

Argentina: Civil Society Report
by Asociación Civil para una Sociedad más Justa
An input to the UNCAC Implementation Review Mechanism:
Third year of review of UNCAC Chapters II and V

-Executive Summary-

This is the executive summary of a civil society shadow report from August 2021 that reviews Argentina’s implementation and enforcement of selected articles in UN Convention against Corruption (UNCAC) Chapters II (Preventive Measures) and V (Asset Recovery). The report was supported by the UNCAC Coalition and is intended as a contribution to the UNCAC peer review process of Argentina covering those two chapters. The full report is available on the UNCAC Coalition's website.¹

The UNCAC articles and topics that receive special attention in this report are preventive anti-corruption bodies (Article 6), public sector employment (Article 7.1), codes of conduct, conflicts of interest and asset declarations (Articles 7, 8 and 12), political financing (Article 7.3), public procurement (Article 9.1), access to information (Article 10), participation of society (Article 13.1), and measures to prevent money laundering (Article 14) under Chapter II, and anti-money laundering (Articles 52 and 58), measures for direct recovery of property and the return and disposal of confiscated property (Art. 54.1.c, 57.1) under Chapter V.

While Argentina has made some progress towards developing normative legal frameworks for the implementation of articles of Chapter II and Chapter V of the UNCAC, several challenges remain to effectively advance anti-corruption efforts. There is a need for more independent institutions, stronger oversight mechanisms and more civil society participation.

Assessment of the review process

Has the government disclosed information about the country focal point?	Partially	The country focal point is the Anticorruption Office. However, no information on the focal point or its contact details has been published.
Was the review schedule published somewhere?	No	
Was civil society consulted in the preparation of the self-assessment checklist?	No	There is no evidence that the Anticorruption Office consulted civil society representatives in the self-assessment process.

¹ <https://uncaccoalition.org/new-civil-society-report-on-argentina-more-independent-institutions-stronger-oversight-mechanisms-and-real-civil-society-participation-needed-to-advance-anti-corruption-efforts/>.

Was the self-assessment checklist published online or made available to civil society?	No and yes	It was only made available to ACIJ after an official request of access to information was sent to the Anticorruption Office.
Did the government agree to a visit to the country?	Yes	
Was a country visit undertaken?	Not yet	
Was civil society invited to provide input to the official reviewers?	Not yet	
Was the private sector invited to provide input to official examiners?	Not yet	
Has the government committed to publishing the full country report?	Yes	Argentina signed the UNCAC Coalition's Transparency Pledge, committing to publish the complete country report and self-assessment checklist once they are available, and to organize briefings for civil society on the review process and on the status of progress in complying with the UNCAC.

Main findings and Recommendations (R)

Anti-corruption bodies

The three main corruption prevention bodies in place in Argentina, the Anti-Corruption Office (OA), the Office of the Inspector General of the Nation (SIGEN) and the Office of the Auditor General of the Nation (AGN) lack functional and financial independence to effectively perform their duties.

R: Provide the oversight bodies (OA, SIGEN, AGN, UIF, AAIP) with sufficient guarantees of autonomy and establish mechanisms for the appointment and removal of their heads to ensure their independence and aptitude.

Public sector employment

While the legal framework provides for a hiring system governed by the principles of efficiency, transparency and equal access. In practice, open and competitive examinations for public sector hiring are not common; the sector lacks adequate promotion mechanisms and incentives for training. Barely 5% of senior public management positions were filled through open competitions in 2019. In the judiciary, discretionary and opaque mechanisms for admission prevail, except with the Public Prosecutor's and Defense Prosecutor's Offices.

R: Strengthen the public employment system, implementing a system of entry and promotion through open and competitive examinations.

Political financing

In practice, the financing of candidates for elected public office in Argentina has lacked transparency. The oversight system, preventive measures and sanctions are weak and ineffective. Using state resources for electoral purposes by ruling political parties remains a standard practice. A 2019 amendment allowed for corporate contributions to political campaigns and established the obligation to document all donations. However, it appears that some concealment practices continue to be used.

