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# Comparative review **study** on the civil society involvement in the process of revision of the **UNCAC** Convention

Albania,  
Bosnia and Hercegovina,  
Croatia,  
North Macedonia  
and Montenegro



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by the European Union



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Skopje, May, 2019



## **COMPARATIVE REVIEW STUDY ON THE CIVIL SOCIETY INVOLVEMENT IN THE PROCESS OF REVISION OF THE UNATED NATION CONVENTION AGAINST CORRUPTION**

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# ABOUT THE STUDY

The purpose of the comparative review study of the role and involvement of the civil society organizations (CSOs) in the UNCAC review process from the countries in the region (Albania, Bosnia and Herzegovina, Montenegro and Croatia) is to bring insight in the best practices and lessons learned. The study provides overview of the process of involvement of the civil society in the first and second UNCAC review cycle, from the first stage of CSO involvement in the preparation of the self-assessment checklist to the publication of the full country review report, especially the lessons learnt from the first cycle and the steps taken (if any) during the second review cycle.

BCSDN has sent a request for participation in the study to a list of experts provided by MCIC in four countries from the region: Albania, Serbia, Montenegro and Bosnia and Herzegovina. For each country we have asked the input from two experts, one from the responsible government institution that acts as the focal point for the UNCAC review process, and another from a CSO involved with the monitoring of the process. A total number of five expert reports were received, two from Albania, two from Bosnia and Herzegovina and only one CSO report from Montenegro. The review process in Serbia did not involve CSOs, and none of the experts replied to the call for participation, thus Serbia is left out from the study. The national experts from each country prepared a brief overview following the same structure of reporting on the involvement of the civil society in the first and the second UNCAC review cycle in their respective country, based on his/hers experience for each of the sections. The part for Croatia was done by our own researches.

The aim was to present the views and perspective from both sides and derive solid lessons learnt and recommendations for best practices. In addition, desk research was conducted and analysed, to fill the gaps, and contribute to the evidence for this study.

We would like to thank the following experts for their invaluable contributions to the study (in alphabetical order): Ms. Dalina Jashari from the Institute for Democracy and Mediation from Albania, Ms. Elda Zenelaj from the Ministry of Justice of Albania, Mr. Mevludin Dzindo from the Agency for Prevention of Corruption and Coordination of the Fight against Corruption of Bosnia and Herzegovina, Mr. Pedja Djurasovic from Transparency International Bosnia and Herzegovina and Mr. Zoran Vujcic from Civic Alliance from Montenegro.

The study provides background about the UNCAC review cycle and its importance for the region, it gives an overview of the institutional framework for the fight against corruption and the overall civil society involvement and looks into more detail about the civil society involvement in the 1<sup>st</sup> and the 2<sup>nd</sup> UNCAC review cycles. The study concludes with recommendations for the states and the CSPs based on the lessons learned.

The study is part of the project “Mirror to the State Report on Anti Corruption Reforms” implemented by the Macedonian Center for International Cooperation in partnership with the Balkan Civil Society Development Network with the support of the European Union.



# INTRODUCTION

The United Nations Convention against Corruption (UNCAC) is a multilateral treaty negotiated by member states of the United Nations. It is the only legally binding international anti-corruption instrument. UNCAC requires state parties to the treaty to implement several anti-corruption measures that focus on five main areas: prevention, law enforcement, international cooperation, asset recovery, and technical assistance and information exchange.

The main goal of UNCAC' is to reduce various types of corruption that can occur across countries. The Conference of the States Parties to the UNCAC provides participating countries with resources and assistance to improve implementation of the obligations set forth by the Convention.

In this manner, all of the countries that are part of this study has ratified UNCAC in the previous years. That is why it is important to measure the impact of the UNCAC on the national legislation.

For us, as a country that aim to fully participation in EU, it is important to implement all of the recommendations from the international organizations relevant for the anti-corruption measures.

To be able to see how far we have gone it is important to compare our results with the results from the region countries that have been through the same process or are in a same phase with us.

Taking this in consideration, the study covers four countries from the region: Albania, Bosnia and Herzegovina, Montenegro and Croatia as a country that is already part of the EU family.

The study consists of the following sections: understanding the importance of the UNCAC review cycle for the region; legal system and institutional framework for fight against corruption; overview of the civil society involvement in the two UNCAC review cycles and in each of individual stages and recommendations based on the lessons learned.

The project has the specific objective to improve efficiency in civil society responses to the anti-corruption reforms related to the EU integration, through monitoring of implementation of the UNCAC. One of the key activities of the project is to monitor the transparency and inclusiveness of the UNCAC second cycle review process in Macedonia and provide concrete recommendations for improvement of the efficiency of the process and to bring UNCAC and the results of the second review process to the citizens. The comparative review study shall contribute to this aim.



