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**Colombia: Civil Society Report**  
**by Corporación Transparencia Por Colombia**  
**An input to the UNCAC Implementation Review Mechanism:**  
**Fourth year of review of UNCAC Chapters II and V**

*-Executive Summary-*

This is the executive summary of a civil society shadow report from December 2021 that reviews Colombia'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 Colombia covering those two chapters. The full report is available on the UNCAC Coalition's website.<sup>1</sup>

While Colombia 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 stronger oversight and sanctioning mechanisms and more protection for whistleblowers and activists.

**Assessment of the review process**

Has the government disclosed information about the country focal point?	No	Information was requested by Transparencia por Colombia from the Presidency's Transparency Secretariat; however, they did not receive a response on the review process. The Transparency Secretariat consulted the Ministry of Foreign Affairs but did not receive a response.
Was the review schedule published somewhere?	No	
Was civil society consulted in the preparation of the self-assessment checklist?	Unknown	
Was the self-assessment checklist published online or made available to civil society?	No	
Did the government agree to a visit to the country?	Unknown	
Was a country visit undertaken?	Unknown	

<sup>1</sup> Soon available here: <https://uncaccoalition.org/new-civil-society-report-on-colombia/>.

Was civil society invited to provide input to the official reviewers?	Unknown	
Was the private sector invited to provide input to official examiners?	Unknown	
Has the government committed to publishing the full country report?	Unknown	

## Main findings and Recommendations (R)

### Prevention of corruption

A new policy entitled "Transparency, Integrity, Legality, Co-responsibility, and Innovation Policy: Towards an Open State" and the "Strategy to Combat Corruption Associated with Drug Trafficking" are currently being drafted, as a replacement for the Comprehensive Anti-Corruption Public Policy that ended in 2018. The Transparency Secretariat is the leading anti-corruption institution in the country; however, it requires greater capacity to improve coordination of its actions and dynamize its work.

*R: Strengthen the technical, administrative and budgetary capacities of the Secretariat of Transparency in its role as coordinator of public policies to fight corruption, as well as of the other anti-corruption bodies created by the Anti-Corruption Statute.*

### Public sector employment

Laws regulate entry into the administrative career on the basis of merit; however, they have been difficult to apply because competitions tend to be slow, with budgetary limitations that hinder the ability to maintain administrative career personnel within institutions. Other shortcomings are the arbitrary use of direct hiring of staff, the lack of possibilities for promotion to managerial positions and high staff turnover rate.

*R: Carry out a general reform of public employment that promotes efficient and merit-based entry into the public service, allows for corrective measures to be taken with regard to administrative career employees with unsatisfactory performance, promotes labor mobility and provides incentives to public servants.*

### Political financing

Colombia has laws and regulations governing campaign financing ceilings, limits that a private party may finance to avoid being disqualified from contracting with the elected president, rules on the lawful origin of the resources and measures for the accountability of candidates, political parties and movements. In practice, challenges include delays and difficulties in accessing public financing, the context of drug trafficking and criminality that permeates political campaigns, difficulties in monitoring the origin of resources, and the absence of mechanisms for reporting donations to political campaigns by private parties.

*R: Promote legislation that obliges political campaign contributors to register their donations, loans or any other type of contribution to parties, movements and candidates (which must be interoperable with the 'Cuentas Claras' application for reporting income and expenses of political campaigns).*

### **Whistleblower protection**

Colombia does not have regulations for whistleblower protection. Two bills were recently presented but were unsuccessful in Congress to legislate on the issue. Although there are channels for reporting acts of corruption, it is crucial to guarantee basic elements for reporting, such as confidentiality of data, anonymity, security of whistleblowers and follow-up of reports.

*R: Create a unified information system that provides security and confidentiality guarantees to those reporting acts of corruption within the framework of the Institutional Anticorruption Network (RITA), and follow-up on reports.*

### **Public procurement**

There is broad legislation that regulates the purchases made by the State; however, this facilitates, and even promotes the arbitrary use of direct contracting through the provision of professional services, special regimes or manifest urgency.

