

Article 13. Participation of society

1. Each State Party shall take appropriate measures, within its means and in accordance with fundamental principles of its domestic law, to promote the active participation of individuals and groups outside the public sector, such as civil society, non-governmental organizations and community-based organizations, in the prevention of and the fight against corruption and to raise public awareness regarding the existence, causes and gravity of and the threat posed by corruption. This participation should be strengthened by such measures as:

- (a) Enhancing the transparency of and promoting the contribution of the public to decision-making processes;
- (b) Ensuring that the public has effective access to information;
- (c) Undertaking public information activities that contribute to non-tolerance of corruption, as well as public education programmes, including school and university curricula;

KEEPING UP WITH THE TIMES:

A way forward for ensuring an inclusive,
transparent and effective

UNCAC Implementation Review Mechanism

by the UNCAC Coalition

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Every effort has been made to verify the accuracy of the information contained in this report. All information was believed to be correct as of 7 December, 2021.

Table of Contents

Executive Summary	4
Recommendations for strengthening the IRM.....	8
I. Introduction.....	10
II. How the Implementation Review Mechanism Works and the Current State of Play	12
1. Falling further behind: major delays with country reviews	13
III. Shortcomings of the Implementation Review Mechanism	15
1. Lack of inclusiveness in the review process	16
2. Exclusion of civil society from the IRG	19
3. Lack of transparency of key information and documents	20
4. Need for greater focus on compliance and outcomes of compliance	22
5. Lack of clear follow-up process to assess implementation of country review recommendations.....	24
IV. Review of Implementation of Article 13	27
1. Methodology for carrying out the review	28
2. Main conclusions of the review of Article 13 implementation	30
3. Good practice examples of civil society engagement in UNCAC implementation	41
V. The Way Forward: Recommendations for Strengthening the UNCAC Implementation Review Mechanism	45

Executive Summary

The United Nations Convention against Corruption (UNCAC) is the most comprehensive, legally-binding agreement to prevent and combat corruption across the globe. The UNCAC's Implementation Review Mechanism (IRM) is crucial to ensuring the effective implementation of the UNCAC. However, the IRM's lack of adequate transparency, inclusiveness and clear follow-up process undermine its effectiveness in improving UNCAC implementation and promoting civil society engagement. Despite these shortcomings, the IRM has not been reformed in a significant way since it was established by the UNCAC Conference of States Parties (CoSP) in 2009.

This report lays out the shortcomings in the Review Mechanism drawing on ten years of implementation. Given the fundamental role of civil society in the fight against corruption, this report also evaluates how States Parties are implementing Article 13 through an assessment of country review documents available for the 2nd review cycle which was launched in 2015. The report concludes by putting forward detailed recommendations for strengthening the review mechanism and promoting meaningful engagement of civil society in the review process and in UNCAC implementation.

At a time of global crisis and declining democratic freedom, strong and urgent action is needed to strengthen the UNCAC's IRM. States Parties must follow through on commitments made at the United Nations General Assembly Special Session (UNGASS) against Corruption held in June 2021 to effectively implement the UNCAC.¹ A rigorous review mechanism that is transparent, inclusive and effective is crucial to achieving this goal. Our findings of the IRM's major shortcomings are summarized below:

The need for greater inclusiveness: Despite the Convention's emphasis on civil society participation through Article 13, the principle of inclusiveness is not consistently applied in the review mechanism or at global UNCAC fora. Each State Party has the

¹ In 2021, the UNGASS Political Declaration, the UN High Level Panel on International Financial Accountability, Transparency and Integrity for Achieving the 2030 Agenda (FACTI Panel), the G7 countries and civil society organizations have drawn attention to the importance of the Review Mechanism and the need for additional measures to improve its performance. See: Report of the UN FACTI Panel, "Transparency and Integrity for Achieving the 2030 Agenda": https://uploads-ssl.webflow.com/5e0bd9edab846816e263d633/602e91032a209d0601ed4a2c_FACTI_Panel_Report.pdf, February 2021; UNGASS Political Declaration: <https://undocs.org/A/RES/S-32/1>, 7 June 2021; G7 Statement on the UNGASS, <https://www.state.gov/g7-ministers-statement-on-the-un-general-assembly-special-session-against-corruption>, 2 June 2021, UNCAC Coalition First Submission to Consultation Process for UNGASS, <https://uncaccoalition.org/wp-content/uploads/UNCAC-Coalition-%E2%80%93-UNGASS-Consultation-%E2%80%93-Submission-1.pdf>, 3 March 2020, UNCAC Coalition Second Submission to Consultation for UNGASS: https://uncaccoalition.org/wp-content/uploads/UNCAC-Coalition-%E2%80%93-2nd-UNGASS-submission_March-20201.pdf, March 2021.

discretion to decide the extent of non-governmental stakeholder participation in the review process.

While UNODC has reported that the vast majority of States Parties have carried out country reviews for the 2nd cycle have “included meetings with other stakeholders”, no further details are provided.² Our analysis of country review documents found that minimal to no information on stakeholder engagement is disclosed in the majority of country review documents, making it difficult to fully know the extent to which stakeholders, including independent civil society, were engaged in the reviews.

Some countries have disclosed efforts to meaningfully engage non-governmental stakeholders at key stages of the review process in their country reviews; we urge other States Parties to follow this example.³ Civil society organizations (CSOs) and other stakeholders are also not allowed to participate in the UNCAC Conference of the States Parties (CoSP) subsidiary bodies. This includes the meetings of the Implementation Review Group (IRG) which oversees the UNCAC’s Review Mechanism and where important updates are shared regarding the status of States Parties’ efforts to implement country review recommendations. The working groups on asset recovery and prevention and the expert group on international cooperation would also benefit from the expertise and experience of civil society.

The lack of meaningful transparency: Although all executive summaries from country reviews are published, countries are not required to disclose the full country review reports and self-assessment checklists unless they voluntarily do so. These documents provide critically important and detailed information about UNCAC implementation that may not be included in executive summaries or be publicly accessible. Only half of the States Parties have published their full country reports from the 1st review cycle and merely 20 States Parties so far have published their full country reports for the 2nd review cycle.⁴ The IRM is far behind when compared to other anti-corruption monitoring mechanisms that typically disclose full country reports

² UNODC, “Performance of the Review of the Mechanism for the Review of the Implementation of the United Nations Convention against Corruption, 28 September 2021, https://www.unodc.org/documents/treaties/UNCAC/COSP/session9/CAC-COSP-2021-2/V2107189_E.pdf, 28 September 2021, p. 10: “At the time of writing, almost all the country visits (97 per cent) conducted in the first to fourth years of the second cycle had included meetings with other stakeholders, in accordance with paragraph 30 of the terms of reference.”

³ Examples of civil society engagement at key stages in the review process include: seeking stakeholder input in the development of the self-assessment checklist through written submissions and workshops, holding meetings with a range of stakeholders as part of the country visit and including stakeholders as members of working groups created to oversee the country review.

⁴ For the 2nd review cycle, only 8 countries have published their self-assessment checklists and 5 countries have disclosed both their country reports and self-assessment checklists. See UNODC country profile website: <https://www.unodc.org/unodc/en/corruption/country-profile/index.html>. The UNODC reports that for the 2nd cycle, 57 executive summaries and 32 country reports have been completed as of 28 September 2021. See the note by the Secretariat, “Performance of the Mechanism for the Review of the Implementation of the United Nations Convention against Corruption”, https://www.unodc.org/documents/treaties/UNCAC/COSP/session9/CAC-COSP-2021-2/V2107189_E.pdf, 28 September 2021, p. 3.

from peer reviews – some, such as the follow-up mechanism for the Implementation of the Inter-American Convention against Corruption also publish all inputs from governmental and non-governmental actors that informed the review, as well as a reaction from the government under review.⁵

Other important information on country reviews is also not required to be published and most States Parties do not even voluntarily disclose this information with a few exceptions. This includes updated timetables on the status of an often-delayed review process and timing of country visits, as well as contact information for UNCAC focal points and county reviewers. This low level of transparency hinders the ability of civil society and other stakeholders to substantially contribute to the review process and is inconsistent with Article 13 of the UNCAC. In response to this lack of transparency, the UNCAC Coalition has created the Transparency Pledge where countries commit to six principles to ensure a transparent and inclusive review process. Thirty-one States Parties have so far signed the Pledge.⁶

The need for greater focus on compliance and outcomes: Country reviews often lay out the legal and policy framework for tackling corruption but have little emphasis on actual compliance. To demonstrate effectiveness, country reports should provide concrete evidence and data to show the implementation of laws and the impacts of such efforts.⁷

The lack of a clear and formal follow-up process: There is no structured and formal follow-up procedure in place to assess whether and how countries have acted on review recommendations and States Parties are not required to publicly report on these efforts. With the IRM's voluntary follow-up process, only 38 countries out of 188 States Parties have published follow-up actions for the 1st review cycle and only one country has done so for the 2nd cycle. In addition, there is no template for how to report on follow-up actions to ensure that the information provided is useful and comparable. Yet, in the UNGASS Political Declaration, States Parties committed to “fully and effectively following up on the conclusions and observations from the review

⁵ Other anti-corruption monitoring mechanisms, including the Financial Action Task Force (FATF), the OECD Anti-Bribery Convention, the Council of Europe's The Group of States against Corruption (GRECO) and the Organization of American States' Anticorruption Mechanism (MESICIC), publish full country reports as part of their reviews of country implementation. The MESICIC also publishes submissions from non-governmental stakeholders that reviewers receive as part of country reviews. A response from the government under review is also published, see <http://www.oas.org/en/sla/dlc/mesicic/paises-home.html>.

⁶ Thirty one countries have signed on to the Transparency Pledge as of November 2021. See the UNCAC Coalition webpage on Transparency Pledge and list of countries that have signed on: <https://uncaccoalition.org/uncac-review/transparency-pledge/>.

⁷ UN FACTI Panel Report, “Financial Integrity for Sustainable Development”, https://uploads-ssl.webflow.com/5e0bd9edab846816e263d633/602e91032a209d0601ed4a2c_FACTI_Panel_Report.pdf, February 2021, see p. 38 for recommendations to strengthen the IRM including one on assessing compliance in practice: “Improving comprehensiveness by reviewing both the legal implementation of UNCAC as well as states' actual compliance and impact.”

process”.⁸ Other review mechanisms have clear follow-up procedures in place to strengthen their impact.⁹

Stronger implementation of Article 13: The UNCAC Coalition’s assessment of country review documents publicly available for the 2nd review cycle shows the need for stronger Article 13 implementation and more active and meaningful civil society participation in countries’ anti-corruption efforts.¹⁰

- About half of the country reviews assessed include recommendations related to improving implementation of Article 13. Many of the Article 13 recommendations focused on strengthening civil society participation in preventing corruption, increasing transparency around decision-making processes to promote public participation and raising public awareness about reporting corruption cases.
- Over 30% of countries reviewed had no access to information laws in place at the time and in many cases, recommendations called for access to information legislation to be adopted or for existing laws to be more effectively implemented.
- Many country reports highlight efforts to engage in consultations with civil society and other stakeholders on anti-corruption strategies and programs to combat corruption. However, the level of detail on such engagement varies from report to report, making it difficult to evaluate whether civil society engagement was sufficient and ongoing to enable meaningful participation that led to tangible outcomes.
- Country reviews have limited focus on the enabling environment for civil society in carrying out anti-corruption efforts. Recommendations typically do not sufficiently address the barriers for civil society participation, even in countries with closed civic space where civil society faces threats, intimidation or harassment in exposing corruption. Many country reviews report that press freedom is guaranteed by legislation but do not adequately consider whether that is the reality on the ground.

⁸ United Nations General Assembly Special Session Against Corruption, Political Declaration, <https://undocs.org/A/RES/S-32/1>, 2 June 2021, p. 17, paragraph 77. See also “The UN Common Position to Address Global Corruption. Towards UNGASS 2021”, https://ungass2021.unodc.org/uploads/ungass2021/documents/session1/contributions/UN_Common_Position_to_Address_Global_Corruption_Towards_UNGASS2021.pdf, August 2020, p. 9. It calls on States “to report on progress made in the implementation of recommendations from previous reviews.”

⁹ The Financial Action Task Force, “Consolidated Processes and Procedures for Mutual Evaluations and Follow-Up”, <https://www.fatf-gafi.org/media/fatf/FATF-Universal-Procedures.pdf>, January 2021, pp.13-19. The OECD Anti-Bribery Convention has a country monitoring process with four phases and three phases include focus on “unimplemented recommendations” from the previous phases: <https://www.oecd.org/daf/anti-bribery/countrymonitoringoftheoecdanti-briberyconvention.htm>.

¹⁰ UNODC, “Civil Society for Development: Opportunities through the United Nations Convention against Corruption”, https://www.unodc.org/documents/NGO/Fast-tracking/18-06316_eBook.pdf, 2019, this report provides many examples of meaningful civil society engagement in UNCAC implementation and in UNCAC country reviews.

Recommendations for strengthening the IRM

The UNCAC Coalition calls on States Parties to adopt the following reforms to create a more inclusive, transparent and effective Review Mechanism that enhances global efforts to prevent corruption.

Inclusiveness and Transparency:

- States Parties should be required to carry out inclusive and transparent reviews that go beyond simply meeting with stakeholders in an ad-hoc manner. CSOs and other non-governmental stakeholders should be proactively and meaningfully involved throughout the review process.¹¹
- Executive summaries and country reports should include a section at the beginning that provides an overview of how the review was carried out, with specific details on the engagement of stakeholders and outcomes of such participation.
- Civil society and other stakeholders should be allowed to participate as observers in the IRG and other subsidiary bodies of the UNCAC.
- States Parties should publish self-assessment checklists, full country reports, country focal points and their contact information, a regularly updated schedule of the review process for each country and opportunities for civil society and other stakeholders to engage in the process.
- Non-governmental stakeholders should be encouraged to make submissions to the review process to provide their perspectives and views about UNCAC implementation and all submissions should be published on the UNODC website along with other country review documents.
- The UNODC should take steps to improve transparency of the process by including an announcement on its website when country reviews are completed and by modifying the country profile section of its website to provide more useful, up-to-date and detailed information that can be used by States Parties and stakeholders.

