

Guatemala

Western Hemisphere / **Central America**

| | | | | | |
|----------------------------------|---|---|--|--|--|
| CAPITAL Guatemala City | TERRITORY 107,160 km ² | POPULATION (2020) 16,858,333.00 | GDP TOTAL (2020) \$77.6B USD | GDP PER CAPITA (2020) \$4,603.33 USD | INCOME GROUP Upper middle income |
|----------------------------------|---|---|--|--|--|

Convention Implementation



In progress

11th of 31 western hemisphere
4th of 8 Central American countries

Prevention



In progress

Criminalization and law enforcement



In progress

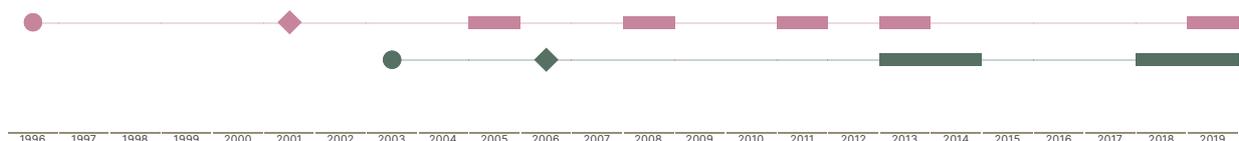
International cooperation



Implemented



Anti-corruption conventions timeline



CONVENTIONS

- IACAC - Inter-American Convention Against Corruption
- UNCAC - United Nations Convention against Corruption
- OECD Anti-Bribery Convention

KEY EVENTS

- Signed
- Ratified/acceded
- Review rounds

Prevention

In progress

51.9

✓ Adoption 85.0 ✎ Design 71.7 ⌚ Enforcement 63.3

| | | | | |
|--|---|--|--|--|
| Standards of Conduct In progress 53.1 ✓ 100.0 ✎ 66.7 ⌚ 66.7 | Enforcement of Standards of Conduct In progress 62.5 ✓ 100.0 ✎ 83.3 ⌚ 66.7 | Training of Public Officials In progress 50.0 ✓ 75.0 ✎ 66.7 ⌚ 66.7 | Asset and Conflicts of Interests Declarations Core-deficient 43.8 ✓ 100.0 ✎ 50.0 ⌚ 66.7 | Transparency in Government Contracting Core-deficient 40.6 ✓ 75.0 ✎ 50.0 ⌚ 66.7 |
| Elimination of Favorable Tax Treatment In progress 62.5 ✓ 100.0 ✎ 83.3 ⌚ 66.7 | Oversight Bodies Core-deficient 28.9 ✓ 50.0 ✎ 50.0 ⌚ 50.0 | Measures to Deter Domestic and Foreign Bribery In progress 50.8 ✓ 100.0 ✎ 83.3 ⌚ 50.0 | Encouraging Participation by Civil Society In progress 71.9 ✓ 100.0 ✎ 100.0 ⌚ 66.7 | Study of Other Preventive Measures In progress 54.7 ✓ 50.0 ✎ 83.3 ⌚ 66.7 |