# I Understanding the importance of the UNCAC review cycle for the region

The prospects for EU accession for the countries provide an enabling framework for action and support the civil society as an actor that is considered to be able to sustain improvements of the anti-corruption efforts<sup>1</sup>. According to the report, the good governance and corruption are not consolidated in the region, then corruption is on the rise among elected politicians and judges and the enforcement of the anti-corruption legislation seems like a distant dream. In terms of certain progress, it has been achieved when it comes to stabilization of the institutions, adoption of laws in key anticorruption areas, reduction of petty bribery and slow growth of intolerance of corruption among the public.

Namely, the measures required from the countries as part of the EU accession reforms within the Political criteria, are related to the standards and principles set out in the UNCAC.

The international conventions, particularly the UNCAC in the area of anti-corruption, can serve a great purpose and have a key role in fight against corruption. This is result of setting legally binding standards and principles to held the countries that have signed the convention to account to implement it<sup>2</sup>. Furthermore, the need to implement the convention is fostering national and international action, cooperation and inevitably cooperation and synergy between different relevant actors, to work together on tackling corruptive practices.

The United Nations Convention against Corruption as the most comprehensive of all conventions in the area of fight against corruption, consequently plays a key role in anti-corruption efforts<sup>3</sup>. The UNCAC is signed between 170 countries and provides standards and principles to tackle corruption on national level. It enables mutual solutions between different sectors (state, civil, business), and also on international level. In addition, to add to the usefulness of the convention, a review mechanism was developed and adopted in 2009, which aims to enable cooperation between different stakeholders, uphold seriousness in efforts and track implementation. The mechanism, provides peer-review, and preparation of final country reports that deal with the progress in implementation and provide recommendations. This makes, UNCAC indeed a powerful tool that can be used by civil society to pressure and hold accountable governments to improve their legal frameworks, institutions and in general practices in the fight against corruption. The UNCAC review mechanism directly emphasises the important role of involvement of civil society in the process to support the countries to meet their UNCAC obligations and contribute timely to the assessments of their performance through the UNCAC review process. Since the

1 [http://seldi.net/fileadmin/public/PDF/Publications/RAR/SELDI\\_Regional\\_Anticorruption\\_Report\\_Final\\_Revised.pdf](http://seldi.net/fileadmin/public/PDF/Publications/RAR/SELDI_Regional_Anticorruption_Report_Final_Revised.pdf)

2 <https://www.oecd.org/cleangovbiz/internationalconventions.htm>

3 <https://uncaccoalition.org/resources/uncac-guide/uncac-advance-anti-corruption-efforts-guide-en.pdf>

UNCAC Review Mechanism was adopted in 2009 there have been many positive examples from around the world of how to conduct the country review process. The legitimacy and accountability of the process, as well as compliance with the international human rights law and the commitments and principles inside the convention, is only possible if the process is properly carried out in an open, transparent and timely manner, with trust and partnership between all relevant parties. According to Article 13, the UNCAC mandates states parties to ensure participation of civil society in the prevention of and fight against corruption. However, the participation of civil society in the process is subject to certain limitation in the review mechanism guidelines even though the UNCAC recognises the crucial role of the sector in accomplishing improvement in the anti-corruption efforts. According to the guidelines countries have discretion to decide on the extent of participation and transparency in their country reviews.

The UNCAC review process comprises of two five-year cycles, and it is defined within the Mechanism for the Review of Implementation of the UNCAC—Basic Documents<sup>4</sup>.

The first cycle review was conducted from 2010 until 2014, and covers the chapters of the Convention on Criminalization and Law Enforcement and International cooperation. The second five-year cycle (2015-2020), will assess implementation of the Chapter II on Preventive Measures and chapter V on Asset recovery.<sup>5</sup>

4 [https://www.unodc.org/documents/treaties/UNCAC/Publications/ReviewMechanism-BasicDocuments/Mechanism\\_for\\_the\\_Review\\_of\\_Implementation\\_-\\_Basic\\_Documents\\_-\\_E.pdf](https://www.unodc.org/documents/treaties/UNCAC/Publications/ReviewMechanism-BasicDocuments/Mechanism_for_the_Review_of_Implementation_-_Basic_Documents_-_E.pdf)

5 The implementation of Chapter II on Preventive measures should ensure: the existence of an anticorruption preventive body with necessary level of independence enabled to carry out its functions effectively and free from any undue influence; transparency in public procurement and public finances; strengthening systems for the recruitment, hiring, retention, promotion and retirement of civil servants and other non-elected public officials; strengthening integrity and preventing opportunities for corruption among members of the judiciary; and steps to prevent private sector corruption and money laundering. On the other side, if implemented in full, The Chapter V on Asset recovery should contribute to prevention and detection of transfers of the proceeds of crime and their recovery, through international cooperation.

## II Legal system and institutional framework for fight against corruption

There are different legal systems and institutional arrangements for fight against corruption, in particularly concerning the UNCAC convention and review mechanism in Albania, Bosnia and Herzegovina, Montenegro and Croatia. The UNCAC convention, is ratified in all the countries subject of this study in the period of 2005 and 2006.