Monitoring and Follow-up:

- States Parties should double down on efforts to complete country reviews for the 2nd review cycle by 2024 and adopt a proposal at the 10th CoSP to launch the next phase of review. The next phase should begin even if the second cycle is not concluded by 2024 to ensure that country review recommendations from the first two cycles are addressed in a timely manner.

¹¹ See the UNCAC Coalition's "Guide to Transparency and Participation in the UNCAC Review Mechanism", which outlines concrete steps to engage civil society and other non-governmental stakeholders in country reviews to ensure an inclusive and transparency process: <https://uncaccoalition.org/wp-content/uploads/UNCAC-Coalition-%E2%80%93-Guide-to-Transparency-and-Participation-in-the-IRM-1.pdf>, 1 April 2021.

- The second phase should establish an official, transparent follow-up procedure to assess States Parties' progress in addressing country review recommendations and technical assistance needs from the 1st and 2nd review cycles. Civil society and other non-governmental stakeholders should be partners in these efforts.
- A template for public reporting on follow-up actions should be developed to ensure a consistent and comparable standard.
- States Parties should be required to report in a transparent and inclusive manner on the status of actions taken to implement commitments adopted by the UNGASS against Corruption in June 2021.
- Country reviews should evaluate the implementation and enforcement of UNCAC provisions and their effectiveness. Each State Party should provide statistics, the results of audits and evaluations and other evidence to demonstrate compliance and the outcomes of compliance.

Effective Implementation of Article 13: States Parties should promote the meaningful and active engagement of civil society and other stakeholders in the development and implementation of anti-corruption measures by taking the following actions:

- Provide a safe and enabling environment for CSOs, activists, the media and other stakeholders to carry out anti-corruption work without fear of harassment, intimidation or reprisal and to hold to account those who commit attacks.
- Engage a diverse range of stakeholders, including those that are marginalized, in the development and implementation of anti-corruption measures through a participatory and inclusive process.
- Adopt and fully implement legal frameworks that include laws on effective access to information, protection of whistleblowers and public participation in decision-making.
- The UNODC should prepare a thematic report on Article 13 implementation that analyzes challenges with the provision's application and proposes recommendations to strengthen implementation.

I. Introduction

The United Nations Convention against Corruption (UNCAC) is the most comprehensive, legally-binding agreement to prevent and combat corruption across the globe. The Convention was adopted by the UN General Assembly on 31 October 2003 and has been ratified by 188 States Parties (187 countries and the European Union), making it the bedrock of international anti-corruption efforts. The UNCAC's Implementation Review Mechanism (IRM), launched in 2010, is crucial to ensure the effective implementation of the UNCAC and promote the meaningful participation of civil society in anti-corruption efforts.

Given the experience of over ten years of carrying out more than 200 country reviews, it is an important time to reflect on the Review Mechanism's strengths and weaknesses and lessons learned. Furthermore, the Covid-19 pandemic, the climate crisis, economic insecurity and other global challenges make the need even greater to strengthen efforts to tackle corruption and increase government accountability in confronting these challenges.

The Review Mechanism has generated momentum to strengthen national anti-corruption frameworks and has brought greater attention to the issue. However, significant shortcomings have hindered its ability to promote effective UNCAC implementation, including inadequate transparency and inclusiveness, and the lack of a clear follow-up process to ensure that recommendations are implemented. The mechanism has essentially not been updated or reformed since it was founded more than ten years ago, and the significant flaws undermine its credibility and continued relevance. In 2021, the UNGASS Political Declaration, the UN High Level Panel on International Financial Accountability, Transparency and Integrity for Achieving the 2030 Agenda (FACTI Panel), the G7 countries and civil society organizations (CSOs) have drawn attention to the importance of the Review Mechanism and the need for additional measures to improve its performance.¹²

The UNCAC Coalition, a global network of nearly 400 CSOs in 100 countries that serves as the civil society umbrella organization promoting the effective implementation of the UNCAC, monitors how the Review Mechanism has worked in practice and has prepared this report as a contribution to discussions of its design and

¹² UN FACTI Panel, "Transparency and Integrity for Achieving the 2030 Agenda", https://uploads-ssl.webflow.com/5e0bd9edab846816e263d633/602e91032a209d0601ed4a2c_FACTI_Panel_Report.pdf, February 2021; UNGASS Political Declaration, <https://undocs.org/A/RES/S-32/1>, 7 June 2021; G7 Statement on the UNGASS 2021, <https://www.state.gov/g7-ministers-statement-on-the-un-general-assembly-special-session-against-corruption/>, 2 June 2021; UNCAC Coalition First Submission to Consultation Process for UNGASS, <https://uncaccoalition.org/wp-content/uploads/UNCAC-Coalition-%E2%80%93-UNGASS-Consultation-%E2%80%93-Submission-1.pdf>; 3 March 2020; UNCAC Coalition Second Submission to Consultation for UNGASS, https://uncaccoalition.org/wp-content/uploads/UNCAC-Coalition-%E2%80%93-2nd-UNGASS-submission_March-20201.pdf, March 2021.

effectiveness. This report lays out the shortcomings in the Review Mechanism drawing on ten years of implementation and provides concrete recommendations for strengthening the scheme. We urge States Parties to consider and act upon these recommendations when planning the second phase of the UNCAC IRM.

Given the fundamental role of civic freedom and the participation of society in the fight against corruption, this report focuses specifically on how States Parties are implementing Article 13 of the UNCAC and how the Review Mechanism is evaluating its implementation. As global freedom declined for the 15th consecutive year in 2020, activists defending democracy across the globe face even greater risks.¹³ The Political Declaration adopted by the United Nations General Assembly Special Session (UNGASS) against Corruption in June 2021 calls on governments to provide a safe and enabling environment to those who expose and combat corruption and a safe and adequate environment to journalists.¹⁴ States Parties must follow through on these commitments by strengthening application of Article 13 to ensure the meaningful participation of civil society in UNCAC implementation. Overall, it is our strong belief that an inclusive, transparent and effective UNCAC review process will lead to more impactful outcomes in the global fight against corruption.

¹³ Freedom House, “Freedom in the World 2021, Democracy Under Siege”, <https://freedomhouse.org/report/freedom-world/2021/democracy-under-siege>, 2021.

¹⁴ United Nations General Assembly Special Session Against Corruption, Political Declaration, <https://undocs.org/A/RES/S-32/1>, 2 June 2021, p.9, paragraphs 30 and 31.

II. How the Implementation Review Mechanism Works and the Current State of Play

The Review Mechanism involves a peer review process that aims to assist countries with their UNCAC implementation and provide information to the Conference of States Parties (CoSP) to the UNCAC on measures taken to implement UNCAC. The process results in reports that identify successes and good practices and provide recommendations for States Parties in implementing and using the Convention. The Mechanism also aims to help States Parties identify technical assistance needs while also promoting and facilitating the provision of technical assistance. Other goals include “promoting and facilitating the exchange of information, practices and experiences gained through UNCAC implementation” and to “promote and facilitate international cooperation in the prevention of and the fight against corruption, including in the area of asset recovery.”¹⁵

According to the Terms of Reference (TOR) for the Review Mechanism, adopted by the CoSP in 2009, the Review Mechanism should be “transparent, efficient, non-intrusive, inclusive and impartial.”¹⁶ Each State Party is reviewed by experts from two peer countries, including one from the same regional group. The IRM is overseen by the Implementation Review Group (IRG), an open-ended, intergovernmental subsidiary body of the CoSP. The United Nations Office on Drugs and Crime (UNODC) serves as the secretariat of the Convention and plays an important role in facilitating and supporting the reviews.

The review process consists of the following key steps:

1. The two peer reviewers are selected by the drawing of lots (a re-drawing is possible if requested by the reviewer or the country under review).
2. The State Party under review nominates a focal point for the review.
3. The country under review completes a self-assessment checklist to evaluate its UNCAC implementation.
4. Experts from two peer countries review the checklist and conduct desk research on relevant legal texts and other issues that go beyond the self-assessment checklist.
5. The experts team assesses the country’s UNCAC implementation through direct dialogue, which can include holding a joint meeting or a country visit; the vast majority of countries hold country visits.

¹⁵ See Terms of Reference for the IRM:

[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%20for%20the%20Review%20of%20Implementation%20-%20Basic%20Documents%20-%20E.pdf), March 2011, p. 6. For background on the UNCAC and its Review Mechanism see Hannes Hechler, Mathias Huter and Ruggero Scaturro, “UNCAC in a Nutshell 2019”, U4 Anti-Corruption Resource Centre, <https://www.u4.no/publications/uncac-in-a-nutshell-2019>, 14 May 2019.

¹⁶ Ibid, p. 4.

6. The experts team prepares a final country review report; the report is finalized with the country under review through a consensus-based process. The executive summary of the full country report is produced and translated into the six official UN languages.
7. The executive summary is submitted to the IRG and published on the UNODC website under the respective country profile.¹⁷ Each country decides whether to voluntarily publish the full country report and self-assessment checklist on the UNODC website.¹⁸
8. A follow-up phase should assess progress made in addressing challenges and technical assistance needs that were identified in the review along with information on progress made with observations from previous country review reports.¹⁹

Countries are encouraged to carry out broad, national consultations with all relevant stakeholders in the development of the self-assessment checklist and also to facilitate engagement with stakeholders during the country visit.²⁰ However, it is left to the discretion of the country under review to decide the extent of stakeholder engagement in the country reviews (see page 16 on lack of inclusiveness for more details).

To date, the Review Mechanism has consisted of two cycles as part of the first phase. The first review cycle started in 2010 and reviewed States Parties' implementation of Chapter III on Criminalization and Law Enforcement and Chapter IV on International Cooperation. The second cycle, which was launched in 2015 and is still ongoing, assesses States Parties' implementation of Chapter II on Preventive Measures and Chapter V on Asset Recovery.

1. Falling further behind: major delays with country reviews

Most countries have completed their country reviews for the 1st review cycle and the UNODC has published their executive summaries.²¹ While there were serious delays

¹⁷ UNODC, Country Profiles, <https://www.unodc.org/unodc/en/corruption/country-profile/index.html>.

¹⁸ A few countries have published these documents only on a national government website.

¹⁹ See UNODC website which provides an overview of how the review process works: <https://www.unodc.org/unodc/en/corruption/implementation-review-mechanism.html>; See the model country review schedule showing that country reviews should occur over 6 months: <https://www.unodc.org/unodc/en/corruption/implementation-review-mechanism.html>.

²⁰ The TOR for the IRM:

[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%20for%20the%20Review%20of%20Implementation%20-%20Basic%20Documents%20-%20E.pdf), paragraph 28 and 30. Resolution 8/2 adopted at the 8th CoSP on celebrating the tenth anniversary of the IRM which recognizes involvement of stakeholders in country reviews:

<https://www.unodc.org/unodc/en/corruption/COSP/session8-resolutions.html>, December 2019.

UNGASS Political Declaration: <https://undocs.org/A/RES/S-32/1>, 7 June 2021, see paragraphs 3 and 73 which call for the involvement of stakeholders in efforts to prevent corruption.

²¹ Note by the Secretariat to the 9th CoSP, "Report on Performance of the Mechanism for the Review of the UN Convention Against Corruption",

https://www.unodc.org/documents/treaties/UNCAC/COSP/session9/CAC-COSP-2021-2/V2107189_E.pdf, 28 September 2021, p. 3 which includes statistics on the 1st review cycle: 161

with the 1st review cycle, the 2nd review cycle has experienced even more severe delays, which led to extending the length of the 2nd review cycle by three more years until June 2024. The report on the performance of the IRM to the 9th Session of the CoSP highlights continued delays in completing reviews for the 2nd review cycle. Only 57 executive summaries (less than one-third of the total) and 32 country review reports for the 2nd review cycle have been completed as of October 2021 despite the fact that we are now well into the sixth year of the second review cycle.²²

According to the UNODC, delays are caused by a number of factors: delays in appointing focal points and peer review experts to carry out reviews, delays with completion of self-assessment checklists and delays produced by translation requirements. Delays are occurring at each stage of the country review, resulting in reviews taking 32 months on average instead of the six months that were envisioned.²³

Another factor is the Covid-19 pandemic, which continues to slow the pace of reviews. In 2021, a small number of country visits have been carried out online (four countries) and in a hybrid format (one country), but most countries have chosen to postpone country visits. The UNODC raises concerns that the spillover effects of major delays will affect the capacity of the Secretariat and States Parties to be able to carry out delayed reviews as well as the reviews that are scheduled for subsequent years:²⁴ “Significant efforts will need to be undertaken by States Parties and the Secretariat to reverse the continuing slowdown in order to complete the second cycle within this extended time frame.”²⁵ These mounting delays could also affect the launch of the IRM’s next phase of review, which should include focus on how countries that have completed the 1st and 2nd cycle reviews have followed up on recommendations. In fact, that phase could already begin if the CoSP took the decision on the next phase and provided the necessary resources and capacity.

country visits and 14 joint meetings have been held, 173 executive summaries and 161 country review reports have been completed and 88 full country review reports are available on the UNODC website. The following countries have not completed their first cycle review: Barbados, Chad, Comoros, Congo-Brazzaville, Democratic Republic of the Congo, Equatorial Guinea, Guyana, Japan, Saint Lucia, South Sudan, Sudan, Tajikistan, Tonga, Turkmenistan and the European Union (as of 1 November 2021).

