), which aims to "incriminate corruption in all its forms and facilitate and support international cooperation to combat corruption and recover ill-gotten assets." This law provides for imprisonment and heavy fines for those engaged in such acts. The law penalises corruption in public procurement, which is punishable by imprisonment for five to ten years and a fine equal to double the perceived value, not less than two million ouguiyas (Art. 5). It also punishes illicit enrichment, defined in Article 16 as follows: "Any public official who cannot justify an

increase in his wealth compared to his legitimate income shall be deprived of civil rights, as provided for by the Penal code. (...) ".

Provisions exist, but given the level of corruption observed in the country, the effectiveness of their implementation is questionable.

In April 2022, Mauritanian Prime Minister Mohamed Bilal Messaoud stated that the government is committed to fighting corruption "through effective institutional action" as part of a [National Anti-Corruption Strategy](#). However, this strategy is not available online, and to date, we have no information on its implementation.

- **Fight against money laundering and terrorism financing**

In [October 2019 \(see below\)](#), Mauritania decided to strengthen its framework for combating money laundering and terrorism financing. In this regard, the country adopted Law No. 2019-017 of February 20, 2019 (not available online at this time), and the Council of Ministers adopted a decree implementing this law. This decree defines "the composition, sets the rules of organisation and functioning of the National Committee for the Fight against Money Laundering and Terrorism Financing (COMITE), and the Financial Investigation Unit (UNITE)."

The new law has enabled the consideration of aspects related to the proliferation of weapons of mass destruction.

Furthermore, the law has expanded the category of Designated Non-Financial Businesses and Professions (DNFBPs), which are essentially non-financial institutions that can be used for money laundering or terrorism financing purposes due to their nature.

The AML/CFT law requires the country to establish a national AML/CFT framework covering several aspects, including the following:

1. The country must conduct its national risk assessment and identify vulnerabilities to money laundering (ML) and terrorist financing (TF).
2. Obligated entities (financial institutions and DNFBPs) must conduct their risk assessments.

3. Obligated entities must implement an effective AML/CFT framework to significantly mitigate ML/TF activities and submit suspicious transaction reports to the financial intelligence unit (CRF).
4. Obligated entities failing to meet their obligations must face administrative and disciplinary sanctions.
5. CRF must be autonomous, operational, and adequately resourced with technical, financial, and human resources to fulfil its missions. CRF is an independent administrative authority under the supervision of the Minister of Finance. Its mission includes processing and transmitting information for the fight against ML and TF. CRF also handles suspicious transaction reports and can oppose the execution of a transaction based on serious, consistent, and reliable information. When operations reveal facts that may constitute the offence of money laundering or terrorist financing, CRF submits a report to the Public Prosecutor, who must refer the case to the investigating judge.
6. The country must establish mechanisms to freeze the assets of terrorist individuals and organisations.
7. Both individuals and legal entities can be held criminally liable for offences related to money laundering and/or terrorist financing.
8. The country establishes mechanisms to seize, manage, and confiscate the assets of criminals. Mauritania has had since Decree No. 2017-127 of November 2, 2017, an Office for the Management of Frozen, Seized, and Confiscated Assets and the Recovery of Criminal Assets (OGRAC).

As part of the fight against money laundering and the financing of terrorism, a training course for members of the Nouakchott bar, organised by PPLAAF and [Expertise France](#) in partnership with the International Conference of Bars and Law Societies (CIB) and the Union Internationale des CARPA (UICA), took place in March 2022. The training was part of the [OCWAR-M project](#), a European project to combat money laundering and the financing of terrorism throughout the West African region. Under the aegis of the President of the Bar, it provided training for members of the Bar and the Bar Council on issues relating to the fight against financial crime and the protection of whistleblowers.

1.3 Media rights and freedom of expression

Freedom of expression, press freedom, and media rights play a crucial role in whistleblowing. These fundamental rights enable whistleblowers and journalists to disclose sensitive information safely, shed light on wrongdoing, and protect the public interest. Respecting these rights promotes an environment conducive to transparency, accountability, and the disclosure of information in the public interest.