### II.1 Albania

In Albania, the UNCAC convention was signed on 18th of December 2003 and ratified by the Parliament on the 25th of May 2006. The institutional set up that is established to fight against corruption, includes specialized directorates and units against corruption and economic crimes, established at the prosecution offices and the State Police, both at the central and the local level. In addition, the General Directorate for the Prevention of Money Laundering also plays an important role in the fight against money laundering and corruption<sup>6</sup>. In 2013, the Minister of State for Local Issues was appointed as the National Coordinator on Anti-Corruption and a network of anti-corruption focal points was established in all line ministries. Following the government's changes in 2017, the role of the National Coordinator on Anti-corruption was shifted to the Minister of Justice, which is currently the focal point for the UNCAC implementation in Albania. This shift has generated "confusion", as well as lack of adequate staff which owns relevant information on the UNCAC review process. Still there is no clear picture on the government's approach to the implementation of the convention.

In the past few years, there were numerous legal acts, policies and bodies that were adopted and established to support the fight against corruption. Namely, the Crosscutting Anti-Corruption Strategy (2015-2020) and its action plan (2015-2017) were adopted by the government in March 2015. While, the new Action Plan 2018-2020 for the implementation of the Anti-Corruption Crosscutting Strategy 2015-2020 was approved in 2018 and includes the Passport of Indicators, the functioning and duties of the Coordinating Committee for the implementation of the Strategy and the Inter-Institutional Anti-Corruption Task Force. In addition, a special Thematic "Anti-corruption" sub-group was established in 2016<sup>7</sup>, with the aim to evaluate the progress of sectorial reforms and to contribute at improving the anti-corruption measures.

6 [https://www.unodc.org/documents/treaties/UNCAC/CountryVisitFinalReports/2016\\_04\\_11\\_Albania\\_Final\\_Country\\_Report.pdf](https://www.unodc.org/documents/treaties/UNCAC/CountryVisitFinalReports/2016_04_11_Albania_Final_Country_Report.pdf)

7 Involving representatives of the Anti-corruption Contact Points, civil society, business community, and donors

In the period between 2014 and 2016 numerous laws were adopted by the Parliament that provide for public participation in decision-making processes, improving transparency and accountability of governance, release of government information such as the “Law on public consultations”, the “Law on the right to information”, the “Law on the protection of whistleblowers” etc.

## II.2 Bosnia and Herzegovina

In Bosnia and Herzegovina, the UNCAC was signed on the 16th of September 2005 and ratified on the 26th of October 2006. In 2009, the Law on the establishment of the Agency for the prevention of corruption and the coordination of the fight against corruption (hereafter APIK) has been adopted. The APIK is an independent and autonomous administrative organization, that reports its work to the Parliamentary Assembly of Bosnia and Herzegovina. The APIK is responsible for prevention of corruption and coordination of the fight against corruption in public institutions and the private sector. Some of the main competences of the APIK are as follows: to develop and to monitor the Anti-Corruption Strategy and Prevention Action Plan, to coordinate the work of the public institutions in preventing corruption and conflict of interest. Consequently, APIK has the competence to collect and analyse statistics and other data, and inform all relevant stakeholders in Bosnia and Herzegovina of the results of the inquiry, take action upon receiving the submissions that contain indications of a corruptive conduct pursuant to the applicable regulations, coordinate the work of the institutions with public authorities in combating corruption, monitor the effects of laws and bylaws aimed at preventing corruption. The APIK should cooperate with various stakeholders such as the national scientific and professional organizations, public media and CSOs, international organizations, institutions, etc. on the issue of corruption prevention. Furthermore, the APIK is in charge to inform the competent institutions and the public of the obligations contained in international legal acts and give recommendations for their realization in relation to corruption prevention.

In relation to the involvement and cooperation of CSOs in the fight against corruption, the APIK has adopted the Guidelines for the cooperation with the CSOs, which is a document aiming to ensure synergy, coordination and partnership relations between APIK and qualified organizations of civil society.

According to article 24 of the Law of APIK, an obligation is provided that the Bosnia and Herzegovina institutions and agencies at all levels of authorities shall closely cooperate with the APIK and share all required data and information by the request of the APIK. In order to introduce the cooperation, APIK has signed the memorandum of understanding (MoU's) with the Ministry of Security as well as with two CSOs which are the Transparency International Bosnia and Herzegovina (TI BiH) and ACCOUNT – CSO-s Anti-Corruption Network.

- ◆ The prevention and countering of is also supported by the anti-corruption bodies at the entity and canton levels.<sup>8</sup>

<sup>8</sup> <https://www.unodc.org/documents/treaties/UNCAC/WorkingGroups/ImplementationReviewGroup/ExecutiveSummaries2/V1808645e.pdf>

## II.3 Montenegro

The Federal Republic Yugoslavia (FRY) and Montenegro as its part, signed the UNCAC on the 11 December 2003 and ratified it on the 20th of December 2005. Subsequently, the Law on implementation on UNCAC (Law on Ratification of the UNCAC) was adopted on the 22nd of October 2005 and came into force on 20 December 2005. Montenegro accessed the UNCAC as an independent state by depositing the succession statement to the UN Secretary General on 23 October 2006.