²² Ibid, p. 3.

²³ See the model country review schedule showing that country reviews should occur over 6 months: <https://www.unodc.org/unodc/en/corruption/implementation-review-mechanism.html>.

²⁴ It will be impossible to achieve the second cycle in the extended timeframe at the current rate of reviews being held per year. For the first two years of the 2nd cycle, 15 country review reports were completed each year and only 1 country report was completed each year for the 3rd and 4th years. No country review reports were completed for the 5th year. UNODC, “Note by the Secretariat to the 9th CoSP, https://www.unodc.org/documents/treaties/UNCAC/COSP/session9/CAC-COSP-2021-2/V2107189_E.pdf, p. 11, paragraph 46.

²⁵ Note by the Secretariat to the 9th CoSP, “Report on Performance of the Mechanism for the Review of the UN Convention Against Corruption”, https://www.unodc.org/documents/treaties/UNCAC/COSP/session9/CAC-COSP-2021-2/V2107189_E.pdf, 28 September 2021, pp.14-15.

III. Shortcomings of the Implementation Review Mechanism

The IRM has had a positive impact in promoting anti-corruption reforms and providing key and previously unavailable information about States Parties' anti-corruption frameworks and challenges faced. The UNODC undertook a review on the status of UNCAC Implementation after the completion of a large number of country reviews in the context of the first review cycle. The report concludes that "the Convention and the reports produced as part of the Implementation Review Mechanism have already played a significant role in triggering change and continue to serve as a basis for the establishment of effective anti-corruption regimes."²⁶ The report contends that legal and policy changes were made in countries as a direct result of country reviews and that the information exchange and sharing of ideas that takes place during country reviews has given governmental experts "unique insight into the good practices adopted by other States and has contributed to desensitizing and depoliticizing the issue of corruption...".²⁷

Some changes have also been made to improve the review process, which have included revising the self-assessment checklist to make it more useful for assessing progress and organizing training for country focal points.²⁸

Despite these achievements, international bodies, high-level experts and non-governmental organizations (NGOs) have identified major shortcomings in the Review Mechanism and have called for improvements to enhance the scheme's effectiveness and relevance. The FACTI Panel's Report recommends that the Review Mechanism be updated to "improve comprehensiveness, inclusiveness, impartiality, transparency and especially monitoring."²⁹ The Panel's report makes an important point: "The IRM, a trailblazer agreement when it was made 20 years ago [sic], has had many achievements, but could be further improved to respond to the new realities in anti-corruption policies. It has not been noticeably updated since its creation, while most other mechanisms have undergone significant changes over time."³⁰

²⁶ UNODC, "State of Implementation of the UN Convention Against Corruption", https://www.unodc.org/documents/treaties/UNCAC/COSP/session7/V.17-04679_E-book.pdf, 2017, p.vii.

²⁷ Ibid, https://www.unodc.org/documents/treaties/UNCAC/COSP/session7/V.17-04679_E-book.pdf, p.269.

²⁸ See guidance document for completing the revised self-assessment checklist that was developed in 2016:

<https://www.unodc.org/documents/treaties/UNCAC/WorkingGroups/ImplementationReviewGroup/20-24June2016/V1603598e.pdf>, 16 June 2016. See Resolution 7/4 adopted at CoSP 7, "Enhancing synergies between relevant multilateral organizations responsible for review mechanisms in the field of anti-corruption", <https://www.unodc.org/unodc/en/corruption/COSP/session7-resolutions.html>, November 2017.

²⁹ UN FACTI Panel, "Transparency and Integrity for Achieving the 2030 Agenda", https://uploads-ssl.webflow.com/5e0bd9edab846816e263d633/602e91032a209d0601ed4a2c_FACTI_Panel_Report.pdf, February 2021, p.x of Executive Summary (p.12 of pdf file).

³⁰ Ibid, p.38.

The G7 statement for the 2021 UNGASS against Corruption recognizes the importance of the Mechanism and the need for increasing transparency and inclusion, committing to “consulting civil society in our country reviews and promoting their inclusion as observers in subsidiary bodies of the UNCAC and Conference of States Parties.”³¹ The statement also “calls all countries under review by UNCAC to publish their full UNCAC country reports and invite inputs from a wide range of stakeholders.”³²

The UNGASS Political Declaration reaffirms States’ Parties commitment to the UNCAC, urges countries to complete country reviews in a timely manner and calls on the CoSP “to assess the performance of the Mechanism and to adapt, where appropriate, procedures and requirements for the follow-up.”³³ In addition, a set of non-binding recommendations adopted by the 8th CoSP recognizes the need “to improve the transparency and availability of information gathered during future phases of the Implementation Review Mechanism” and to “provide more detailed information in areas such as individual country experiences and technical assistance needs.”³⁴

Below, we have gone into greater detail about the major shortcomings of the Mechanism that are centered around the lack of inclusiveness, transparency, comprehensiveness and follow-up.

1. Lack of inclusiveness in the review process

The UNCAC recognizes the important role of non-governmental stakeholders in efforts to prevent corruption.³⁵ Article 13 of the Convention calls for States Parties to “promote the active participation of individuals and groups outside the public sector, such as civil society, NGOs and community-based organizations, in the fight against corruption

³¹ G7 Statement at the United Nations General Assembly Special Session Against Corruption, <https://www.state.gov/g7-ministers-statement-on-the-un-general-assembly-special-session-against-corruption/>, 2 June 2021, see para 11.

³² Ibid, see para 12.

³³ United Nations General Assembly Special Session Against Corruption, Political Declaration, <https://undocs.org/A/RES/S-32/1>, 2 June 2021, paragraph 77.

³⁴ UNODC, “Set of non-binding recommendations and conclusions based on lessons learned regarding the implementation of chapters III and IV of the United Nations Convention against Corruption”, https://www.unodc.org/documents/treaties/UNCAC/COSP/session8/CAC_COSP_2019_3_E.pdf, September 2019, p. 14. See Resolution 8/2, which approves these recommendations: <https://www.unodc.org/unodc/en/corruption/COSP/session8-resolutions.html>.

³⁵ The preamble of the Convention states, “Bearing in mind that the prevention and eradication of corruption is a responsibility of all States and that they must cooperate with one another, with the support and involvement of individuals and groups outside the public sector, such as civil society, non-governmental organizations and community-based organizations, if their efforts in this area are to be effective”. Text of UNCAC: https://www.unodc.org/documents/treaties/UNCAC/Publications/Convention/08-50026_E.pdf, see Preamble, p.6.

and to raise public awareness regarding the existence, causes and gravity of and the threat posed by corruption.”³⁶

Despite this emphasis, the engagement of civil society is not consistently applied at the national level and in global UNCAC fora. Non-governmental stakeholders, including CSOs, the private sector, professional organizations and academics, can make substantial contributions in efforts to combat corruption by providing invaluable expertise, presenting a different perspective from government officials and promoting the public interest.³⁷ A high level of transparency and inclusiveness in the process is needed to promote rigorous monitoring of country implementation and to ensure compliance with international human rights law and the commitments enshrined in the UNCAC.

The TOR for the Review Mechanism has minimal focus on the role of non-governmental stakeholders in the review process, including CSOs. There are only two references to stakeholders in the document and no explicit references to civil society. The TOR encourages countries under review to carry out broad, national-level consultations with relevant stakeholders in the development of the self-assessment checklist and to engage relevant national stakeholders during a country visit.³⁸

The TOR has set a low bar for non-governmental stakeholder engagement, giving full discretion to the country to decide the extent and mechanisms for civil society and stakeholder engagement in country reviews. This was a highly contested topic in the negotiations, which led to the unsatisfactory compromise in the TOR.

Consequently, the extent of stakeholder engagement in country reviews varies greatly from one country to another. Some countries have proactively included civil society at key stages of the review process, for example by seeking stakeholder input in the development of the self-assessment checklist, holding meetings with stakeholders as part of the country visit and including stakeholders as members of working groups created to oversee the country review. However, other countries have carried out reviews with limited transparency, making it difficult to know whether independent civil society and other non-governmental stakeholders were engaged. A civil society parallel report assessing UNCAC implementation in **Papua New Guinea** illustrates the challenges for civil society participation due to inadequate communication from the

³⁶ See Article 13 of the UNCAC,

https://www.unodc.org/documents/treaties/UNCAC/Publications/Convention/08-50026_E.pdf.

³⁷ Transparency International, “Transparency and Participation. An Evaluation of Anti-corruption Review Mechanisms”,

https://images.transparencycdn.org/images/2017_UNCAC_Transparency_and_Participation_Report_EN.pdf, 2017, p. 5.

³⁸ UNODC, “Mechanism for the Review for the Review of Implementation of the UN Convention Against Corruption - Basic Documents”,

https://www.unodc.org/documents/treaties/UNCAC/Publications/ReviewMechanism-BasicDocuments/Mechanism_for_the_Review_of_Implementation_-_Basic_Documents_-_E.pdf, 2011, p. 9.

government on the status of review visits and the lack of access to country review documents even after civil society has provided input.³⁹ This is only one example of many.⁴⁰

The UNCAC Coalition has also found through its review of country reports and executive summaries for the 2nd review cycle that many reports provide minimal to no information on whether and how stakeholders contributed to country reviews (see Chapter IV on Article 13 implementation for more details on civil society engagement in country reviews). Going beyond the TOR, there are other factors at play that may affect the level of civil society engagement in country reviews, including the degree of civic freedom in a country.

Civil society organizations have experienced major challenges with participating in the review process both at the international and national levels due to the lack of inclusiveness and transparency. To make a useful contribution, the UNCAC Coalition has partnered with CSOs to create parallel reports that evaluate UNCAC implementation and civil society engagement in a country's anti-corruption efforts, including in the country review process. These reports highlight good practices, challenges and present concrete recommendations for how to improve a country's anti-corruption framework and implementation. To date, there are around fifty parallel reports published by CSOs for the 1st and 2nd review cycles. States Parties should implement recommendations in these reports and consider them as part of country reviews and follow-up plans that are developed to follow through on country review recommendations.⁴¹ The Coalition has also developed a guide on transparency and participation in the UNCAC review mechanism with good practice approaches for governments to facilitate civil society involvement⁴² (see box on page 39 on ensuring meaningful stakeholder participation and transparency in country reviews).

There are new calls for the UNCAC Review Mechanism to become more inclusive in its approach. The G7 statement for the UNGASS against Corruption held in June 2021 calls for countries to commit to consulting civil society in country reviews. The FACTI

³⁹ Transparency International Papua New Guinea, UNCAC Coalition, "Civil Society Report on the Implementation of Chapter II (Preventive Measures) of the United Nations Convention against Corruption," <https://uncaccoalition.org/new-civil-society-report-on-papua-new-guinea-highlights-main-impediments-for-implementing-uncac-chapter-ii/>, July 2021, p. 15. The report provides an assessment of the review process in Papua New Guinea. One CSO was consulted on the review process and made a submission on the self-assessment checklist but the checklist was not made publicly available or shared and it was unclear whether the government had agreed to a country visit and whether that visit had taken place.

⁴⁰ Many civil society parallel reports illustrate the challenges for civil society to participate in country reviews due to the lack of inclusiveness and transparency. For access to all parallel civil society reports, see <https://uncaccoalition.org/uncac-review/cso-review-reports/>.

⁴¹ UNCAC Coalition website page on civil society parallel reports with links to reports: <https://uncaccoalition.org/uncac-review/cso-review-reports/>.

⁴² UNCAC Coalition, "UNCAC Guide to Transparency and Participation in the UNCAC Review Mechanism", <https://uncaccoalition.org/wp-content/uploads/UNCAC-Coalition-%E2%80%93-Guide-to-Transparency-and-Participation-in-the-IRM-1.pdf>, April 2021.

Panel's report observes that inclusiveness is one of the key metrics that the Review Mechanism falls short on and should address. The report states that "it is vital to include all relevant stakeholders - most notably civil society, academics and the private sector - in reviews, to improve the whole process and promote implementation."⁴³

2. Exclusion of civil society from the IRG

The IRM is also weakened by the exclusion of CSOs from participating in the meetings of the IRG. The IRG meetings focus on sharing key information about countries' UNCAC implementation, the status of country reviews and follow-up actions to implement report recommendations. In fact, civil society and other stakeholders are not just excluded as observers from the IRG meetings but also from the meetings of all other subsidiary bodies including the Working Group on Asset Recovery, the Working Group on Prevention and the Expert Group on International Cooperation. This presents a major impediment to stakeholder engagement in the IRM and the UNCAC overall.⁴⁴ The UN FACTI Panel Report recommends increasing the visibility of the review process by webcasting the IRG meetings. This is a proposal that the UNCAC Coalition supports, along with allowing civil society and non-governmental stakeholders to participate as observers at the meetings.⁴⁵ An additional option under the existing rules would be to include NGOs on thematic panels in the UNCAC IRG and other CoSP subsidiary bodies. Some States Parties have supported and called for the participation of civil society and other stakeholders to participate as observers in the IRG and other subsidiary bodies.⁴⁶

To try and compensate for the exclusion of non-governmental stakeholders from the meetings of the CoSP subsidiary bodies, States Parties created a separate meeting to share information with stakeholders on issues discussed at these meetings. In 2011, the CoSP adopted resolution 4/6 (also known as the "Marrakech Compromise") which calls on the IRG to hold an annual briefing with NGOs on the margins of the IRG's

⁴³ UN FACTI Panel, "Financial for Sustainable Development", https://uploads-ssl.webflow.com/5e0bd9edab846816e263d633/602e91032a209d0601ed4a2c_FACTI_Panel_Report.pdf, February 2021, p. 37.

