

GUIDANCE FOR CSOS SEEKING PUBLICATION OF FULL UNCAC COUNTRY REVIEW REPORTS

Why should governments publish the full report?

Although executive summaries of UNCAC review reports are published online for each country, these leave out valuable information on criminalisation, law enforcement and international cooperation legislation and practice. This information is an important contribution to the knowledge base and would enable further analysis and public discussion.

There is no reason why the full reports should not be published. They do not contain sensitive information and are part of a review process aiming to achieve transparency and accountability. Publication of the full report helps to fulfil those aims. In the unlikely event that any of the reports included sensitive information about investigations this could be removed before publication.

How should the government publish the report?

There are two main avenues for government publication:

- The full review report should be published on UNODC website, at the government's request. This makes it possible to find full reports for many countries in one location.¹
- The government should publish the full report on a national government website. It should be translated into the national language(s) if feasible, and published on a website that is easy to access and find.

What steps should you take?

Identify the right person to talk to in the government: The person responsible may be someone other than the focal point. Sometimes government decision makers are not aware that this decision needs to be made.

Send a letter to the person(s) identified: Sending a letter enables you to explain your request clearly and to keep track of it. A sample letter can be found in Annex 1. You could follow the guidance in Annex 2 on making a formal freedom of information request.² You should send the letter both by email (or fax) and by post. You might consider enlisting other organisations, including from the private sector, to join your organisation in signing the letter.

Make follow-up phone calls: You should call within a week of sending your letter to check if it has arrived and is being handled and make further calls periodically until you receive a response.

¹ Country profiles on UNODC website, www.unodc.org/unodc/en/treaties/CAC/countryprofile/index.html.

² The sample letter in Annex 1 does not include such a request because some countries do not have a freedom of information law and because each country that does has its own mechanism.

Make an appointment for a meeting: If you receive a negative response or no response, try to make an appointment to meet with those responsible to discuss the issue. You might consider going to the appointment with a small group of representatives of organisations interested in the subject. (They may have signed the letter.) You might also consider other recourse pursuant to the guidance in Annex 2 on making a formal freedom of information request.

ANNEX 1: SAMPLE LETTER TO GOVERNMENT OFFICIAL(S) REQUESTING THE PUBLICATION OF THE FULL COUNTRY REVIEW REPORT

To: [Name of person or office in agency or ministry].

Dear [...] / To Whom It May Concern

[I / we] *(If more than one organisation is writing)* have read with interest the executive summary of the review of [Name of country]'s successes and challenges in implementing the chapters of the UN Convention against Corruption (UNCAC) that cover [criminalisation, law enforcement and international cooperation/preventive measures and asset recovery] *(depending on whether you are requesting the report of the first or second cycle of review)*. That summary was produced in the first / second five-year cycle of the UNCAC review process and is posted on the website of the UN Office of Drugs and Crime (UNODC) in Vienna. (The link is provided at the end of this letter.) Unfortunately, [I / we] have not been able to access on a public website a copy of the full review report that provides the basis for the executive summary.

I am / we are writing to you on behalf of [name of the CSO(s)] in order to request a copy of the full UNCAC review report for [Name of country] in electronic or paper format *(if you have just one preference request just one format)*.

I am / we are also writing to inquire if the government of [Name of country] has yet taken two important steps to make available to the public the full results of the UNCAC review process. I would be grateful if you could let me know if the government has:

- Instructed UNODC to publish the full review report on UNODC website? This has been done by an increasing number of governments.
- Published both the full review report and the executive summary on a national website in an easily accessible location? It would be helpful if the report were published in our national language(s) and were placed on a government website page devoted to the UNCAC review process. Ideally, the website page should indicate what steps the government plans to take to follow up on the report's recommendations.

We have reviewed the full UNCAC country reports already published for other countries and find that they provide valuable information on [criminalisation, law enforcement and international cooperation/preventive measures and asset recovery] *(depending on whether you are requesting the report of the first or second cycle of review)* legislation and practice in the countries concerned. Although the executive summaries include the main findings of the reviews, only the full report provides adequate information on the subject matter reviewed.



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The UNCAC itself foresees transparency and civil society participation as part of the fight against corruption. Publication of the full review report would be a step towards supporting those goals and would place our country in a very positive light as one that takes those obligations seriously.

The government has successfully supported the completion of the first official report on [Name of country]'s implementation of UNCAC and we appreciate this achievement. An important further step to demonstrate the government's commitment to implementing UNCAC would be to ensure publication of the full report.

We would be pleased to discuss with you in person the issue of publication of the full report.