The Directorate for Anti-Corruption Initiative is the institution obliged to fulfil obligations arising from the UNCAC and is the main coordinator of the whole process.

In 2010, the Government of Montenegro established the National Commission for monitoring of implementation of the Strategy for Fight against Corruption, whose members were representatives of institutions that were the self-assessment focal points. The commission, composed of 14 members, included two representatives of the civil sector, according to Article 13 of Law on ratification of the UNCAC. This Commission has been the only body in Montenegro that has been dealing with the management, organization, synchronization, and monitoring of activities of public bodies, bodies of national administration, and other competent institutions in the implementation of the Strategy for fight against corruption and organized crime, a comprehensive document containing all relevant reforms in the area of anticorruption.

At the beginning of 2015, without substantiated explanation, the Government closed the National Commission, and the same year the Parliament of Montenegro established the Anticorruption Board.

The legal framework of Montenegro against corruption includes provisions from the Constitution, the Criminal Code and the Criminal Procedure Code. It further contains specific legislation such as<sup>9</sup>: the Law on Prevention of Conflict of Interest; the Law on the Prevention of Money Laundering and the Financing of Terrorism; the Law on Liability of Legal Entities for Criminal Offences; the Law on Witness Protection; and the Law on Mutual Legal Assistance in Criminal Matters. Montenegro has put in place a multi-faceted institutional framework to address corruption. In the field of prevention of corruption, a number of specialized bodies have been established, including: The Directorate for Anti-Corruption Initiative; the Directorate for Prevention of Money Laundering and Terrorism Financing; the Ombudsman; the Commission for Prevention of Conflict of Interest; the State Audit Institution; the Public Procurement Directorate; and the Commission for the Control of Public Procurement Procedures.

## II.4 Croatia

Croatia signed the United Nations Convention against Corruption (UNCAC) on 10 December 2003 and ratified it on 4 February 2005. The instrument of ratification was deposited with the Secretary-General on 24 April 2005. The implementing legislation was adopted on 4 February 2005 and entered into force on 26 February 2005. Croatia is one of the first 30 countries in the world that have ratified the Convention.<sup>10</sup>

<sup>9</sup> <https://www.unodc.org/documents/treaties/UNCAC/WorkingGroups/ImplementationReviewGroup/ExecutiveSummaries/V1380892e.pdf>

<sup>10</sup> [https://www.transparency.org/news/feature/first\\_global\\_convention\\_against\\_corruption\\_to\\_come\\_into\\_force](https://www.transparency.org/news/feature/first_global_convention_against_corruption_to_come_into_force)

Croatia's legal framework against corruption includes provisions from the Constitution, the Criminal Code and the Criminal Procedure Act. It further contains specific legislation such as the Law on Civil Servants; the Labour Code; the Witness Protection Act; the Act on the Responsibility of Legal Persons for Criminal Offences; the Act on the Confiscation Procedure for Pecuniary Gain Acquired by Criminal Offences and Acts of Misdemeanour; the Public Procurement Act; the Law on the Office for the Suppression of Corruption and Organized Crime (USKOK); the Anti-Money Laundering and Terrorist Financing Act; the Act on Mutual Legal Assistance in Criminal Matters; and the Act on Confidentiality of Data. The specialized anti-corruption body is the Office for the Prevention of Corruption and Organized Crime (USKOK). Other anti-corruption bodies include the Anti-Money Laundering Department (AMLDD), which performs the functions of the national FIU; the State Audit Office (SAO); the Tax Administration and the Customs Department which are independent services within the Ministry of Finance; Office for Public Procurements (OPP); the Commission for Prevention of Conflict of Interest in Performing Public Duties; and the Independent Anti-Corruption Sector in the Ministry of Justice.

## II.5 Republic of North Macedonia

The Republic of North Macedonia signed the United Nations Convention against Corruption on 18 August 2005 and the Law on Ratification of the Convention was adopted on 19 March 2007 (Official Gazette of the Republic of Macedonia No. 37/2007 of 26 March 2007). The Convention entered into force on 3 April 2007.

The Republic of North Macedonia has not made any reservations regarding any of the members of this Convention.

Pursuant to Article 46 paragraph 13 of the Convention, the Republic of North Macedonia informed the UN Secretary General that it appoints the Ministry of Justice - the Department for International Legal Assistance as a central body with the authority and responsibility to receive requests for international legal assistance and execute them or forward them to the appropriate competent bodies.