- **Legal framework restricting press freedom in Mauritania**

The [Constitution](#) does not expressly provide for freedom of the press, although the [Freedom of the Press Act](#) states that access to information and freedom of the press "are inalienable rights of the citizen". However, the law also notes that these freedoms may be limited "by law and to the extent strictly necessary for the preservation of democratic society".

Defamation can be punished by heavy fines. The Freedom of the Press Act introduces fines for press offences against the President, for defamation of members of the government, certain officials, and official bodies (including the courts and the military), and for "public offence" against heads of state and foreign diplomats. Defamatory allegations concerning the private lives of members of the government may be punishable by up to six months imprisonment in the case of a charge based on ethnic group, nationality, religion, or race. The definition of defamation in the Freedom of the Press Act implicitly extends to ordinary citizens, but there are no penalties for defamation of persons outside the state apparatus.

When the [cybercrime law](#) was still at the draft stage, journalists had already begun to express fears that the bill would allow them to be prosecuted for "almost anything published online." The law provides for prison sentences and heavy fines for disseminating certain politically sensitive content on the internet while reaffirming the illegality of content that undermines Islamic values and the sharing of information considered to be in the interests of national defence.

- **The case of the blogger sentenced to death and the continuing fight for human rights in Mauritania**

In a [high-profile case](#), a blogger has been sentenced to death for denying Islam. Mohamed Cheikh Ould M'Kheir was arrested in 2014 and tried in a summary trial for criticising inequality in Mauritanian society and the Prophet Muhammad. He appealed against the conviction, but his court-appointed lawyers resigned in February 2015 for fear of reprisals from religious conservatives. A Supreme Court ruling published in December 2016 concluded that there had been procedural irregularities in previous trials. Despite this, M'Kheir remained in detention. On 8 October 2017, a court of appeals [sentenced](#) him to two years imprisonment, and the public prosecutor immediately appealed against this court decision. In 2019, after [apologising](#) on a television channel, M'Kheir was reportedly released and transferred out of Mauritania.

- **Repression and harassment of journalists in Mauritania: a growing threat to press freedom**

Journalists have "the duty and the right" to protect their sources "in all circumstances, except in cases provided for by law to combat crimes and offences" (Article 3 of the Press Freedom Act).

In its [2023 report](#), Freedom House considers Mauritania to be "partly free", with a score of 36/100. In its [2022 report](#), Freedom House pointed out that "(...) a variety of media outlets operate, but [that] journalists risk arrest for reporting on sensitive topics and [that] there is a great deal of self-censorship". Freedom House adds that "journalists who cover sensitive stories or scrutinise the political elite can face harassment, wiretapping, and sometimes arrest."

Freedom House also reports that "several repressive laws are still in force, including those criminalising defamation, dissemination of false information, cybercrime and blasphemy." Indeed, in June 2020, Parliament approved a law punishing the dissemination of ["false news"](#) and the creation of false identities online. Offenders can be sentenced to up to five (5) years imprisonment and fines ranging from 50,000 to 200,000 Ouguiya.

The [Regroupement de la Presse Mauritanienne \(RPM\)](#) has predicted a decline in freedom of expression in Mauritania in 2021. It points to the proliferation of repressive laws, arrests, and questioning of journalists. In 2021, for example, a Mauritanian reporter, [Abdellahi Mohamed Ould Atigha](#), was arrested at his home by police officers for a Facebook post in which he questioned the government's management of a fund intended to finance projects for disadvantaged groups. The journalist was released 48 hours later after the complaint lodged by the minister's father was withdrawn. The same year, journalist [Salem Kerboub](#) was arrested for a Facebook post denouncing the government's fraudulent management of funds to curb the COVID-19 pandemic. In 2019, bloggers [Abderrahmane Weddady and Cheikh Ould Jiddou](#) spent more than two months in prison for posting on their social networks about a controversy surrounding a two-billion-dollar fund allegedly invested by relatives of Mauritanian President Mohamed Ould Abdel Aziz in the United Arab Emirates.