⁴⁴ The decision from the Legal Opinion Office of Legal Affairs on 26 August 2010, which "recommends that the Implementation Review Group take a decision on the participation of observers that is consistent with both the rules and prior practice." The opinion states that the rules of procedure that allow observers to participate in the CoSP, specifically Rule 17, should also apply to participation of non-governmental stakeholders in the meetings of CoSP subsidiary bodies. The opinion also refers to the previous practice of allowing observers (intergovernmental organizations) to participate in the meetings of the Open-ended Intergovernmental Working Group on Technical Assistance. Note from the Secretariat, "Legal Opinion from the Office of Legal Affairs," <https://www.unodc.org/documents/treaties/UNCAC/WorkingGroups/ImplementationReviewGroup/29Nov-1Dec2010/V1056031e.pdf>, 26 August 2010.

⁴⁵ Report of the UN FACTI Panel, "Transparency and Integrity for Achieving the 2030 Agenda", https://uploads-ssl.webflow.com/5e0bd9edab846816e263d633/602e91032a209d0601ed4a2c_FACTI_Panel_Report.pdf, February 2021, p. 38

⁴⁶ Statement of G7 countries at UNGASS against Corruption <https://www.gov.uk/government/news/g7-ungass-statement>, June 2021, paragraph 11.

session to “further promote constructive dialogue with NGOs dealing with anti-corruption issues.”⁴⁷ The UNCAC Secretariat conducts these meetings with CSOs, representatives from States Parties and intergovernmental organizations. The briefing provides information about the outcomes of the review process and CSOs are able to raise issues and ask questions. However, few State Party representatives actually participate and no specific country situation is allowed to be mentioned at the briefing. Given these limitations, these briefings are far from sufficient and cannot replace CSO participation as observers in the sessions of the IRG and other UNCAC subsidiary bodies.

Challenges for civil society participation in the UNCAC CoSP

In recent years, there is a worrying trend of a small yet influential group of States Parties successfully objecting against the participation of CSOs (without ECOSOC consultative status) in the UNCAC CoSP. According to the CoSP rules of procedure, States Parties do not need to publicly disclose the reasons for their objections or even identify themselves. There is no mechanism for affected organizations to file objections to allow them to provide information to address any concerns or appeal against objections. This is inconsistent with OHCHR’s Guidelines for States on the effective implementation of the right to participate in public affairs.⁴⁸ The ability of a small group of countries to prevent stakeholder participation in the CoSP illustrates a problematic aspect of the “Vienna spirit of consensus” that characterizes UNCAC negotiations: consensus is sought and votes are avoided, which leads to the lowest common denominator on positions and agreements. This approach is in contrast to UN negotiations in New York and Geneva where countries may form coalitions and vote on proposals.

3. Lack of transparency of key information and documents

The lack of transparency of critical information related to the UNCAC review process undermines civil society’s ability to make substantial contributions and to obtain even basic information about the status of country reviews. Although all executive summaries are posted on the website of the UNODC, countries themselves decide whether to publish full country reports and self-assessment checklists. As a result, only half of the reviewed countries have published their full country reports from the 1st review cycle which started in 2010 and only 20 countries so far have published their full country reports for the 2nd review cycle which was launched in 2015.⁴⁹

⁴⁷ Resolution 4/6 adopted at the 6th CoSP on NGOs and the IRM:

<https://www.unodc.org/unodc/en/corruption/COSP/session4-resolutions.html>, September 2011.

⁴⁸ In October 2018, The Human Rights Council adopted by consensus resolution 39/11 which “took note with interest of the guidelines and presented them as a set of orientations for States and other relevant stakeholders. The guidelines refer to a number of basic principles that should guide the effective implementation of the right to participate in public affairs. Various dimensions of that right are covered, with a focus on participation in electoral processes, in non-electoral contexts and at the international level, and recommendations have been formulated.”

⁴⁹ UNODC, Country Profiles, <https://www.unodc.org/unodc/en/corruption/country-profile/index.html>.

These documents provide critically important and detailed information about UNCAC implementation in a country that may not be included in Executive Summaries or be publicly accessible (see Chapter IV on Article 13 implementation for more details). Transparency of other important information on country reviews is also not required, including updated timetables on the status of an often-delayed review process and timing of country visits, as well as contact information for UNCAC focal points and county reviewers. The UNCAC Coalition has found that government expert lists are often outdated and that the focal point within a government who is responsible for UNCAC matters is rarely indicated clearly. In addition, country reviewers (experts from the countries carrying out the review) are not identified and cannot be contacted and the UNODC does not facilitate any communication with reviewers. Consequently, in some instances, civil society has no contact point regarding the UNCAC review, for instance, for potential expressions of interest in participating in the review.

In past CoSP and IRG sessions, some States Parties have called for the publication of full country reports in order to better identify technical assistance needs for donors and other technical assistance providers, such as CSOs.⁵⁰ The G7 countries and the FACTI Panel have also recognized these challenges and have called for measures to increase transparency. Other anti-corruption monitoring mechanisms, including the Financial Action Task Force (FATF), the OECD Anti-Bribery Convention, the Council of Europe's Group of States against Corruption (GRECO) and MESICIC, the Organization of American States' Anticorruption Mechanism, publish full evaluation reports as part of their reviews of country implementation.⁵¹ The MESICIC has a high standard of transparency, publishing written input from stakeholders that reviewers receive as well as publishing a response from the government under review.⁵² The low level of transparency of key documents in the UNCAC IRM hinders the ability of civil society and other stakeholders to substantively engage in and identify opportunities to contribute to the review process. It is also inconsistent with international human rights standards and Article 13 of the UNCAC.

⁵⁰ See CoSP Resolution 8/2, <https://www.unodc.org/unodc/en/corruption/COSP/session8-resolutions.html>, "4. Encourages States parties to make their country review reports publicly available, in accordance with paragraphs 36, 37, 38 and 39 of the terms of reference of the Implementation Review Mechanism;" December 2019.

⁵¹ See FATF mutual evaluations: [https://www.fatf-gafi.org/publications/mutualevaluations/?hf=10&b=0&s=desc\(fatf_releasedate\)](https://www.fatf-gafi.org/publications/mutualevaluations/?hf=10&b=0&s=desc(fatf_releasedate)); OECD Anti-Bribery Convention country reports: <https://www.oecd.org/daf/anti-bribery/countryreportsontheimplementationoftheoecdanti-briberyconvention.htm>; GRECO evaluation reports: <https://www.coe.int/en/web/greco/evaluations>; MESICIC country reports: <http://www.oas.org/en/sla/dlc/mesicic/paises-home.html>.

⁵² See the Organization of American States' website on the MESICIC, which publishes country reports, submissions from non-governmental stakeholders and responses from governments under review: <http://www.oas.org/en/sla/dlc/mesicic/paises-home.html>.

Civil society initiatives to promote transparency

In response to this lack of transparency, the UNCAC Coalition has created the Transparency Pledge where countries commit to six principles to ensure a transparent and inclusive review process.⁵³ Commitments include providing updated review schedules, publishing self-assessments and full country reports, organizing civil society briefings and public debates about report findings and publicly supporting participation of civil society observers in UNCAC CoSP subsidiary bodies. There are a growing number of governments that have signed up to these transparency commitments - 31 States Parties have signed the pledge as of November 2021.⁵⁴

The UNCAC Coalition has recently launched an Access to Information Campaign in collaboration with CSOs across the globe to appeal for the release of crucial information relating to UNCAC implementation. CSOs are submitting formal Freedom of Information requests to their respective government authorities for the release of key documents and information relating to the country reviews and any follow-up actions. This provides another way for civil society to hold their governments to account for UNCAC implementation and to contribute to anti-corruption efforts, with effective access to information being a precondition for meaningful civil society participation.⁵⁵

4. Need for greater focus on compliance and outcomes of compliance

Country reviews primarily focus on describing the existing legal framework adopted to combat corruption and the mechanisms for promoting compliance and enforcement. However, there is far less focus on assessing whether countries have demonstrated compliance and enforcement of legal frameworks and what the outcome of such efforts are. The UNCAC Coalition has called for country reviews to have a greater focus on evaluating the implementation of laws in practice and has partnered with civil society organizations to concretely assess compliance and enforcement in parallel reports. The UN FACTI Panel Report has taken a similar position, recommending that the IRM increase comprehensiveness by “reviewing both the legal implementation of the UNCAC as well as states’ actual compliance and impact.”⁵⁶ An example of providing evidence of actual compliance would be to include statistics on the number

⁵³ UNCAC Coalition Transparency Pledge: <https://uncaccoalition.org/wp-content/uploads/Transparency-Pledge-UNCAC-Coalition.pdf>. The pledge has been translated into Arabic, French, Russian and Spanish. See: <https://uncaccoalition.org/uncac-review/transparency-pledge/>.

⁵⁴ UNCAC Coalition webpage on Transparency Pledge and a list of countries who have signed on: <https://uncaccoalition.org/uncac-review/transparency-pledge/>.

⁵⁵ UNCAC Coalition, Access to Information Campaign, <https://uncaccoalition.org/uncac-review/access-to-information-campaign/>.

⁵⁶ UN FACTI Panel Report, “Financial Integrity for Sustainable Development”, https://uploads-ssl.webflow.com/5e0bd9edab846816e263d633/602e91032a209d0601ed4a2c_FACTI_Panel_Report.pdf, February 2021, p.38.

of corruption cases reported and the number of cases under investigation as a result of efforts to publicize where corruption cases can be reported.

Country reports focus on describing the legal framework for Article 13 implementation but include far less information to demonstrate compliance and the outcomes of compliance efforts. For example, many country reports focus on freedom of information laws but provide inadequate evidence of whether access to information for citizens is ensured in practice. Evidence of implementation could include statistics on the number of information requests received, number of cases where access to information was fully granted, partially granted or not granted at all and in how many cases appeals are filed and the initial decisions are reversed.

The **United Kingdom's** country review report provides statistics on the implementation of the Freedom of Information Act (FOIA). Data includes the number of FOIA requests received from the different government bodies, the number of valid requests, the number of information requests released, the number of cases which were not released due to an exemption and the number of appeals for cases where information was not released.⁵⁷ **Malaysia's** country review report provides statistics on the public reporting of corruption cases, including the number and type of offenses reported by the public annually between 2013-2015, the number of resulting investigations and the outcomes of these investigations. Data is also provided on the number of whistleblowers who sought protection and the number of whistleblowers who were granted protection.⁵⁸ **Eswatini's** country review report provides specific examples of enforcement and court cases while also clearly indicating when there is no data on compliance available due to weak implementation.⁵⁹ Such data should appear in all country reports as it provides valuable information on implementation of laws and the concrete outcomes that resulted from such efforts.

The civil society parallel reports on UNCAC implementation, produced by national NGOs with support of the UNCAC Coalition, demonstrate how reviews can go beyond simply looking at what is on paper but consider in detail how laws are implemented and the impacts of that. A parallel report on **Costa Rica** illustrates how this can be done. For example, the section assessing implementation of Article 10 examines

⁵⁷ Country Review Report of the United Kingdom of Great Britain and Northern Ireland, https://www.unodc.org/documents/treaties/UNCAC/CountryVisitFinalReports/2020_11_16_UK_Final_Country_Report.pdf, p.160.

⁵⁸ Country Review Report of Malaysia, https://www.unodc.org/documents/treaties/UNCAC/CountryVisitFinalReports/2018_11_16_Malaysia_Final_Country_Report.pdf, pp. 332-334, the country review report also raises the views of non-governmental organizations that the Whistleblower Protection Act 2010 should be strengthened, including by broadening the scope of protected disclosures under the law, see p. 334.

⁵⁹ Country Review Report of Eswatini, https://www.unodc.org/documents/treaties/UNCAC/CountryVisitFinalReports/2020_02_19_Eswatini_Final_Country_Report.pdf.

whether the availability of public information on government websites increased after relevant access to information decrees were implemented.⁶⁰

5. Lack of clear follow-up process to assess implementation of country review recommendations

The IRM's effectiveness is hindered by the lack of a clear, structured and transparent process for following up on recommendations identified in country reviews to strengthen UNCAC implementation. The TOR for the Review Mechanism state that: "In the following review phase, each State party shall submit information in its responses to the comprehensive self-assessment checklist on progress achieved in connection with the observations contained in its previous country review reports. As appropriate, States parties shall also provide information on whether technical assistance needs requested by them in relation to their country review reports have been provided."⁶¹

This provides only general guidance on how to follow up on recommendations with no requirement or a clear process and timeline for doing so. The TOR further state that the CoSP "shall establish the phases and cycles of the review process, as well as the scope, thematic sequence and details of the review."⁶² However, the CoSP has yet to decide on the plans for the next phase and has not taken any further action to formalize the follow-up process or layout a timeframe for following through on recommendations. While countries deliver oral statements on follow-up actions at IRG meetings, civil society and other stakeholders are not able to participate in these meetings. Given the lack of transparency, it is difficult to get information on the status of follow-up and on other issues such as the impact of technical assistance efforts.

The UNCAC Review Mechanism has far weaker follow-up than several other anti-corruption peer review mechanisms, including FATF and the OECD Anti-Bribery Convention. For example, FATF has a clearly laid out process for monitoring the status of recommendations made in mutual evaluations, which are in-depth country reports that assess a countries' implementation and effectiveness of measures to combat money laundering and terrorist financing. The process includes regular reporting, enhanced follow-up for those countries making insufficient progress, concrete

⁶⁰ Asociación Costa Rica Íntegra, UNCAC Coalition, "Civil Society Report on UNCAC Implementation in Costa Rica", <https://uncaccoalition.org/wp-content/uploads/Civil-society-report-UNCAC-Costa-Rica-Integra-UNCAC-Coalition-18.06.2021-small.pdf>, June 2021, pp. 56-60.