Main institution for anti-corruption measures is The State Commission for Prevention of Corruption (SCPC). SCPC was established by the Parliament on November 12, 2002, in accordance with to the Law on Prevention of Corruption (Official Gazette "o. 28 adopted on April 26, 2002). The State Commission is autonomous and independent in exercising its function, meaning that the Commission is detached from the government, and other Constitutional powers. SCPC submits an annual report to the Parliament, and forwards it to the President, the Government and the media. The SCPC's main function consists of corruption prevention and carrying out activities in the area of public awareness and education.

# III Overview of the civil society involvement in the two UNCAC review cycles

## III.1 Involvement of CSO in anti-corruption in the region in general

In recent years, CSOs in the region have proven to have developed their capacities, built expertise around the issues of good governance, and worked either together or in opposition to the relevant institutions in the fight against corruption. They are indeed, the driving force and the main watch-dogs that pressure institutions to take measures. However, these organizations usually depend on European financing, thus have difficulties in sustaining their efforts<sup>11</sup>. Namely, mostly for the sake of the EU integration, certain reforms are being pushed through in terms of legislation and policy, however, in practice they face barriers for implementation. CSOs may focus on watchdog activities; awareness raising initiatives aiming to inform the public on existing mechanism to tackle and denounce corruption; monitoring of related laws. The region has also witnessed in recent years, different movements pushing the governments for anti-corruption reforms and implementation of legislation.

However, a precondition for CSOs to be able to contribute towards the anticorruption reforms, is that they operate in an environment which is enabling. This has not been the case in recent years in numerous countries having witnessed shrinking civic space, as numerous incidents and cases of violations of the basic freedoms of association, assembly and expression are occurring. Then, the financial sustainability, continuous access to funding and dominant dependence of foreign funds are the key challenge of CSOs. Finally, the relationship between the CSOs and the state are in practice largely under underdeveloped and not meaningful enough.

In addition, to implement effective anti-corruptive solutions there should be dynamic CSOs that work on their own good governance and improvement of integrity<sup>12</sup>.

Having all this in mind, the challenges of maintaining cooperation and dialogue with the state and CSOs is evident. This is why, the UNCAC review cycle is a valuable mechanism for cooperation in general. Namely, as part of the UNCAC review cycles the role of civil society should mean consultation in the Self-Assessment Checklists, participation in the

11 <http://seldi.net/publications/publications/shadow-power-assessment-of-corruption-and-hidden-economy-in-southeast-europe/>

12 ibid



Direct Dialogue, encourage publication of the final report and support the addressing of technical assistance needs identified. If the CSOs indeed undertake this role, there are numerous benefits as it increases transparency, enhances accuracy of assessment, helps raise awareness on UNCAC obligations<sup>13</sup>, and the lessons from the three countries show the same.

As there were two cycles of review, the document offers an analysis of the three countries that provided information, on the level of participation of CSOs considering the ideal steps to be undertaken by the governments in the process. The first cycle started in 2010 and covered the chapters of the Convention on Criminalization and Law Enforcement and International cooperation. The second cycle, started in 2015 and covers the chapters on Preventive measures and Asset recovery.

Table 1. Level of participation of CSOs in the following ideal steps

Countries from the region	Albania		BiH		Croatia		Montenegro		North Macedonia	
	I	II	I	II	I	II	I	II <sup>14</sup>	I	II
CSOs involvement in the <b>preparation</b> of the self-assessment checklist	No	Somewhat	No	Somewhat	No	n/a	No	n/a	No	No
Timely <b>publication of information</b> on the focal point for review process	No	Somewhat	No	Somewhat	No	n/a	No	n/a	No	Yes
Publication of the <b>self-assessment responses</b> online or access to the responses directly to CSOs upon request	No	No	Somewhat	No	No	n/a	No	n/a	No	No
Inclusion of some form of <b>civil society dialogue</b> with the peer reviewers, including an opportunity to submit written reports	No <sup>15</sup>	Yes	No	Somewhat	No	n/a	No	n/a	No	Yes
<b>In-country visit</b> with an opportunity for CSOs and other stakeholders to meet and provide oral and written input to the official reviewers	No	Yes	Somewhat	Somewhat	No	n/a	Yes	n/a	Yes	Yes
<b>Publication of the full country review report</b> , since it is only mandatory to publish the executive summary.	Yes	n/a	Yes	No	Somewhat	n/a	No	n/a	Yes	n/a

The gathered evidence and experiences from the region, shows certain improvements of the CSO involvement from the first to the second process of the UNCAC review cycle in Albania, Bosnia and Herzegovina and Macedonia<sup>16</sup>.