*R: Promote changes in contractual regulations with the objective of unifying the country's procurement legislation; regulate the arbitrary use of direct contracting and contracting by special regime.*

### **Management of public finances**

Although there is an Economic Transparency Portal in Colombia that contains general information on budgets, there are significant challenges in access to information, as there is no unified system of budget information, and neither detailed information on the use of public resources, nor information on budget collection or tax benefits granted to private parties is published.

*R: Strengthen the Economic Transparency Portal by including detailed budget information for each of the public entities, as well as information on tax collection and benefits granted to private companies.*

### **Access to information**

Law 1712 of 2014 gives the right to access public information the category of "fundamental". The biggest challenges that remain are the accessibility of information to different social sectors, greater presence of the oversight body in terms of promoting the law and defining and imposing sanctions for non-compliance; and the application of the law to obligated subjects other than public entities, such as political parties, private companies, foundations and other subjects that use public resources.

*R: Establish a regime of sanctions for non-compliance with the law on access to public information; define methods and procedures for non-traditional obligated subjects for the publication of the information described in Law 1712 of 2014.*

### **Participation of society**

Progress has been made in defining mechanisms and instances of citizen participation. However, it is still necessary to work on greater openness from the institutional framework to participation and on guaranteeing security conditions for participation, since more than 480 leaders have been assassinated since the signing of the peace agreement in 2016. Civil society organizations have not been consulted in the current review process of Chapters II and V of the UNCAC, nor has information on the current status of the review been shared with Transparencia por Colombia.

*R: Provide security guarantees for citizen participation, especially taking into account the assassinations of social leaders; define budgets for the development of citizen participation exercises in public entities.*

### **Judiciary and Prosecution Services**

There have been corruption scandals associated with the manipulation of judicial processes by magistrates of the Republic to favor the interests of third parties. The greatest challenges in this regard remain in the appointment of the Attorney General, the updating and application of ethical guidelines, the definition of regulations to deal with existing conflicts of interest, and the implementation of whistleblower and whistleblower protection mechanisms in the judicial branch.

*R: Promote a modification of the appointment process of the Attorney General, eliminating the shortlist given by the President of the Republic, since this may promote eventual conflicts of interest between the Executive and the Judiciary; legally define mechanisms for processing conflicts of interest, especially between the executive branch and the judiciary.*

### **Anti-money laundering**

There is broad regulation on anti-money laundering alongside several responsible institutions. However, due to the Colombian context, where there is a high prevalence of criminal activities such as drug trafficking, illegal mining, wildlife and timber trafficking, institutional efforts fall short. The biggest challenges concern recognition and alignment of anti-money laundering actions with the corruption risks associated with this activity according to the recommendations of the Financial Action Task Force of Latin America (GAFILAT), the establishment of more rigid monitoring at customs posts, and the strengthening of anti-money laundering actions that tend to refinance criminal activity or facilitate corruption.

*R: Adjust Anti-Money Laundering and Anti-Terrorist Financing monitoring systems and tools to the risk-based approach; strengthen measures against money laundering, especially in the framework of the fight against drug trafficking.*

### **Asset recovery**

Colombia has extensive regulations governing asset forfeiture procedures in accordance with constitutional principles and the right to private property. However, these processes tend to be slow and there is no published information on seized assets, their destination, and the status of seizure processes. Colombia is part of numerous multilateral networks, with several international treaties for the management of assets and internal regulations that regulate the subject. There is also no publicly available information on the status of processes or results of international judicial cooperation exercises.

*R: Strengthen judicial investigation processes to expedite rulings on forfeiture of ownership; unify the rules, procedures, instruments and regulations of international treaties on international judicial cooperation to facilitate the application of the rules according to the requirements established by each country.*