⁶¹ UNODC, "Terms of Reference of the Mechanism for the Review of Implementation of the UN Convention Against Corruption", [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%20for%20the%20Review%20of%20Implementation%20-%20Basic%20Documents%20-%20E.pdf), p. 11.

⁶² UNODC, "Terms of Reference of the Mechanism for the Review of Implementation of the UN Convention Against Corruption", [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%20for%20the%20Review%20of%20Implementation%20-%20Basic%20Documents%20-%20E.pdf), paragraph 47.

timeframes for when remedial actions should be taken and publication of follow-up reports.⁶³

With the IRM's voluntary follow-up measures, only 38 countries out of 188 States Parties have published information on the follow-up actions for the first review cycle on the country profile section of the UNODC website. For the 2nd review cycle, only **Mauritius** has published its follow-up actions on the UNODC website, providing a useful chart outlining details on actions taken on specific recommendations.⁶⁴

In addition, there is no consistent format for reporting on follow-up actions and as a result some submissions by States Parties provide detailed descriptions of the follow-up on certain recommendations while other submissions are very short and provide far less information. Clear guidelines should be established to effectively assess the impact of measures taken in a transparent and factual manner. At the NGO Briefing in September 2021, CSOs recommended that the UNODC create a template for follow-up reporting to ensure a consistent and useful standard that is comparable. The UNODC's thematic reports provide some very general information on follow-up of country review recommendations and do not attribute any country names in the reports.⁶⁵

There are growing calls for the UNCAC IRM to take action to address this major deficiency. The UN FACTI Panel Report identifies the need for a monitoring system, calling for "results-oriented recommendations which are frequently monitored for adoption."⁶⁶ The UNGASS Political Declaration includes a commitment to "fully and effectively following up on the conclusions and observations from the review process" and welcomes "the efforts by the CoSP to assess the performance of the Mechanism and adapt, where appropriate, procedures and requirements for the follow-up."⁶⁷ The

⁶³ Financial Action Task Force, "Consolidated Processes and Procedures for Mutual Evaluations and Follow-Up", <https://www.fatf-gafi.org/media/fatf/FATF-Universal-Procedures.pdf>, January 2021, pp. 13-19. The OECD Anti-Bribery Convention has a country monitoring process with four phases and three phases include focus on "unimplemented recommendations" from the previous phases, <https://www.oecd.org/daf/anti-bribery/countrymonitoringoftheoecdanti-briberyconvention.htm>.

⁶⁴ UNODC, Mauritius follow-up actions on its country profile page, https://www.unodc.org/documents/treaties/UNCAC/CountryOtherReports/Follow-up_Report_on_Challenges UNCAC_Final.pdf.

⁶⁵ As an example: UNODC, "Implementation of Chapter II (preventive measures) of the United Nations Convention against Corruption", [CAC/COSP/IRG/2020/3/Rev.1](https://www.unodc.org/documents/irg/2020/3/Rev.1), July 2020.

⁶⁶ UN FACTI Panel, "Financial Integrity for Sustainable Development", https://uploads-ssl.webflow.com/5e0bd9edab846816e263d633/602e91032a209d0601ed4a2c_FACTI_Panel_Report.pdf, February 2021. The report states that "Regular and systematic monitoring is also crucial to ensure that recommendations are being addressed." p. 37-38 for recommendations for better monitoring.

⁶⁷ UNGASS Political Declaration, <https://undocs.org/A/RES/S-32/1>, 2 June 2021, p. 17. *The UN Common Position to Address Global Corruption* also focuses on the need for follow-up: "As part of the follow-up process, States are expected to report on progress made in the implementation of recommendations from previous reviews, and where technical assistance was required, whether this assistance was readily available." "The UN Common Position to Address Global Corruption. Towards UNGASS 2021",

UNCAC Secretariat's recent survey of States Parties on the performance of the IRM reflects this concern about the lack of follow-up and need for some type of monitoring mechanism. The report states: "The States parties noted that it was essential to follow up on the implementation of recommendations made by governmental experts of reviewing States parties, but that the Implementation Review Mechanism lacked appropriate measures to urge States parties to rectify shortcomings identified by reviewing experts."⁶⁸

Until improvements are made, however, civil society will continue to have no choice but to rely on the goodwill of States Parties to publish detailed documents on their follow-up efforts to implement country review recommendations.

https://ungass2021.unodc.org/uploads/ungass2021/documents/session1/contributions/UN_Common_Position_to_Address_Global_Corruption_Towards_UNGASS2021.pdf, August 2020, p. 9.

⁶⁸ Note by the Secretariat, "Views of States parties on the performance of the Mechanism for the Review of Implementation of the United Nations Convention against Corruption", <https://undocs.org/CAC/COSP/2021/4>, 11 October 2021, p. 6, paragraph 40.

IV. Review of Implementation of Article 13

The UNCAC recognizes the important role of civil society and other stakeholders in efforts to prevent and combat corruption. Article 13 of the Convention calls for States Parties to “promote the active participation of individuals and groups outside the public sector, such as civil society, NGOs and community-based organizations, in the fight against corruption and to raise public awareness regarding the existence, causes and gravity of and the threat posed by corruption.”⁶⁹

More specifically, the provision proposes that States Parties carry out the following measures to promote the active participation of civil society in combating corruption:

- Enhancing transparency of and public participation in government decision-making processes,
- Ensuring the public’s effective access to information,
- Implementing public information activities to build non-tolerance for corruption, as well as public education activities that include school and university curricula,
- “Respecting, promoting and protecting the freedom to seek, receive, publish and disseminate information concerning corruption.”⁷⁰

Article 13 provision speaks to the importance of an enabling environment where the public, civil society organizations, the media and other stakeholders can carry out anti-corruption work without fear of harassment, intimidation or reprisal. Paragraph 2 of Article 13 requires that States Parties take measures to promote reporting of corruption incidents and ensure that the public is aware of and has access to the relevant anti-corruption bodies to report any corruption incidents, including through anonymous reporting.

Article 10 of the UNCAC is another key provision to promote civic engagement and access to information, complementing Article 13’s aims. It requires States Parties to promote the transparency of public administration by taking measures to ensure the public has access to the organization, functioning and decision-making processes of government.⁷¹ Article 5 of the UNCAC also promotes civil society participation, requiring that each State Party promote the participation of society when developing and implementing anti-corruption policies.⁷² Article 33 of the Convention addresses the

⁶⁹ See Article 13 of the UNCAC, https://www.unodc.org/documents/treaties/UNCAC/Publications/Convention/08-50026_E.pdf, pp.15-16.

⁷⁰ Ibid.

⁷¹ Article 10 of the UNCAC, https://www.unodc.org/documents/treaties/UNCAC/Publications/Convention/08-50026_E.pdf, p. 13.

⁷² Article 5 of the UNCAC, https://www.unodc.org/documents/treaties/UNCAC/Publications/Convention/08-50026_E.pdf, p. 9.

protection of whistleblowers (recognized as reporting persons), although this is not a mandatory provision.⁷³

1. Methodology for carrying out the review

In the fall of 2021, the UNCAC Coalition carried out a review of executive summaries, country review reports and self-assessment checklists that were available on the UNODC's website for the UNCAC Review Mechanism's 2nd review cycle as of 1 November 2021. Our review focused on assessing how Article 13 is being implemented across States Parties as well as the extent to which Article 13 implementation is covered in executive summaries and country reports. Our review aimed to achieve the following:

- provide a snapshot of how the review mechanism is working in practice to identify good practices, challenges, recommendations and technical assistance needs to strengthen implementation of Article 13 and promote meaningful civil society engagement;
- assess how governments are engaging CSOs and other stakeholders in country reviews and identify good practices and areas for improvement to strengthen civil society and stakeholder involvement in country reviews;
- provide insights into the overall effectiveness of the Review Mechanism and where improvements are needed to inform the next phase of review.

Since States Parties are not required to publish the full country reports and self-assessment checklists, our review of Article 13 also examined how this lack of full transparency may impact the ability to obtain important information about a country's UNCAC implementation, the challenges, strengths and weaknesses and good practices. This information is important to enable civil society, journalists, academics, donors, the private sector and other stakeholders to contribute to the review process and anti-corruption efforts more broadly, to understand the national anti-corruption framework and how it is being implemented and to facilitate and support follow-up actions.

The UNCAC Coalition reviewed the executive summaries, country reports and self-assessment checklists that are publicly available for the 2nd Review Cycle. In total, we reviewed over 70 documents for 52 countries that have completed country reviews and published executive summaries and/or country review reports.

⁷³ Article 33 of the UNCAC, p. 26, "Protection of reporting persons. Each State Party shall consider incorporating into its domestic legal system appropriate measures to provide protection against any unjustified treatment for any person who reports in good faith and on reasonable grounds to the competent authorities any facts concerning offences established in accordance with this Convention."

As of November 2021, a total of 55 executive summaries and 20 country reports were published on the UNODC website for the 2nd review cycle.⁷⁴ A total of 8 self-assessment checklists were also available and 5 countries had made both full country reports and checklists available.⁷⁵ Given that countries can voluntarily publish full country reports and checklists but are not required to do so, the review provided an opportunity to compare the amount of information disclosed for countries that had both country reports and executive summaries, with the information disclosed for countries that have only published executive summaries.⁷⁶

What is considered ‘good practice’ for civil society participation?

When carrying out this analysis, we have considered what constitutes meaningful civil society engagement and good practice for achieving such engagement in the UNCAC. The Technical Guide to the UNCAC provides some guidance on how governments should implement Article 13, laying out practical challenges and solutions. The guide states that “States Parties should take a broad view of what comprises society and representative associations with whom they should engage. There should be a broad view and understanding of the society, comprising NGOs, trade unions, mass media, faith-based organizations, etc. and should include also those with whom the government may not have a close relationship.”⁷⁷

The guide briefly lays out the ways in which States Parties may involve the public in decision-making processes, mainly either through some type of direct representation to contribute in the development of preventive strategies, or involving the public in the government bodies responsible for anti-corruption efforts. For public reporting of corruption cases, the guidance raises the importance for “the citizens to express concerns or lay out allegations without fear of intimidation or reprisal is particularly important.”⁷⁸ It calls for States Parties to take actions to ensure that licensing and other

⁷⁴ The UNODC reports in a note dated 28 September 2021 that for the 2nd cycle, 57 executive summaries and 32 country reports have been completed and that 18 country review reports were available on the UNODC website. Note by the Secretariat on the Performance of the Mechanism for the Review of the Implementation of the United Nations Convention against Corruption, https://www.unodc.org/documents/treaties/UNCAC/COSP/session9/CAC-COSP-2021-2/V2107189_E.pdf, 28, September 2021, p. 3.

⁷⁵ States Parties that have published both country reports and checklists are Germany, Mauritius, Nigeria, Italy and the United Kingdom of Great Britain and Northern Ireland. UNODC, Country Profiles, <https://www.unodc.org/unodc/en/corruption/country-profile/index.html>.

⁷⁶ As of October 2021, 20 countries have published their full country reports for the 2nd review cycle: Belgium, Botswana, Bosnia Herzegovina, Burkina Faso, Cabo Verde, Eswatini, Germany, Italy, Kenya, Liechtenstein, Malaysia, Mauritius, Mozambique, North Macedonia, Nigeria, Peru, South Africa, Sri Lanka, Tanzania and United Kingdom. The UNCAC Coalition reviewed 16 country reports that were in English; we were not able to review 4 country reports that were only available in French (Belgium, Burkina Faso and Cabo Verde) and Spanish (Peru).

⁷⁷ UNODC, “Technical Guide to the United Nations Convention against Corruption”, https://www.unodc.org/documents/treaties/UNCAC/Publications/TechnicalGuide/09-84395_Ebook.pdf, 2009, p. 62.

⁷⁸ Ibid, p. 62.

arrangements for the various types of media are “not used for political or partisan purposes to restrain the investigation and publication of stories on corruption.”⁷⁹

Drawing on this guidance and other approaches, we have developed a list of guiding questions on Article 13 implementation to answer when reviewing each country’s documents.⁸⁰ We also looked further than the UNCAC to identify good practices to consider as part of the review. *The UNDP Framework Report on the 2030 Agenda* offers a more proactive and meaningful approach to stakeholder engagement that merits consideration for the UNCAC. The framework has been developed for assessing stakeholder engagement in the context of the 2030 agenda and entails an inclusive and accountable decision-making process through policy formulation, implementation, monitoring and reporting, and follow-up.⁸¹ In addition, the UNODC has published a document on Civil Society for Development, which focuses on how CSOs can become involved in UNCAC implementation and the Review Mechanism and provides many examples of civil society participation.⁸²

2. Main conclusions of the review of Article 13 implementation

Our review and analysis of country review documents shows the need for stronger Article 13 implementation and more active and meaningful civil society participation in countries’ anti-corruption efforts and in the UNCAC country reviews. Our review also identified weaknesses in how civil society participation in anti-corruption efforts is assessed. For example, there is limited focus on examining the freedom of civil society

⁷⁹ Ibid, pp. 61-64 on Article 13 Implementation. Guidance is also provided on public information and education, public reporting of corruption cases and public access to information, including considering how a public access to information law could help promote such access.

⁸⁰ Guiding questions used to evaluate Article 13 coverage in executive summaries and country reports: What is the extent to which the public can contribute to government decision-making through public consultation and what is transparency around government decision-making? How can the public and civil society organizations contribute to the development of anti-corruption strategies and laws and are specific examples provided? Does the government have more formal arrangements with civil society to enable them to meaningfully participate on an ongoing basis (for example, participation in multi-stakeholder groups with governments or on the boards of anti-corruption government bodies)? Does the report discuss the level of freedom for civil society and the media and how this affects Article 13 implementation? Does the report provide information about how civil society engagement shaped outcomes? Did the country report specify how it engaged civil society and other stakeholders in the country review process?