Regulation to prevent conflicts of interest and undue influence from business contributions is inadequate.

R: Improve the political party financing system to prevent conflicts of interest arising from business contributions, and increase the capacity of the monitoring system to prevent and investigate violations.

Codes of conduct, conflicts of interest and asset declarations

The 1999 Public Ethics Law has proven to be ineffective and provides inadequate oversight. A 2013 reform introduced the obligation to publish sworn asset declarations of public officials in an open format online but reduced the content and detail of the declared goods and assets, and concealed the statements of spouses and children of the declaring persons. The latter was declared unconstitutional in 2018 after the civil society organization (CSO) Poder Ciudadano filed an appeal, but the order has not yet been complied with. Several reform initiatives have been presented in Congress but not been discussed further.

R: Enact a new Public Ethics Law that guarantees an adequate framework for integrity in the public sector, including the presentation, publicity and oversight of sworn asset declarations and the management of conflicts of interest.

Public procurement

Insufficient information on public procurement is publicly available and there is a lack of mechanisms for citizen participation in all phases of the procurement cycle. Vague rules on direct contracting and the abuse of exceptions have resulted in widespread abuse, undermining transparency and competition, resulting in arbitrary decisions and rendering procurement more vulnerable to corruption. Emergency contracting with limited anti-corruption safeguards during the COVID-19 pandemic further weakened the procurement system. The creation of online portals such as “Compr.Ar” or “Contr.Ar” are a good practice, as they made more information on contracting available, though there is still inadequate data in open formats.

R: Update the legal framework for procurement and contracting of goods, services and public works, so as to ensure transparency, fair competition, efficiency and citizen control of all state procurement.

Access to information

The adoption of the 2016 law on access to information was a step in the right direction but challenges to its full implementation remain: Not all branches of government have functioning, independent oversight bodies. Of the four existing oversight bodies, only two of them have websites and publish annual accountability reports, only one publishes some information on the results of its transparency compliance audits. Access to information and accountability of the judiciary in corruption investigations is limited. Nevertheless, CSOs have on some occasions obtained judicial authorization to access corruption files as a form of citizen monitoring, based on the provisions of UNCAC Article 13.

R: Create and operationalize oversight bodies for access to public information in all branches of government, as required by the Access to Information Law.

Participation of society

Institutional mechanisms for the participation of citizens in the cycle of planning, execution and monitoring of public policies are scarce, weak and infrequently used. Constitutional mechanisms for semi-direct democracy are highly restricted and have only been used in exceptional in the past 25 years. There is also no general law on citizen participation, unlike in other countries in the region. The

Ombudsman's Office, the body in charge of communicating citizens' demands to the State, has not been operational since 2009. There are few channels to participate in the prevention and criminalization of corruption.

R: Establish effective institutional mechanisms for citizen participation in the public policy cycle in general, and in particular in the prevention, detection and punishment of corruption.

Anti-money laundering

The main agency for the prevention of money laundering, the Financial Information Unit (FIU), does not have adequate guarantees of independence to carry out its function impartially and effectively; The suitability and independence of the FIU's leadership has been repeatedly questioned. Furthermore, weak requirements for public officials to disclose their assets hinders the prevention and investigation of the laundering of proceeds of corruption. Argentina also lacks an adequate legal regime for the disclosure of beneficial owners of companies or legal persons.

R: Strengthen the FIU's legal sanctioning framework, improve regulation on the disclosure of beneficial owners of legal entities, and update the list of obligated reporting parties.

Asset recovery

The legal framework for confiscation, non-conviction-based forfeiture, restitution and disposal of assets is ineffective to fight corruption and organized crime. In addition to overlapping regulations, a lack of transparency and weak mechanisms, the arbitrary use of assets while in the hands of the judiciary are of great concern. A recent decree that established the procedural protocol for civil forfeiture of assets is contradictory to constitutional guarantees and therefore in urgent need of further discussions in Congress.

R: Pass a new law on forfeiture of assets, establish a unified registration and information system for confiscated goods and assets and a system of control for their administration that guarantees citizen participation.