Criminalization and law enforcement

In progress

67.4

✓ Adoption 86.0 ✎ Design 76.0 ⌚ Enforcement 77.3

| | | | | |
|---|---|---|--|--|
| Protection of Those who Report Acts of Corruption Core-deficient 28.9 ✓ 50.0 ✎ 50.0 ⌚ 50.0 | Scope In progress 71.9 ✓ 100.0 ✎ 66.7 ⌚ 100.0 | Jurisdiction: Offense-in-Territory Implemented 100.0 ✓ 100.0 ✎ 100.0 ⌚ 100.0 | Jurisdiction: Offense-by-National In progress 54.7 ✓ 75.0 ✎ 50.0 ⌚ 100.0 | Jurisdiction: Offender-in-Territory In progress 71.9 ✓ 100.0 ✎ 66.7 ⌚ 100.0 |
| Passive Public Bribery In progress 71.9 ✓ 100.0 ✎ 100.0 ⌚ 66.7 | Active Public Bribery In progress 71.9 ✓ 100.0 ✎ 100.0 ⌚ 66.7 | Abuse of Functions In progress 71.9 ✓ 100.0 ✎ 100.0 ⌚ 66.7 | Money Laundering In progress 71.9 ✓ 100.0 ✎ 100.0 ⌚ 66.7 | Participation and Attempt In progress 62.5 ✓ 100.0 ✎ 83.3 ⌚ 66.7 |
| Active Foreign Bribery In progress 50.8 ✓ 100.0 ✎ 83.3 ⌚ 50.0 | Illicit Enrichment Implemented 100.0 ✓ 100.0 ✎ 100.0 ⌚ 100.0 | Use of State Property Implemented 85.9 ✓ 100.0 ✎ 83.3 ⌚ 100.0 | Illicit Acquisition of a Benefit Implemented 85.9 ✓ 100.0 ✎ 83.3 ⌚ 100.0 | Public Embezzlement Implemented 85.9 ✓ 100.0 ✎ 83.3 ⌚ 100.0 |
| Passive Foreign Bribery Implemented 85.9 ✓ 100.0 ✎ 83.3 ⌚ 100.0 | Private Bribery No implementation 0.0 ✓ 0.0 ✎ 0.0 ⌚ 0.0 | Private Embezzlement No implementation 0.0 ✓ 0.0 ✎ 0.0 ⌚ 0.0 | Obstruction of Justice In progress 71.9 ✓ 100.0 ✎ 66.7 ⌚ 100.0 | Liability of Legal Persons Implemented 85.9 ✓ 100.0 ✎ 83.3 ⌚ 100.0 |
| Statute of Limitations Implemented 100.0 ✓ 100.0 ✎ 100.0 ⌚ 100.0 | Prosecution, Adjudication and Sanctions In progress 68.8 ✓ 75.0 ✎ 66.7 ⌚ 100.0 | Consequences and Compensation Implemented 85.9 ✓ 100.0 ✎ 83.3 ⌚ 100.0 | Cooperation With Law Enforcement Core-deficient 31.3 ✓ 75.0 ✎ 100.0 ⌚ 0.0 | Asset Recovery In progress 68.8 ✓ 75.0 ✎ 66.7 ⌚ 100.0 |