13 <https://uncaccoalition.org/resources/uncac-review-tools/cso-participation-and-transparency-in-the-review-process-ti.pdf>

14 No information on the Second review process

15 With the exception of an event supported by UNDP (as a facilitator) in frame of the UNCAC self-assessment phase (CSO expert report)

16 There are no available information on the Second review cycle, according to the CSO expert from Montenegro.



## III.2 The process of CSO involvement in the 1st UNCAC review cycle

During the first UNCAC review cycle, CSOs in all the countries analysed were not involved in the **preparation of the self-assessment checklist**, nor there was a timely or mostly any publication of information for the review process. In Bosnia and Herzegovina, there was a general lack of transparency in the first UNCAC review cycle, and also as the CSO expert notes there was no clear and transparent procedure to select CSOs to be involved in the review cycle. Thus, there was no participation in the self-assessment checklist. As there was no formal mechanism for involving CSOs, as well as no information, only during informal communication between the CSOs and the competent authorities would information on focal point be revealed. Similarly, in Montenegro, the civil sector was not even considered as a relevant sector by the authorities to be included in the first review cycle. Civil society organisations and other national NGOs in Croatia did not take part in the completion of the Self-Assessment.

Regarding the **publication of the self-assessment responses online** or access to the responses directly to civil society organisations upon request, there was somewhat access in Bosnia and Herzegovina. Namely, there the self-assessment responses were not available online, nor did the CSOs have any information on the process, so they can proactively ask for them. Furthermore, even though a few of the informally selected CSOs were contacted by the focal points and were sent a completed self-assessment checklist, again insufficient time was provided for a substantial expert contribution.

Furthermore, CSOs in the analysed countries were not able to take part, and be included, in some form of **civil society dialogue with the peer reviewers**, including an opportunity to submit written reports. An exception, was in the case of Albania, when an event supported by UNDP (as a facilitator) in frame of the UNCAC self-assessment phase was organized. As for the main process led by the government, as stated in the monitoring report of the National Cross-sectoral anti-corruption strategy in 2015, civil society actors were not involved in the peer-reviewing process due to the tight agenda of the peer-reviewing group. Croatia, did not include any civil society organization in this process. This was despite the fact that the European Commission, through its delegation in Croatia's capital Zagreb, monitors closely all developments relating to the fight against corruption and all other issues relevant to the EU accession process underway in Croatia.

However, when it comes to **taking part in the in-country visit**, CSOs in Bosnia and Herzegovina, Macedonia and Montenegro had the opportunity to meet and provide oral and written input to the official reviewers. There were indeed certain limitations to this opportunity. Namely, in Bosnia and Herzegovina there were informal meetings between CSOs (TI BiH and ACCOUNT – CSOs Anti-corruption Network) and the peer-reviewers, which has been characterized by the government as a valuable input that ensures broader understanding of the need for coordination on fight against corruption particularly in complex setting such as the Bosnia and Herzegovina case<sup>17</sup>. In Montenegro, despite the lack of inclusion of civil society in previous steps, still there was opportunity to be active during the in-country visit, and the evaluators were provided with oral and written input. Later the participating CSOs, published the report of the evaluators with recommendations on their web-sites. In Macedonia, ministry of justice organized meeting between the official reviewers and CSOs. However, the CSOs were not informed from the outcomes of this meeting.

<sup>17</sup> This part is from the report by the Government expert

Once again, this process was close for the CSOs in Croatia. The main reason that they are adding is the fact that in that time Croatia was facing the EU negotiations process.

The final prepared **full country review report** was published in the case of Albania, Macedonia and Bosnia and Herzegovina together with the executive summary, however Montenegro only published the executive summary. For Croatia, the final report was published on the UNODC website, although not on the websites of the Croatian institutions.

Finally, it is important to **mention the steps civil society took** in the case of such limited opportunities for participation. In the case of Bosnia and Herzegovina, TI BiH in 2016 published the first monitoring report in Bosnia and Herzegovina on implementation of United Nations Conventions against Corruption, providing findings from the results of the monitoring of three chapters of the convention - Chapter II – Prevention, Chapter III – Criminalization and Law Enforcement and Chapter IV – International Cooperation. Also in Bosnia and Herzegovina, the government considers the different efforts of the civil society organizations as valuable in the anticorruption area, and links them directly to the first review cycle such as CSOs and parliamentarians working on drafting and adopting the legislation on whistle-blower protection; This led to signing of memorandum of understanding between the ACCOUNT network and APIK where the network would provide free legal assistance related to the reports on a corruption and whistle-blower protection.

The case of Montenegro, and the efforts of the CSOs are also important, since they were not substantially involved in the first review cycle. Namely, the focal points for UNCAC in Montenegro were members of the National Commission for monitoring of implementation of the Strategy for Fight against Corruption (the commission had also two representatives from CSOs). The involvement of the CSOs in the commission was very limited, however it was considered as a potential position for influence, however, the commission was closed in 2015, without explanation. An Anticorruption Board was established in the Parliament later that year, and the CSOs saw opportunity for pressure by monitoring the work of the Board on adoption of UNCAC recommendations, which was better used as the Board has acted according to the requests by CSOs and citizens (an example for such success was holding a hearing for amending the Criminal code in accordance to Article 20 of the UNCAC).