⁸¹ The report outlines the three elements of this framework: 1) Inclusion: ensure that a diverse group of stakeholders is included in a non-discriminatory and accessible manner, 2) Participation: stakeholders must have access to the necessary information to effectively engage and put forward solutions, have the ability to influence the decision-making process and know how their inputs have impacted outcomes, 3) Accountability: carry out stakeholder engagement in a transparent and responsive manner and provide participants with opportunities to give feedback on the process and have them addressed. Taken from: UNDP, Department of Social and Economic Affairs, “What is a ‘Good Practice’? A framework to analyze the Quality of Stakeholder Engagement in implementation and follow-up of the 2030 Agenda”, <https://sdgs.un.org/sites/default/files/2021-08/UNDP-UNDESA%2C%20Stakeholder%20Engagement%20Report%20English.pdf>, November 2020, p. 9-11.

⁸² UNODC, “Civil Society for Development. Opportunities through the United Nations Convention against Corruption”, https://www.unodc.org/documents/NGO/Fast-tracking/18-06316_eBook.pdf, 2019.

actors to influence anti-corruption efforts and how those efforts shaped outcomes. These findings further demonstrate the challenges posed by the Review Mechanism's lack of meaningful transparency and inclusiveness and the importance of addressing these shortcomings to ensure impactful country reviews that improve UNCAC implementation.

Below are the main findings of the review:

a) *Country reviews show that a significant number of countries face challenges in meaningfully engaging civil society and demonstrating the outcomes of such engagement.* Our analysis found that **28 out of 52 country reviews (53%)** include recommendations related to improving implementation of some aspect of Article 13. Many of the Article 13 recommendations focus broadly on strengthening civil society participation in preventing corruption, increasing transparency around decision-making processes to promote public participation and raising public awareness about reporting corruption cases.⁸³

- **Lack of assessment of meaningful civil society engagement:** Many country reports highlight efforts to engage in consultations with civil society on anti-corruption strategies and programs to combat corruption and most countries have consulted CSOs on draft laws or other anti-corruption policy measures.⁸⁴ However, the level of detail on civil society engagement varies from report to report, making it difficult to evaluate implementation and impact. In many cases, inadequate information was provided to assess whether such consultations were sufficient and ongoing to enable meaningful participation and input. The independence and diversity of consulted CSOs is often not addressed in the UNCAC implementation reports. It is thus possible that in a number of cases

⁸³ UNODC's review of the implementation of Chapter II found similar challenges with Article 13 implementation, concluding that about 51% of countries include recommendations focused on Article 13. Twenty nine out of 57 country reviews include recommendations to strengthen Article 13 implementation which were related to the following: "Limited participation of civil society in preventing and combating corruption, including as a result of the lack of or inadequate implementation of relevant laws and procedures; failure to consult with civil society during the development of anti-corruption strategies, policies or legislation; insufficient collaboration between relevant government agencies and civil society; inadequate measures or mechanisms for reporting corruption; and lack of public awareness campaigns and education programmes to prevent corruption". The review also found that 21 out of 57 country reviews had good practices related to Article 13 implementation. UNODC, "Implementation of Chapter II (preventive measures) of the United Nations Convention against Corruption", https://www.unodc.org/documents/treaties/UNCAC/COSP/session9/CAC-COSP-2021-5/V2107560_E.pdf, 8 October 2021, pp. 4-5, see Tables 1 and 2.

⁸⁴ Ibid, p. 13, paragraph 57 for summary of States Parties' efforts to engage civil society. The report states that "Several States have included civil society representatives in national anti-corruption councils or as part of their national anti-corruption architecture. Most States invite non-governmental organizations to provide comments on draft laws and participate in the review of policies and measures to prevent corruption. Approximately 32 per cent of the States have reported that civil society organizations had been invited to participate in the drafting and implementation of national anti-corruption strategies or policies. Recommendations have been issued to encourage States to consider consulting civil society organizations on the development of laws or the national budget."

governments only or primarily involved supportive organizations and so-called GONGOS – government-organized NGOs, while excluding or not inviting critical and independent groups.

Some country reviews describe more formal arrangements for collaboration that may lead to more substantive engagement, such as forming partnerships with civil society organizations through a memorandum of understanding (MOU) or having civil society representatives serve on the boards of multi-stakeholder bodies (such as the Open Government Partnership) or government agencies that play a role in good governance. While these types of arrangements can be more participatory and impactful than simply relying on ad-hoc consultations, country reports often do not address how these types of arrangements worked in practice as far as enabling civil society to influence and shape anti-corruption measures and programs.

There are some exceptions. **Italy's** country review report lays out in detail the government's collaboration with over fifty organizations in the development of the 3rd OGP action plan, laying out the proposals that civil society made (specific issues are listed in the report) and reporting that the priorities of civil society were taken into account where possible in the development of the action plan. The country report includes a contribution from Transparency International Italia on "the most valuable activities and initiatives carried out in collaboration with Italian Institutions."⁸⁵

- **Examples of proactive engagement:** Several country reports provide good examples of governments proactively engaging and cooperating with civil society in UNCAC implementation. **North Macedonia, Mauritius** and the **United Kingdom** report that they have made meaningful efforts to promote the engagement of civil society and other stakeholders in a sustained manner in the country's efforts to develop anti-corruption measures and bring attention to the issues (see section on examples of good practices). **Kenya, Malaysia, Nigeria** and **Peru's** country reviews document more formal arrangements for promoting civil society engagement in a sustained manner either through MOUs or civil society participation on boards of government agencies or anti-corruption commissions and oversight bodies.⁸⁶
- **Gaps in the legal framework:** A considerable number of countries have a major gap in the legal framework that hinders public participation and access to information. **Eighteen out of 52 countries** (35%) had no access to

⁸⁵ Country Review Report of Italy, https://www.unodc.org/documents/treaties/UNCAC/CountryVisitFinalReports/2019_11_22_Italy_Final_Country_Report.pdf, p. 200, p. 202-203.

⁸⁶ See country review reports and executive summaries for Kenya, Malaysia, Nigeria and Peru on the UNODC website: <https://www.unodc.org/unodc/en/corruption/country-profile/index.html>.

information laws in place at the time of their country reviews and in many cases, recommendations called for access to information legislation to be adopted or for existing laws to be more effectively implemented.⁸⁷ Another gap in the legal framework for some countries is a law requiring public consultation on draft laws, although countries may take other measures to promote public participation in the development of legislation.⁸⁸ **Vietnam's** executive summary describes a good practice of requiring the government to consider citizens' comments on draft laws and to provide justification when those comments are not taken into account.⁸⁹ In some cases, countries have reported at length on their efforts to raise awareness among the public and youth about anti-corruption but have yet to pass or effectively implement access to information or public consultation laws that are fundamental for ensuring public participation and government accountability.⁹⁰

- **Lack of detail on technical assistance needs:** One of the main aims of the Review Mechanism is to identify technical assistance needs to improve UNCAC implementation. However, there is a lack of consistency in how technical needs are outlined in country reviews. In some country reports, recommendations for technical assistance lack specificity, limiting their usefulness in guiding the development of technical assistance programs. For example, **Nigeria's** country review report provides limited explanation of technical assistance needs in some sections of the report, simply listing capacity-building, institution-building,

⁸⁷ The UNODC's review of Chapter II implementation found that many States Parties had challenges with Article 10 implementation. Forty three out of 57 States Parties (75%) had recommendations related to Article 10 implementation: "Lack of legislation or measures to regulate public access to information and, where such legislation and measures are in place, gaps in the existing frameworks and inadequate application thereof, and limited measures to assess and identify areas for improvement; overly complex administrative procedures for public service delivery and access to information; and limited data-collection systems to identify, monitor and analyze corruption risks in the public sector". UNODC, "Implementation of Chapter II (preventive measures) of the United Nations Convention against Corruption", https://www.unodc.org/documents/treaties/UNCAC/COSP/session9/CAC-COSP-2021-5/V2107560_E.pdf, 8 October 2021, p. 4, Table 1.

⁸⁸ UNODC, "Good practices and initiatives in the prevention of corruption: Awareness-raising policies and practices with special reference to articles 5, 7, 12 and 13 of the United Nations Convention against Corruption", 10 June 2011, <https://www.unodc.org/documents/treaties/UNCAC/WorkingGroups/workinggroup4/2011-August-22-24/V1183632e.pdf#page=13>, Note that UNODC describes how numerous countries have taken measures to facilitate public contributions to decision-making processes, including setting up working groups comprised of representatives of various governmental bodies and representatives of NGOs, the private sectors and other stakeholders such as trade unions to participate in consultation processes around development of draft laws, paragraph 59, p. 13.

⁸⁹ Vietnam's Executive Summary, https://www.unodc.org/documents/treaties/UNCAC/WorkingGroups/ImplementationReviewGroup/6-10September2021/CAC-COSP-IRG-II-2-1-Add.28/V2105226_E.pdf, p. 8.

⁹⁰ UNODC, Note by the Secretariat on public education: <https://www.unodc.org/documents/treaties/UNCAC/WorkingGroups/workinggroup4/2013-August-26-28/V1384374e.pdf>, 19 June 2013. See also UNODC website on Article 13 implementation that includes submissions from 40 countries on Article 13 implementation submitted as part of the deliberations of the Open-ended Intergovernmental Working Group on Prevention: <https://www.unodc.org/unodc/en/corruption/WG-Prevention/participation-of-society.html>.

policy making, legislative assistance, research/data gathering and analysis and providing no other details.⁹¹ **Tanzania's** country review report provides an example of more detailed technical assistance needs that are included in a separate annex.⁹²

Some countries have called for clear and transparent identification of technical assistance needs to help promote the provision of this type of assistance.⁹³ Non-binding recommendations deliberated by the IRG and adopted at the 8th CoSP aimed to address these challenges and “to provide more detailed information in areas such as individual country experiences and technical assistance needs.”⁹⁴ Some progress has been made to improve the quality and detail of technical assistance since the self-assessment checklist was revised to require each State Party to identify and prioritize technical assistance needs.

b) *Country reviews do not adequately consider a country's enabling environment when evaluating the quality of civil society engagement.* Civic freedom is an important condition for ensuring that civil society organizations, the media and other stakeholders can expose corruption and advocate for anti-corruption measures without fear of intimidation or reprisal. Article 13 recognizes this by calling on States Parties to respect, promote and protect the freedom to seek, receive, publish and disseminate information concerning corruption. The Technical Guide also lays out measures that countries should take to ensure that such civic freedom exists.⁹⁵

- **Challenges for civil society:** Country review reports and executive summaries give inadequate attention to barriers for civil society participation, which is

⁹¹ Country Review Report of Nigeria, https://www.unodc.org/documents/treaties/UNCAC/CountryVisitFinalReports/2019_12_16_Nigeria_Final_Country_Report.pdf, p.131 has brief technical assistance recommendations for Article 13.

⁹² Country Review Report of Tanzania, https://www.unodc.org/documents/treaties/UNCAC/CountryVisitFinalReports/2019_11_22_Tanzania_Final_Country_Report.pdf, p 209.

⁹³ UNODC, Note by the Secretariat: “Technical Assistance in Support of the Implementation of the United Nations Convention against Corruption, including an Analysis of the Responses to the Technical Assistance Needs Identified through the Implementation Review Mechanism”, https://www.unodc.org/documents/treaties/UNCAC/WorkingGroups/ImplementationReviewGroup/14-18June2021/CAC-COSP-IRG-2021-CRP.1_V2104322.pdf, 11 June 2021, p. 7. The report states: “In order to facilitate the provision of technical assistance one State wished to encourage the needs for technical assistance identified under the Mechanism to include more detail so as to allow potential donors to better assess to what extent they could provide support while allowing them to effectively coordinate their efforts to ensure complementarity and synergies with other potential donors.”

⁹⁴ UNODC, Note from the Secretariat: “Set of non-binding recommendations and conclusions based on lessons learned regarding the implementation of chapters III and IV of the United Nations Convention against Corruption”, https://www.unodc.org/documents/treaties/UNCAC/COSP/session8/CAC_COSP_2019_3_E.pdf, 17 September 2019, see chart on p.14.

⁹⁵ UNODC, “Technical Guide to the United Nations Convention Against Corruption”, https://www.unodc.org/documents/treaties/UNCAC/Publications/TechnicalGuide/09-84395_Ebook.pdf, 2009, p. 63.

especially concerning in countries with closed civic space, including the freedom to organize and assemble, and to engage in public activities without fear of reprisals. For example, **Zimbabwe's** executive summary does not raise the dangerous conditions civil society organizations and journalists have faced in exposing corruption or have any Article 13 recommendations to address this challenge.⁹⁶ In contrast, a parallel report on UNCAC implementation carried out by a civil society organization lays out a very difficult and dangerous environment in **Zimbabwe** for activists and journalists who are exposing and protesting corruption. The report highlights the state's attacks on civil society as systematic, with civil society members reporting increases in surveillance, abductions, arbitrary arrests and detention.⁹⁷ Another example is **Azerbaijan's** executive summary which does not address the restrictive environment for civil society despite the country being ranked as "not free" by Freedom House.⁹⁸

- **Challenges to press freedom:** Most countries report that press freedom is guaranteed by legislation with certain legal restrictions but do not adequately consider whether that is the reality on the ground. The UNODC found that country reports generally do not address how legal restrictions were applied, which can be an important consideration in assessing freedom of press in a country.⁹⁹ For example, **Saudi Arabia** ranks close to the bottom on the World Press Freedom Index at 170th and is named as one of the "biggest jailers of journalists" along with **Egypt** and **China** by Reporters without Borders.¹⁰⁰ Yet,

⁹⁶ Executive Summary of the Country Review Report of Zimbabwe, <https://www.unodc.org/documents/treaties/UNCAC/WorkingGroups/ImplementationReviewGroup/ExecutiveSummaries2/V2003385e.pdf>. Zimbabwe's Country Review Report, which may contain more details, was not available on the UNODC website as of 3 December 2021.