International cooperation

Implemented

77.0

✓ Adoption 90.0 ✎ Design 87.8 ⌚ Enforcement 85.6

Assistance Without Criminalization

In progress

57.8

✓ 100.0 ✎ 100.0 ⌚ 50.0

Inclusion in Extradition Treaties

In progress

47.7

✓ 75.0 ✎ 83.3 ⌚ 50.0

Convention as Legal Basis for Extradition

Implemented

85.9

✓ 100.0 ✎ 83.3 ⌚ 100.0

Automatic Application Without Treaty

In progress

50.0

✓ 50.0 ✎ 50.0 ⌚ 100.0

Prosecution Without Extradition

In progress

50.0

✓ 50.0 ✎ 50.0 ⌚ 100.0

Custody

Implemented

100.0

✓ 100.0 ✎ 100.0 ⌚ 100.0

Assistance

In progress

50.8

✓ 100.0 ✎ 83.3 ⌚ 50.0

Impossibility of Claiming Bank Secrecy

Implemented

100.0

✓ 100.0 ✎ 100.0 ⌚ 100.0

Limited Use of Information

Implemented

85.9

✓ 100.0 ✎ 100.0 ⌚ 83.3

Nature of Act

Implemented

82.8

✓ 75.0 ✎ 83.3 ⌚ 100.0

Designate Central Authorities

Implemented

100.0

✓ 100.0 ✎ 100.0 ⌚ 100.0

Responsibilities of Central Authorities

Implemented

85.9

✓ 100.0 ✎ 100.0 ⌚ 83.3

Communication Between Central Authorities

Implemented

85.9

✓ 100.0 ✎ 100.0 ⌚ 83.3

Special Investigative Techniques

Implemented

85.9

✓ 100.0 ✎ 83.3 ⌚ 100.0

Technical Cooperation

Implemented

85.9

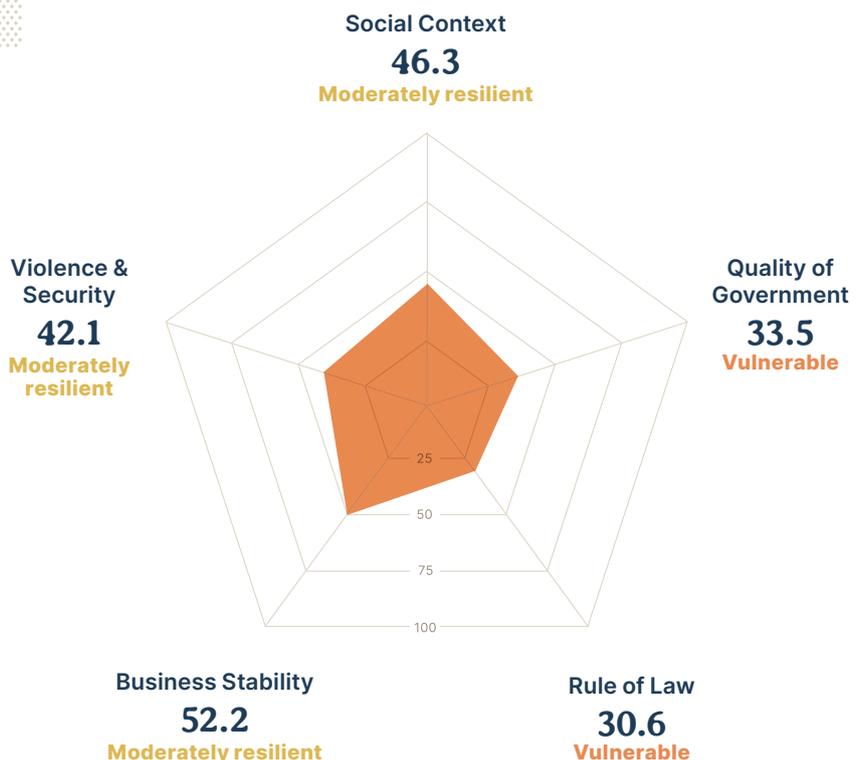
✓ 100.0 ✎ 100.0 ⌚ 83.3

Corruption Resilience

41.0

Vulnerable

27th of 31 western hemisphere
7th of 8 Central American countries



Analysis

Convention Implementation

Guatemala signed the Inter-American Convention Against Corruption (IACAC) on June 4, 1996, and ratified it on June 12, 2001. It is a State Party to the Follow-Up Mechanism for the Implementation of the Inter-American Convention against Corruption (MESICIC) since December 19, 2001. The country also signed the United Nations Convention Against Corruption (UNCAC) on December 9, 2003, and subsequently ratified it on November 3, 2006. Accordingly, Guatemala has undergone five rounds of review under MESICIC, and one round of review under the UNCAC review mechanism.

Guatemala's record in implementing its commitments to IACAC and UNCAC exhibits a number of successes and a few failures. With an overall score of 67.2, the measures adopted place the country at the middle point of compliance with international norms, surrounded by Honduras (66.6), The Bahamas (67.1), Nicaragua (67.9), and Cuba (69.3). Despite achieving higher success in regard to criminalization and international cooperation (as is the case throughout the region) the majority of preventive measures are found to be in progress, while the only two unimplemented (either fully or partially) measures in the country belong to criminalization and law enforcement. Furthermore, as almost half of all measures below the "implemented" level receive a score above 50, a degree of progress can be noted in all three sections—albeit with an emphasis on international cooperation.

The prevention of corruption is undergoing, classified as "in progress" by its average score and with all but three measures given a score of 50 or above—the state of oversight bodies (28.9), transparency in government contracting (40.6), and systems for registering asset and conflict of interests' declarations (43.8), all three of which are found to be deficient at core. While these measures represent almost half of all "core-deficient" or unimplemented scores given to the country and no measures in this section are considered to be successfully implemented, there are no unimplemented commitments either. A single measure shows markedly positive progress: the initiatives to encourage the participation of civil society (71.9).

In terms of criminalization and law enforcement, Guatemala shows better results than those regarding prevention, although a few important deficiencies remain. The country has not adopted sufficient protection for those who report acts of corruption (i.e., whistleblower protection) (28.9) or utilized legal mechanisms to facilitate cooperation with law

enforcement (e.g., plea bargain) (31.3). Concerning the latter, the UNCAC review mechanism reports that, in practice, the benefits provided for in the country's Law against Organized Crime—such as the reduction of punishment and others—are not applied in corruption cases; additionally, "Guatemala has not entered into agreements with regard to the concession of such benefits to collaborators with justice at the international level." Two other measures are found fully unimplemented—the criminalization of bribery and embezzlement in the private sector (both of which are required by UNCAC). On the other hand, several measures are considered to be successfully implemented, including those pertaining to illicit enrichment, embezzlement in the public sector, the illicit acquisition of a benefit (i.e., influence trading), and most significantly the passive bribery of foreign officials (the active form received a score of 50.8) and the liability of legal persons (both of which are also required by UNCAC).

Finally, Guatemala's mild implementation of its commitments regarding international cooperation is reflected in two thirds of all measures within this section receiving an "implemented" score and no measures found deficient at core. The few measures still in progress concern extradition and mutual legal assistance, in regard to which the UNCAC review mechanism finds that "Guatemala does not maintain a system of statistics on mutual legal assistance cases, and could not recall any mutual legal assistance cases with regard to the offenses established in accordance with the Convention." However, while lack of monitoring and data collection mechanisms is a deficit commonly found in the review of other countries across the region, Guatemala satisfies the general requirement of statistical information to assess the level of implementation of legally adopted measures.