Regarding Croatia, there was little awareness, particularly among civil society organisations, about the elements of the UNCAC Implementation Review Mechanism; nor were there many opportunities for cooperation. When the issue did arise—largely thanks to the awareness-raising efforts of the UNCAC Coalition—there was insufficient time and funding to fully engage. Both state institution representatives and CSO interlocutors noted that the topics covered by the first review cycle—law enforcement and international cooperation, as set out in UNCAC Chapters 3 and 4—were not part of the expertise that CSOs could readily bring to the table. In Macedonia, the CSOs initiated interest to participate in the process and to be consulted in the reviewing assessment. The state authorities were partly closed and did not involve the concern parties except on the meeting with the official reviewers.

### III.3 The process of CSO involvement in the 2nd UNCAC review cycle

The 2nd UNCAC review cycle, has proven to provide more space and recognition of the civil society groups by the governments in Albania, Bosnia and Herzegovina and Macedonia.

In the countries, there was **somewhat involvement of CSOs in the preparation of the self-assessment checklist**. In Albania, the approach is characterized as more informative than consultative. The self-assessment checklist reached small number of CSOs (those members of the UNCAC coalition) before it was finalized, with specific requests to provide information related to the Chapter II (article no. 5). Furthermore, the CSOs were requested to make available information/lists on the baseline reports that they have conducted at different stages of national anti-corruption strategy's implementation, action plans and/or policies. The government on the other hand, considers this input from CSOs as sufficient to fulfil properly the checklist, as the CSOs findings and recommendations in their reports, were taken into consideration fully.

In the case of Bosnia and Herzegovina, similarly to the first cycle, the competent government authorities failed to establish a clear selection procedure of CSOs to be included in the second review cycle. However, there was an improvement in terms of the timeliness of those organizations (such as the TI, yet is unclear which other organizations were involved) that were consulted. The focal points provided the self-assessment checklist with sufficient time for comments. When it comes to publishing the self-assessment responses online or access to the responses directly to civil society organisations upon request, only Bosnia and Herzegovina has achieved somewhat progress.

Macedonia combines examples from both cases. They have invited some CSOs to inform that the process of reviewing has started as an information. They gave opportunity to send comments of implementation of Chapter 2 and 5 to the focal point. However, it was known how they detected the CSOs that were on this meeting having in mind that the number of CSOs that were invited was quite low.

Also, when it comes to **timely publication of information on the focal point** for review process, all three countries have somewhat progressed in the second review cycle. Macedonia, published the name of the focal point on the official web page of the Ministry of justice.

When it comes to **inclusion of civil society in some form of civil society dialogue** with the peer reviewers, including an opportunity to submit written reports. Similarly, countries have improved in providing opportunities for the civil society groups and other stakeholders to meet and provide oral and written input to the official reviewers during the in-country visits. In Albania, even though there were no formal consultations, the Ministry of Justice sent invitations for contribution towards the report, and APIK organized a meeting with ten CSOs as according to them active in the area of anti-corruption, to exchange information and opinions on different issues. As for the upcoming field visit in 2019, the CSOs are set to be included in the meetings. In the case of Bosnia and Herzegovina, few CSOs had the chance to take part of the meetings with the peer reviewers as observers. The CSOs representatives were able to express to the peer reviewers their concerns regarding the implementation of the UNCAC, however not encouraged to do so. For example, although a representative of TI BiH had previously informally handed over the 2016 TI BiH Monitoring Report on Implementation of UNCAC to the representative of the UNCAC Secretariat, at the meeting they were advised that the peer reviewers are only obliged to consult government documents. Macedonia had a field visit in 2018 and the CSOs were part of this meeting. On this meeting CSOs were able

to express concerns regarding the implementation of UNCAC and to stress out the necessity of better inclusiveness of the CSOs in the process of reviewing. Since the final report is still not published for Macedonia, the focal point cannot tell if the full report will be published until the final Government decision.

The full country report review reports are still not published by any of the countries. Only, Bosnia and Herzegovina has published an executive summary to the report.

Finally, having in mind that during the second review cycle, the CSOs still face difficulties in being heard and included, they have undertaken certain steps to ensure improvements. Albania provides a good example of pro-activeness. The Institute for Democracy and Mediation has informed the National Coordinator on Anti-corruption (acting also as a contact point for the UNCAC Implementation in Albania), the minister of Justice to adopt the six principles of the UNCAC review Transparency Pledge which urges the government to commit to transparency and involvement of the civil society in the 2<sup>nd</sup> UNCAC review cycle<sup>18</sup>. However, still there is no official response from the ministry on its commitment to adopt the Transparency Pledge.

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18 The Transparency Pledge's principles includes the commitment of the government to: Publish the updated review schedules for the country review; to share information about the review institution or the focal point; to announce the completion of the country review indicating where the report can be found; to promptly post online the self-assessment and the full country report in a UN language, together with the executive summary in the Albanian language; to organize civil society briefings and public debates about the finding of the country report; to publicly support participation of the civil society observers in UNCAC subsidiary bodies.