⁹⁷ Anti-corruption Trust of Southern Africa, UNCAC Coalition, "Civil Society Parallel Report on UNCAC Implementation in Zimbabwe", <https://uncaccoalition.org/wp-content/uploads/Final-Civil-Society-Report-on-Zimbabwe-ACT-SA-UNCAC-Coalition-8.3.2021-1.pdf>, March 2021, p. 40.

⁹⁸ Azerbaijan's executive summary includes recommendations to strengthen Article 13 implementation, which are focused on promoting public participation and transparency in government decision-making and more systematically carrying out public awareness campaigns about corruption prevention. However, there are no specific recommendations to address reported attacks on civil liberties in the country. Azerbaijan's country review report, which may contain more details, was not available on the UNODC website as of 3 December 2021. https://www.unodc.org/documents/treaties/UNCAC/WorkingGroups/ImplementationReviewGroup/ExecutiveSummaries2/V2101095_E.pdf, p. 9. See Freedom House's "Freedom of the World 2020" for Azerbaijan's Freedom Status of "not free". The overview includes the following: "The authorities have carried out an extensive crackdown on civil liberties in recent years, leaving little room for independent expression or activism.", <https://freedomhouse.org/country/azerbaijan/freedom-world/2020>.

⁹⁹ The UNODC found that "...the majority of States parties provide for freedom of the press in their legislation, albeit with legal restrictions to protect legitimate interests, such as public order and national security. No data on the application of those restrictions are available. At the same time, the reviews noted that, in some States parties, the freedom of the press appears to be curtailed, despite relevant provisions in national legislation." See "Implementation of chapter II (preventive measures) of the United Nations Against Corruption", <https://undocs.org/CAC/COSP/IRG/2020/3/Rev.1>, 13 July 2020, para 65.

¹⁰⁰ Reporters Without Borders, "World Freedom Index 2020", <https://rsf.org/en/2020-world-press-freedom-index-entering-decisive-decade-journalism-exacerbated-coronavirus>. Note that in 2017 when

the executive summary for Saudi Arabia does not specifically address the threats facing journalists or press freedom more broadly.¹⁰¹ **Mozambique's** country review report also does not address the challenges for press freedom despite its ranking as “partly free” in its *Freedom of the World* index.¹⁰² **Oman's** executive summary is an example of where some attention is given to the issue. The summary states that there are no legal provisions to protect the right of citizens and civil society to publish information about corruption; one of the recommendations put forward is to “consider adopting legal provisions to protect the right of citizens and civil society to publish information concerning corruption (art. 13, para. 1)”.¹⁰³

c) The majority of country review documents do not disclose whether civil society or other stakeholders were engaged in country reviews. Our review found that only **12 out of 52 country reviews (23%)** document some type of civil society and stakeholder engagement in their country review documents, despite the encouragement for stakeholders to be consulted in country reviews. Executive summaries rarely provide any information on stakeholder engagement in country reviews; a greater number of country review reports provide some information. The latest report from the CoSP Secretariat on the performance of the Review Mechanism prepared for the 9th CoSP presents a far different picture - 97% of country visits for the 2nd review cycle supposedly held meetings with “other stakeholders”, but no further details were provided.¹⁰⁴

the Saudi Arabia review visit was held, Saudi Arabia ranked towards the bottom of the World Freedom Index at 168 out of 180 countries. See <https://rsf.org/en/ranking/2017>.

¹⁰¹ Executive Summary of the Country Review Report of Saudi Arabia, <https://www.unodc.org/documents/treaties/UNCAC/WorkingGroups/ImplementationReviewGroup/ExecutiveSummaries2/V1801570e.pdf>. Saudi Arabia's country review report, which may contain more details, was not available on the UNODC website as of 3 December 2021. The executive summary contains one recommendation related to Article 13, calling for the government to pass a freedom of information law and a draft law to protect whistleblowers is under consideration, see p. 5 & 10.

¹⁰² Country Review Report of Mozambique states that there is a dedicated law covering the freedom of press and the media and that “Several reports by independent organizations have confirmed that the independence of press and media in Mozambique exists.” No further information is provided.

Mozambique's Country Review Report,

https://www.unodc.org/documents/treaties/UNCAC/CountryVisitFinalReports/2019_02_26_Mozambique_Final_Country_Report.pdf, p.149. Freedom House ranked Mozambique as “partly free” in 2017

when the review visit was held and reports that state-run media dominates in the country and that “Journalists experience government pressure, harassment and intimidation, which leads to self-censorship. The government is known to retaliate against journalists who criticize it by canceling public advertising contracts.” Freedom House, “Freedom of the World 2018”,

<https://freedomhouse.org/country/mozambique/freedom-world/2018>, see Mozambique's profile and the assessment of freedom of expression and belief for 2017, Section D1.

¹⁰³ Executive Summary of Oman's Country Review Report,

<https://www.unodc.org/documents/treaties/UNCAC/WorkingGroups/ImplementationReviewGroup/ExecutiveSummaries2/V1904134e.pdf>, p. 5 & 8.

¹⁰⁴ UNODC, “The Performance of the Mechanism for Review of Implementation of the United Nations Convention Against Corruption”,

https://www.unodc.org/documents/treaties/UNCAC/COSP/session9/CAC-COSP-2021-2/V2107189_E.pdf, September 2021, p.10.

- **Minimal information provided on stakeholder engagement:** Many executive summaries and country reports do not disclose whether and the extent to which stakeholder engagement took place for country reviews. The TOR for the Review Mechanism only requires countries to disclose whether stakeholders were consulted in reviews but does not require disclosing more details, including which stakeholders were involved. The country profiles on the UNODC’s website where all Review Mechanism documents are published includes a section under each review cycle where the country needs to provide an answer on “other stakeholders involved in review”. The majority answer “yes” and only a few answer “no” or provide no information.¹⁰⁵ However, no other information is provided.
- **Lack of meaningful civil society engagement in country reviews:** Countries that report some level of stakeholder engagement typically provide minimal information and describe limited engagement. In many cases, engagement is centered on carrying out consultations with stakeholders to get input on the development of the self-assessment checklist or holding meetings with stakeholders during country visits, both of which is encouraged by the Review Mechanism’s TOR. There are some countries that have led the way in conducting review visits in a more inclusive and transparent manner and have disclosed these in country reports (see box below on ensuring meaningful stakeholder participation and transparency in country reviews). In some cases, countries may have consulted with civil society but do not disclose this in the country report or executive summary. **Bosnia and Herzegovina** is an example of a country that has involved civil society in the country review but has not reflected this in any of the country review documents.¹⁰⁶

d) The country review reports provide crucial and detailed information about a country’s UNCAC implementation that are missing from executive summaries. The review clearly shows that a significant amount of critical information is left out of Executive Summaries when compared to full country reports. States Parties should publish the full country reports and self-assessment checklists to ensure that civil society organizations, academia, the private sector and other stakeholders can monitor UNCAC implementation and hold governments accountable for following through on recommendations.

- **Minimal information provided in executive summaries:** Minimal information is provided in executive summaries given the short length of the document, which average about 11-12 pages in length. Executive summaries focus about a half of a page on summarizing the status of efforts to implement both Article

¹⁰⁵ UNODC, Country Profiles, <https://www.unodc.org/unodc/en/corruption/country-profile/index.html>.

¹⁰⁶ Civil society organizations from Bosnia shared at a UNODC workshop held in Belgrade in September 2021 that they have been involved in Bosnia’s country review process.

13 and Article 10, allowing little more than a brief overview of key activities and legal requirements while full country reports have a separate section focused on Article 13 that is several pages long. Most executive summaries state vaguely that civil society was consulted or involved in the development of anti-corruption strategies and policies but provide little to no information on how that was done, who was involved and the outcome of those efforts. Also, only limited information is provided on the legal framework, awareness-raising activities and efforts to promote reporting of corruption cases to the relevant government agencies. Country reports on the other hand are typically over 200 pages in length, providing a significant amount of details on the implementation of each article under Chapters II and IV and the challenges faced.

- **Country reports provide critical information:** Recommendations and technical assistance needs are included in executive summaries but are not always described in as much detail as in the country reports. Executive summaries do not provide the broader context for UNCAC implementation and the challenges faced. **Tanzania's** executive summary lists technical assistance needs very broadly while the country review report provides four pages of specific areas where assistance is needed and the type of assistance.¹⁰⁷ **North Macedonia** provides an example of how much more critical information is provided in the country report. The executive summary contains half a page on implementation of Articles 13 and 10, generally stating that CSOs have taken an active part in the development of anti-corruption policies and that the government has signed MOUs with NGOs to promote cooperation. The Article 13 section in the country report is 9 pages long and provides much more detailed information on the legal framework, the government's adoption of a strategy for cooperation with civil society and development of good practices for participation of civil society.¹⁰⁸ **Germany's** executive summary contains no mentions of civil society while the full country report provides 10 pages of details on Article 13, providing specific details on civil society engagement, public consultation on draft laws and civil society initiatives to promote publication of freedom of information data.¹⁰⁹

¹⁰⁷ Tanzania's executive summary only lists technical assistance needs in broad categories: legislative assistance, policymaking and capacity building. Executive Summary of Tanzania, <https://www.unodc.org/documents/treaties/UNCAC/WorkingGroups/ImplementationReviewGroup/ExecutiveSummaries2/V1904612e.pdf>, p.12.

Tanzania's country review report, on the other hand, contains an annex on the needs and type of assistance needed. Country Review Report of Tanzania, https://www.unodc.org/documents/treaties/UNCAC/CountryVisitFinalReports/2019_11_22_Tanzania_Final_Country_Report.pdf, pp. 209-212.

¹⁰⁸ Country Review Report of North Macedonia, https://www.unodc.org/documents/treaties/UNCAC/CountryVisitFinalReports/2021_08_24_North_Macedonia_Country_Report_EN.pdf, pp. 238-246.

¹⁰⁹ Germany's country review report describes the efforts of a civil society initiative to set up an internet portal, <https://fragdenstaat.de>, which publishes information obtained from applicants in a publicly accessible manner, given that FOI data is only made available to the individual applicant. UNODC, Country Review Report of Germany,

Ensuring meaningful stakeholder participation and transparency in country reviews

A transparent and inclusive review process is essential for ensuring a robust review mechanism that strengthens UNCAC implementation. In 2021, the UNCAC Coalition developed *A Guide to Transparency and Participation in the UNCAC Review Mechanism* to promote greater civil society participation in country reviews. The Guide aims to help CSOs, other non-state actors and States Parties develop meaningful stakeholder participation in country reviews that go beyond mere consultation to establish constructive dialogue and partnership.

The Guide draws upon the experiences of some countries that have conducted country reviews in a more inclusive and transparent manner. It outlines concretely how to engage non-state actors and ensure transparency at five key stages of the review process: the preparation of the country review, the development of the self-assessment checklist, the peer review process (dialogue and on-site visits), the development of the country report and the development of a follow-up plan. In addition, there are guiding principles to adopt throughout the process to promote active participation and active publication and information sharing.¹¹⁰

Below are some positive examples of country reviews that were carried out with proactive stakeholder participation and/or high levels of transparency at different stages of the review process. It is our hope that these approaches are built upon so that they become the norm rather than the exception in the UNCAC Review Mechanism:

Engaging and promoting cooperation with stakeholders before the review process begins - Senegal's experience shows the benefits of engaging civil society well before the country review process begins to lay the groundwork for meaningful participation. A multi-stakeholder workshop organized by the UNODC in 2016 promoted cooperation between government officials and civil society and led to the inclusion of CSOs in Senegal's review for the 2nd cycle that was carried out in 2017.¹¹¹

https://www.unodc.org/documents/treaties/UNCAC/CountryVisitFinalReports/2020_11_06_Germany_Final_Country_Report.pdf, pp.145-154.

¹¹⁰ The principles that should guide participation are: inclusivity, capacity, timeliness, responsiveness, resourcing and independence. The principles to guide transparency are: accessibility, openness, timeliness and accuracy. See the guide for more details. See the *UNCAC Guide to Transparency and Participation* for more details.

¹¹¹ UNODC, "Civil Society for Development", https://www.unodc.org/documents/NGO/Fast-tracking/18-06316_eBook.pdf, 2019, p. 20. The UNODC report states that Senegal's full country review report was published in June 2017 but the full report is not available on the UNODC's Senegal country profile section as of 3 December 2021. See <https://www.unodc.org/unodc/en/corruption/country-profile/countryprofile.html#?CountryProfileDetails=%2Funodc%2Fcorruption%2Fcountry-profile%2Fprofiles%2Fsen.html>.