Corruption Resilience

Guatemala's social context indicator declined in 2020 by 0.9 points from the previous year, resulting in a score of 46.3, which falls below the Western Hemisphere regional average of 64.9 by 18.6 points. Since 2010, the country's score has varied with an approximately 2.5-point decline from year to year. Throughout the decade, the mini-max range for Guatemala was 46.3 (2020) and 52.1 (2010), with a range of 5.8 points. Guatemala's social context indicator score within Central American countries is one the lowest performers.

With regard to the quality of government indicator, Guatemala's score has declined by 3.2 points

from 2019, resulting in a score of 33.5. Guatemala's current indicator score fails to reach or surpass the Western Hemisphere regional average of 50.6, by 17.1 points. Since 2010, the country's score has been on a decline, and has dropped 12.2 points between 2010 and 2020. The country's quality of government score is primarily attributed to widespread and worsening corruption within the country, the government's poor control of corruption, and generally, the state's weak-performing democracy. The country is characterized by democratic fragility and continues to face major obstacles in maintaining impartial administration and improving an inefficient bureaucratic system.

Guatemala's rule of law indicator declined in 2020 by 4.2 points from the previous year. The indicator's Western Hemisphere regional average was 51.1, and Guatemala's score failed to reach the threshold by 20.5 points. As a result, Guatemala's rule of law indicator falls within the bottom percentile for the Western Hemisphere region. During the last decade, the mini-max range for Guatemala was 30.6 (2020) and 42.3 (2010), with a range of 11.70 points. This indicator is mainly impacted by widespread corruption and government inefficiency within the country. Moreover, Guatemalan courts remain highly susceptible to political influence by internal and external

actors, which severely restricts judicial independence within the country.

In terms of business stability, the country's indicator scores for 2020 increased by 2.0 points from the previous year. Guatemala's 2020 indicator score surpasses the Western Hemisphere average of 50.5 by 1.7 points. Notably, the business stability indicator is Guatemala's only indicator which meets or surpasses the Western Hemisphere and Central American average. Throughout the decade, the country's score has varied, where its highest score of 52.2 was recorded in 2020 and its lowest score of 46.0 was measured in 2015. Guatemala's consistently low rank is largely the result of poor law enforcement, widespread corruption, and a lack of transparency in regulations that impact businesses.

Guatemala's violence and security indicator for 2020 declined by 3.4 points from the previous year. The country's indicator score fell below the Western Hemisphere average of 55.0 by 12.9 points. During the decade, the mini-max range for Guatemala was 30.8 (2011) and 45.5 (2019). The country has witnessed slight improvements in its score, but it remains consistently low. According to the OSAC, Guatemala is considered one of the most dangerous countries in the world due to the presence of violent criminal gangs like Barrio 18 (18th Street) and Mara Salvatrucha (MS13).

Transparency

MAIN REPORTING NGO

Acción Ciudadana

| REPORT DATE | REVIEW YEAR | DOCUMENT REVIEWED | LANGUAGE |
|-------------|-------------|-------------------|----------|
| Nov-2013 | 2013-2014 | Executive Summary | Spanish |

Did the government make public the contact details for the country focal point? ✘ No

Was civil society consulted in preparation for the self-assessment? ✘ No

Was civil society invited to provide information to the official reviewers? ✘ No

Was the self-assessment published online or provided to CSOs? ✘ No

Assessment of the Review Process Civil Society Parallel Reports

Source: UNCAF CIVIL SOCIETY COALITION

The civil society parallel review report for Guatemala was authored by multiple organizations using information recorded during the 2013-2014 period. The main author was Citizen Action (Acción Ciudadana), an association that promotes the political reform of the state, which collaborated with the following organizations to create the report: the Alliance for Transparency (AporT), the Guatemalan Chamber of Industry, the Guatemala Center for Studies (CEG), the National Center for Information and Research on Development and Disaster (CENACIDE), the Mutual Support Group (GAM), Guate Cívica, and the Institute of Independent Research and Analysis of Guatemala (IINAIG). Unlike most parallel reports, Guatemala's review included a significant and diverse number of civil society groups. However, the ability to obtain information for the report proved difficult. Although there is legislation to facilitate accessing public information, each institution has different restrictions and policies on complying with the law. Therefore, information requests were submitted electronically or during interviews, but in some cases the data obtained was either insufficient or non-existent.

Generally, Guatemala's legal framework complies with the guidelines contained in chapters III and IV of the UNCAC. Significant deficiencies in implementation are posed by the following: a culture of silence due to fear of retaliation, the low number of complaints filed by relevant bodies in institutional statistics, the high turnover of officials in charge of investigating corruption cases, and a lack of coordination at the operational level. The report highlighted several priority area recommendations—namely, addressing the high turnover of government personnel, the creation of a state policy to fight corruption, enhancing accessibility of information, strengthening institutional statistical systems, providing training for all relevant bodies, and establishing mechanisms for anonymous and confidential complaints, among others.