Yours sincerely,
[Name, Title, Organisation]

cc: (You may want to copy the letter to a number of institutions)

References

The executive summary for [Name of country] can be found at:
www.unodc.org/unodc/en/treaties/CAC/country-profile/index.html

ANNEX 2: GUIDANCE ON MAKING A FORMAL FREEDOM OF INFORMATION REQUEST

Many countries that have finalised their review reports have freedom of information legislation (FOI) in place. These laws may provide for both reactive (on request) and proactive disclosures (publication without request).

Information request

Submit an information request to your government. It should be quite straightforward to obtain the full report through the regular information request procedure (each country has its own mechanism: some have online and others have paper-based processes or both) and keep some proof of your information request such as acknowledgement of receipt, check of registered mail, etc.

With the exception of very few countries, there is no need to explain the reason for the request. However, we suggest that, in order to prevent refusals it is worth briefly describing why you need the full report. Your reasoning does not have to be very detailed, treat it more as a matter of politeness. Send the request to the public body that has the authority to provide this information. This is likely to be the same public body that houses the focal point.

If the requested public body responds to the request by saying that the report will not be published because this is not required by the UNCAC review mechanism, you should seek remedy by saying that FOI laws do not foresee this kind of exemption. Information should be kept secret only within the scope of exemptions provided for by precise and concrete provisions of the law.³

Each FOI law provides for legal recourse to seek remedy against a refusal. It may be a regular administrative appeal, the procedure of the Information Commission(er) or of an ombudsperson and in some countries court procedures are also directly available in this field. You must decide depending on each context which choice is best for your situation. If the requested public body does not react, call them after the legal deadline for response has passed, ask for an appointment if needed or just send a reminder repeating your request.

If the country does not have a freedom of information law or decree it is still possible to request this document. In many countries there are particular constitutional provisions on freedom of information. Provisions on freedom of expression or right to petition may also entail the right of access to information. Most countries also ratified international human rights conventions, which include the possibility to request public information.⁴ The UNCAC (Article 13) includes the freedom to seek, receive, publish and disseminate information concerning corruption – which has to be implemented in the national legal system. All of these sources of law allow citizens to request, obtain and disseminate the report.

³ Find out whether your country has a freedom of information law and what are the exemptions contained in it, www.freedominfo.org/2012/10/93-countries-have-foi-regimes-most-tallies-agree/; in the news section of freedominfo.org you can also find a list of countries where new freedom of information laws have entered into force.

⁴ Find a list of relevant international instruments here: www.right2info.org/international-standards.

If there is no FOI law in your country that would define the procedures in case of a refusal and the government does not respond positively or does not respond at all, you can still decide to go to court. There are many examples in which the judges have understood that you still have the right to request this kind of information. In each country there are CSOs that have experience with this and can give advice about this possibility, a further option is to find a pro bono lawyer.⁵ In any case, your effort is valuable to highlight internationally that your particular country is not complying with Article 13 of the UNCAC.

Procedural rules may vary from country to country, but practically everywhere you can find civil society organisations or pro bono lawyers who can help you with your request or when seeking remedies.

Online publication of the full report

In a significant number of countries there are proactive obligations of the government concerning the publication of information that may also cover the full country review report. As the content of the report is relevant for CSOs, media, business community, etc. it is important that your government provide access to everyone. The best solution is if the responsible public body publishes it in an easily accessible location on the internet and allows the UNODC to do the same on its website.⁶

If you receive the full report on request it is only one more step to convince the responsible body to publish it online for the benefit of the public. In any event, unless you have made a commitment to keep the document confidential, feel free to publish and disseminate it as international law provides you this right.⁷

⁵ Freedom of information CSOs: www.foiadvocates.net/en/members; Pro bono networks: www.islp.org/content/law-firm-pro-bono-docket; www.pilnet.org/index.php?option=com_content&view=article&id=34&Itemid=55

⁶ Helen Darbshire, *Proactive Transparency: The future of the right to information? A review of standards, challenges, and opportunities*, (Washington DC: World Bank, n.d.), http://siteresources.worldbank.org/WBI/Resources/213798-1259011531325/6598384-1268250334206/Darbshire_Proactive_Transparency.pdf.

⁷ Choose from the provisions of the following international conventions depending on which applies to your country; each of them provides for the right of imparting or disseminating information: the International Covenant on Civil and Political Rights, Article 19 of which provides for the right of access to information; the African Charter on Human and Peoples' Rights, Article 9 of which provides for the right of access to information; the American Convention on Human Rights, Article 13 of which provides for the right of access to information; the European Convention on Human Rights, Article 10 of which provides for the right of access to information.