# IV Conclusions and Recommendations based on the lessons learned

The following conclusions and recommendations based on the lessons learned can be shared for improving the efficiency in civil society responses to the anti-corruption reforms related to the EU integration:

## IV.1 Conclusions

### 1. Legislation and institutional approach

- ▶ All countries have signed and ratified the UNCAC convention in the period of 2005 and 2006. All countries have already completed the UNCAC 1<sup>st</sup> review cycle and are currently in the process of 2<sup>nd</sup> review cycle.
- ▶ The countries at the moment (spring 2019) are in different stages of the 2<sup>nd</sup> review cycle: Albania is in the process of field visit, Macedonia is the process of preparation of the country review report, while Bosnia and Herzegovina has published the executive summary to the report. No information is available on the current stages with UNCAC 2<sup>nd</sup> review cycle in Croatia and Montenegro.
- ▶ Systematic preconditions for establishing stronger cooperation and partnerships with the CSOs in the fight against corruption are still missing (for example: database of CSOs active in the area of anti-corruption, institutionalized practices and mechanisms for cooperation.)

## 2. CSO involvement in UNCAC review cycle

- ▶ CSO involvement in the first UNCAC review cycle in all countries was fairly limited. In most countries, CSOs only had some opportunity to provide oral and written input to the official reviewers. All countries, with the exception of Montenegro, have published full country review reports.
- ▶ There are certain improvements in the level of involvement of CSOs in the second review cycle in all countries for which information is available (Albania, Bosnia and Herzegovina and Macedonia) in almost all stages of CSO involvement. There is still, however, substantial space for improvement.
- ▶ CSO's awareness rising activities, contribution and cooperation in the UNCAC review cycle have been positively valued by the state authorities.

## IV.2 Recommendations for the States

### 1. Legislation and institutional approach

- The States should undertake a long-term transparency pledge, to voluntarily oblige to establish clear and transparent procedures for selecting CSOs to be involved in the future UNCAC review cycles and produce a binding set of rules regulating the government(s) obligations with regard to timely sharing of all relevant information on the future UNCAC review cycles;
- Public institutions should ensure the systematic preconditions for the establishment of the partnerships with CSO in the anticorruption area (e.g. Guidelines for the cooperation with CSO in the area, Memorandum of understanding related the implementation of the anticorruption projects, etc.); Provision of clear and effective institutional set-up and mechanism for involvement of CSOs from the beginning;
- The civil society sector should be more involved in work of Parliamentary Boards (bodies). Through these boards, it is important to make an impact on law amendments related to anti-corruption reforms connected to the EU integration.

### 2. Information and consultation

- The relevant institutions should maintain a database of CSOs which are active and operational, in the area of anticorruption but also in other areas;
- The relevant institutions should organize meetings and different events to engage with CSOs in a substantive manner, beyond formalities;
- Focal points for the coordination of the UNCAC revision on behalf of the public institutions should ensure, timely involvement of the qualified CSO in entire process;
- Focal points have to ensure broader representation of the civil society which also includes other forms of civil society with adequate representation as well as other sectors such as business sector, academia and media;
- The relevant public institutions should be proactive in the coordination of the anticorruption activities which means that they timely invite CSO to take an active role in specific areas where their contribution is a part of joint efforts

### 3. Capacity building

- The representatives of relevant state institutions should attend regional workshops;
- The MPs in the relevant parliamentary boards should increase their knowledge on the importance of adopting of all recommendations of evaluators that are in accordance with the Convention;
- The state institutions should provide, periodical trainings for CSO organizations, which monitor the audit process, in order to introduce them with guidelines and improve their capacities to participate in the audit process.

## IV.3 Recommendations for the CSO

### 1. Raising awareness, knowledge and cooperation within the civil society sector

- The CSOs working in the area of anticorruption should aim to raise the awareness and knowledge about the UNCAC and the Implementation Review Mechanism among other CSOs in order to improve the capacities for active contribution within the sector and to ensure timely and meaningful CSOs involvement in the review process;
- The CSOs should strive to improve their cooperation and building of coalitions within the civil society sector in order to be able to strengthen their voices and increase pressure on government;
- CSOs should improve cooperation with other CSOs outside their country as a way to exchange best practices and lessons learnt and to find other venues for advocacy on regional or international level. Participating in the UNCAC Coalition is one such opportunity.

### 2. Taking proactive steps in cases of limited opportunities for participation

- CSO should conduct independent monitoring of the implementation of UNCAC, prepare shadow reports and submit them to the responsible institutions in order to pressure institutions to improve their transparency, accountability and efficiency;
- CSOs should reach out to the anti-corruption bodies for establishing formalizing cooperation (for example Memorandum of understanding between coalition of CSOs and Anti-Corruption Agency for certain anti-corruption or activities);
- CSOs should encourage their government to adopt the principles of the UNCAC review Transparency Pledge which urges the government to commit to transparency and involvement of the civil society in the 2<sup>nd</sup> UNCAC review cycle.



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