In 2021, the Media Foundation for West Africa (MFWA) expressed [concern](#) about the detentions and arrests of journalists and social network activists in Mauritania, using the new cybercrime law that appears to restrict freedom of the press and expression. Severe penalties of up to five years in prison have been imposed for disseminating false information and inciting national division. Human rights activists have also criticised the law as an attempt to muzzle the press and restrict democracy. The MFWA called on the Mauritanian government to respect freedom of expression and the constitutional rights of its citizens.

Reporters Sans Frontières (RSF) ranked Mauritania [97th in the world in 2022](#). The NGO notes that "journalists are particularly exposed to pressure from the political authorities" and that "the adoption in 2020 of a new cybercrime law with liberticidal tendencies is a source of concern". In [2023](#), RSF ranked Mauritania 86th, a slight improvement compared to 2022.

1.4 The Access to Information Act and Secrecy Laws

This section discusses the importance of access to public information for whistleblowers and journalists. These individuals who expose illicit behaviours within the public administration require reliable information to support their disclosures. The right to access public information ensures transparency and accountability, providing enhanced protection to whistleblowers and journalists who can rely on concrete facts when disclosing sensitive information.

- **Lack of transparency in Mauritania: the absence of a law on access to public information.**

Mauritania has not adopted a law on access to public information.

The country has strict secrecy laws and severe penalties for those who break them. Under the [Penal Code](#), allowing information concerning national defence to be made public is punishable by 20 years of hard labour (Article 72). Where the intent of the disclosure is not treason, this penalty is reduced to a maximum of 10 years (Article 73). Publishing "information relating to the measures taken to discover and arrest the perpetrator of the treason is punishable by 20 years' hard labour" (Article 76).

Employees who communicate their employer's trade secrets to "foreigners or Mauritians residing in a foreign country" are liable to imprisonment for up to five years (article 388). If the beneficiary of the secrecy is a Mauritanian residing in Mauritania, the maximum term is two years. There are no specific provisions for journalists or non-employees who divulge such secrets.

2. ANALYSIS OF THE FACTS: WHISTLEBLOWER CASES

The objective of this section is to list known and public cases of whistleblowers to assess the treatment afforded to whistleblowers in the country.

There are no known cases of whistleblowers being published in Mauritania. It is not possible to establish whether there have been cases of whistleblowing that have been hushed up or whether the lack of legislative protection has deterred people from disclosing sensitive information.

3. RECOMMENDATIONS: WEAKNESSES AND NEEDED REFORMS

This section suggests areas for improvement for the State regarding the protection of whistleblowers, current legislation against financial crime, the government's commitment to combating this problem, and the respect for individual liberties, including the right to information, freedom of the press and expression, as well as media rights.

- **Whistleblowing and the fight against corruption**

In Mauritania, there is currently no specific protection for whistleblowers and no indication of any legislation in the pipeline. Although there are provisions to protect witnesses, experts, victims, and whistleblowers, these are insufficient to develop a whistleblowing culture in the country.

- It would benefit whistleblowing if the Mauritanian government were to develop a law offering extensive and adequate protection to whistleblowers and strengthen its actions to combat corruption and promote transparency and good governance to promote an environment favourable to whistleblowing.

- **Preservation of freedom of expression and of the press**

In Mauritania, there is growing concern regarding freedom of expression and of the press due to the adoption of restrictive legislative provisions. Journalists face pressure, intimidation and arbitrary arrest, raising concerns about their safety.

- To promote an environment conducive to freedom of expression and whistleblowing, it would be important for the Mauritanian state to take measures to protect the rights of the media and journalists.

4. KNOWLEDGE, SUPPORT, AND ACTION CENTRES:

This section explores the landscape of civil society organisations, NGOs, and citizen movements that actively promote good governance. These entities represent valuable sources of knowledge and expertise, playing a crucial role in strengthening democratic practices.

In Mauritania, no sufficiently reliable organisation has been identified.



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