Consulting stakeholders in the development of self-assessment checklists - North Macedonia and Sri Lanka obtained the input of CSOs and other stakeholders in the development of the self-assessment checklist through gathering written submissions and holding workshops. Their country reports list the names of all organizations who participated in the workshops.¹¹²

Including stakeholders in working groups to oversee the country review – Kenya stands out as a country that appears to have proactively involved CSOs and other stakeholders throughout the review process. According to the country review report, Kenya created a multi-sectoral national steering committee which included representatives from civil society organizations to oversee the country review process. The committee was also tasked with making recommendations for new legislation or reviews of existing laws to fill any legislative gaps identified in the review.¹¹³

Engaging stakeholders in the development of a follow-up plan – Mauritius, at the time this report was finalized, is the only country that has published a follow-up document on the UNODC website for the 2nd review cycle. The document (a chart outlining actions taken/progress achieved for each challenge) states that it was sent to all stakeholders involved in the process so that they could report on follow-up actions related to their mandates.¹¹⁴

Promoting a high level of transparency in country reviews - Five countries have achieved a significant degree of transparency in their review processes by voluntarily disclosing both country review reports and self-assessment checklists for the 2nd review: **Germany, Mauritius, Nigeria, Italy** and the **United Kingdom**. **Nigeria** and the **United Kingdom** have achieved a high level of transparency as the only countries that have published self-assessment checklists and country review reports for both the 1st and 2nd review cycles.¹¹⁵

¹¹² Sri Lanka's Country Review Report, https://www.unodc.org/documents/treaties/UNCAC/CountryVisitFinalReports/2018_09_03_Sri_Lanka_Final_Country_Report.pdf, pp. 20-21. North Macedonia's Country Review Report, https://www.unodc.org/documents/treaties/UNCAC/CountryVisitFinalReports/2021_08_24_North_Macedonia_Country_Report_EN.pdf, pp. 17-18, the government held two workshops with stakeholders from NGOs, academia and business associations.

¹¹³ Kenya's Country Review Report, https://www.unodc.org/documents/treaties/UNCAC/CountryVisitFinalReports/2019_07_08_Kenya_Final_Country_Report_English.pdf, pp. 20-21, according to the report, the National Steering Committee includes representatives from governmental bodies, CSOs, private sector associations and other stakeholders that have a stake in anti-corruption efforts. The country report lays out the TOR for the Steering Committee, which is responsible for a wide range of tasks including developing the self-assessment checklist, identifying technical assistance needs, organizing consultations with stakeholders, and making recommendations to address legislative gaps in Kenya's anti-corruption legal framework.

¹¹⁴ Independent Commission Against Corruption, "Follow Up on Challenges", Mauritius country profile section of UNODC website, https://www.unodc.org/documents/treaties/UNCAC/CountryOtherReports/Follow-up_Report_on_Challenges_UNCAC_Final.pdf.

¹¹⁵ UNODC, Country Profiles, <https://www.unodc.org/unodc/en/corruption/country-profile/index.html>.

3. Good practice examples of civil society engagement in UNCAC implementation

Below are examples of good practices that demonstrate how meaningful civil society participation can lead to positive change in the fight against corruption. These examples are from different regions and are drawn from UNCAC country review reports (specifically reports that identified a good practice related to Article 13 implementation), civil society parallel reports and the UNODC report *Civil Society for Development*. The UNODC report provides many case studies of civil society engagement in UNCAC implementation and outlines in detail the different “entry points” for civil society to engage in to promote effective implementation of the Convention’s provisions.

Burkina Faso - Civil society organizations have had a major impact on the development of anti-corruption laws in the country. The Réseau National de Lutte Anticorruption (REN-LAC) carried out research and data collection that identified gaps in the country’s anti-corruption legislation. Based on the findings of this research, REN-LAC drafted an anti-corruption bill in 2012 and over several years carried out advocacy, awareness raising and media campaigns to build support for reforms and activate different constituencies to support reforms. The organization’s sustained advocacy efforts led to a national debate on anti-corruption and laid the groundwork for legislation to be passed in 2015 when opportunities opened up due to political changes.¹¹⁶

Mauritius - The country report provides detailed information about the country’s efforts to promote meaningful stakeholder participation in anti-corruption efforts. Anti-Corruption Platforms were created that “have been instrumental in reaching the different segments of the population and sustaining anti-corruption efforts.”¹¹⁷ A range of stakeholders were involved and consulted, including civil society organizations, trade unionists, the private sector and professional associations. Stakeholders were engaged in the development of the anti-corruption strategy and Anti-Corruption Focal Points, composed of volunteers in five regions, were created to develop regional anti-corruption initiatives, promote networking and “empower social leaders to provide guidance to community members, and act as vigilance groups.”¹¹⁸ The report recognizes as a good practice “wide multi-stakeholder engagement and regular consultations with civil society.” The country report also puts forward

¹¹⁶ UNODC, “Civil Society for Development: Opportunities through the United Nations Convention against Corruption”, https://www.unodc.org/documents/NGO/Fast-tracking/18-06316_eBook.pdf, 2019, p.28.

¹¹⁷ Country Review Report of Mauritius: https://www.unodc.org/documents/treaties/UNCAC/CountryVisitFinalReports/2020_08_24_Mauritius_Final_Country_Report.pdf, p. 23.

¹¹⁸ Ibid, p. 43.4. Also see Supreme Court of Justice. Access to Public Information and Transparency. AIP trials in Paraguay, <https://www.pj.gov.py/descargas/transparencia/cuadro-de-casos-judiciales-AIP-ley-5282-14.pdf>. Date of access: 09 July 2021.

recommendations for strengthening Article 13 implementation by adopting a new access to information law and continuing to engage civil society in the development of new laws.

North Macedonia - The country report provides detailed information about the country's proactive approaches to promote civil society and government collaboration in anti-corruption efforts. Civil society, the media and other stakeholders were actively involved in developing the State Program for Prevention and Suppression of Corruption (SCPC) for 2016-2019. The government has also adopted a "Strategy for cooperation of the Government with the Civil Society 2012-2017" and created a Memorandum of Understanding with 17 CSOs to prevent corruption and conflicts of interest. Areas of collaboration include promoting exchange of information, raising awareness through holding events, cooperation in the drafting of legislation and joint projects of interest in combating corruption.¹¹⁹ In addition, proposals by civil society organizations on new governmental policies or amendments are published online.¹²⁰

CSOs are also active in promoting effective UNCAC implementation. In 2019, the Macedonian Centre for International Cooperation developed a parallel report assessing the country's UNCAC implementation.¹²¹ North Macedonia's country review recognizes the SCPC as having carried out "wide collaboration with the private sector and civil society organizations by signing memorandums of cooperation for the prevention of corruption and conflict of interest."¹²² The efforts to create a strategy for cooperation between the government and civil society generated momentum leading to several Central and Eastern European countries to develop partnerships between governments and civil society on issues facing the region.¹²³

Paraguay - A report by the civil society organization Semillas para la Democracia on UNCAC implementation in Paraguay highlights impactful efforts by civil society organizations to promote citizen participation. In 2019, CSOs implemented a project to promote access to public information that took an "intercultural approach". The project empowered communities and indigenous peoples to exercise and defend their rights as citizens in a democracy and to have a voice and influence over decisions that

¹¹⁹ Country Review Report of North Macedonia, https://www.unodc.org/documents/treaties/UNCAC/CountryVisitFinalReports/2021_08_24_North_Macedonia_Country_Report_EN.pdf, p. 243.

¹²⁰ Ibid, p. 238-245, country visit held in May 2018.

¹²¹ Macedonian Center for International Cooperation, "Shadow report on the Second Cycle Review Process and the Implementation of the United Nations Convention against Corruption (UNCAC) in the Republic of North Macedonia", https://uncaccoalition.org/wp-content/uploads/Shadow-Report-on-the-Second-Cycle-Review_North-Macedonia.pdf, May 2019.

¹²² Ibid, p. 244. See also the UNODC report "Civil Society for Development: Opportunities through the United Nations Convention against Corruption", https://www.unodc.org/documents/NGO/Fast-tracking/18-06316_eBook.pdf, 2019.

¹²³ UNODC, "Civil Society for Development: Opportunities through the United Nations Convention against Corruption", https://www.unodc.org/documents/NGO/Fast-tracking/18-06316_eBook.pdf, 2019, p. 27.

impact them.¹²⁴ The report also highlights a good practice by the Supreme Court of Justice in making a platform available to the public for “monitoring paradigmatic cases of corruption that were selected, in a participatory manner, through recommendations from the Paraguayan lawyers' associations and following requests for information from both the media and the public.”¹²⁵ The report notes the challenges for effective citizen participation at the national level; overall there is a repressed civic space and citizens' basic rights to organize and demonstrate have been violated.¹²⁶

Sri Lanka - The country report highlights a range of ways in which civil society and other stakeholders have been engaged in UNCAC implementation and the development of future plans to strengthen this engagement. The government has engaged international NGOs, national NGOs and community-based organizations in the development of the new anti-corruption strategy “Seven Steps to Zero Tolerance.”¹²⁷ The strategy and a three-year implementation plan focus on strengthening prevention and enforcement efforts and also include plans for stronger partnerships with civil society. The report states that the CIABOC, the main anti-corruption body, has had positive collaboration with CSOs in developing proposals to strengthen the Assets Declaration Act, which was under consideration at the time of the country's review.¹²⁸ CIABOC is also taking steps to develop a corruption prevention unit with the participation of CSOs, anti-corruption activists and other organizations.¹²⁹ Sri Lanka's efforts to promote civil society participation, including through its participation in the Open Government Partnership, is recognized as a good practice (Sri Lanka's anti-corruption strategy was being integrated into their OGP action plan). The country review report also recommends taking action to fully implement the Right to Information Act and to consider adopting a law to require public input on draft legislation, a current practice in Sri Lanka that is not backed up by legal requirements.

United Kingdom - The country report highlights in detail the involvement of civil society organizations in co-creating the National Action Plan (NAP) as part of the Open Government Partnership. The NAP lays out commitments to produce an Anti-Corruption Strategy across governments and includes monitoring of implementation

¹²⁴ Semilla para la Democracia, UNCAC Coalition. “Civil Society Report on the implementation of Chapter II (Prevention) and Chapter V (Asset Recovery) of the United Nations Convention against Corruption in Paraguay”, <https://uncaccoalition.org/wp-content/uploads/EN-translation-Civil-Society-Report-UNCAC-implementation-Chapter-II-and-V-Paraguay-Semillas-para-la-Democracia-UNCAC-Coalition-October-2021.pdf>, November 2021, p. 44. Also see: Tierra Viva a los Pueblos Indígenas del Chaco (2019). Promoting Transparency and the right of access to public information from intercultural proposals of indigenous peoples of Paraguay [published]. <http://www.tierraviva.org.py/projects/demo/>. Date of access: 09 July 2021.

¹²⁵ Ibid, p. 45. See also the Supreme Court of Justice. Observatorio de causas judiciales [published]. <https://www.pj.gov.py/observatorio>. Date of access: 09 July 2021.

¹²⁶ Ibid, p. 45.

¹²⁷ Country Review Report of Sri Lanka: https://www.unodc.org/documents/treaties/UNCAC/CountryVisitFinalReports/2018_09_03_Sri_Lanka_Final_Country_Report.pdf, p. 4.

¹²⁸ Ibid, p. 86.

¹²⁹ Ibid, p. 31.

through quarterly meetings with civil society and government commitment leads.¹³⁰ The UK has also achieved significant transparency through its commitment to open data by making over 40,000 data sets available on its open data website.¹³¹ The Bond Anti-Corruption Group, a coalition of British non-governmental organizations, took a proactive role in the country review for the 2nd cycle by issuing a detailed report in response to the publication of the self-assessment checklist. The report recognizes the UK government's achievements in tackling corruption but also identifies specific areas where improvements are needed.¹³² During the country visit, CSOs met with the country reviewers without the presence of UK government representatives to provide input to the review. The country review report cites as a good practice "the broad participation of civil society organizations and the private sector in the planning, development and implementation of national anti-corruption policies and practices as shown by their engagement in this review."¹³³ The report also recommends that the government monitor the implementation of the Freedom of Information Act "to ensure timely responses to information requests."¹³⁴

¹³⁰ Country Review Report of the United Kingdom of Great Britain and Northern Ireland: https://www.unodc.org/documents/treaties/UNCAC/CountryVisitFinalReports/2020_11_16_UK_Final_Country_Report.pdf, p. 128.

¹³¹ Ibid, see section on Article 13 Implementation: pp. 157-165 for Article 13 implementation.

¹³² "Bond Anti-Corruption Group report on UK compliance with the UN Convention against Corruption", <https://www.bond.org.uk/resources/bond-anti-corruption-group-report-on-uk-compliance-with-the-un-convention-against>, 15 August 2018.

¹³³ Country Review Report of the United Kingdom of Great Britain and Northern Ireland, https://www.unodc.org/documents/treaties/UNCAC/CountryVisitFinalReports/2020_11_16_UK_Final_Country_Report.pdf, p.16.

¹³⁴ Ibid, p. 16.

V. The Way Forward: Recommendations for Strengthening the UNCAC Implementation Review Mechanism

The UNCAC IRM has played an important role in promoting more effective anti-corruption regimes globally over the past decade. At a time of global crisis, it is now more crucial than ever that States Parties strengthen the IRM to fulfill its potential of ensuring effective UNCAC implementation in the global fight against corruption. At the UNGASS against Corruption held in June 2021, many government statements highlighted the importance of prioritizing full UNCAC implementation, rather than making new commitments and therefore should support a more robust UNCAC review mechanism.¹³⁵

For the second phase of reviews, the IRM should provide greater focus on measuring the implementation and effectiveness of anti-corruption frameworks in practice and should require robust follow-up measures to implement recommendations and close loopholes. Consistent with the spirit of Article 13, States Parties must also adopt a more transparent and inclusive review process to ensure the fundamental role of civil society in holding governments accountable in combating corruption and delivering.

The UNCAC Coalition calls on the CoSP and States Parties to adopt the following reforms to create a more inclusive, transparent and effective Review Mechanism. These reforms will enhance global efforts to prevent corruption and promote the meaningful and active participation of civil society organizations in these efforts.

Transparency: States Parties should be required to provide public access to country review reports and other critical information related to UNCAC implementation to ensure the ability of civil society, academia, the private sector, the media and other stakeholders to engage in the process by taking the following actions:

- Publish self-assessment checklists and full country reports to give a full picture of UNCAC implementation in a country, including challenges, best practices and technical assistance needs.
- Publish country focal points and their contact information, a regularly updated schedule of the review process and opportunities for how civil society and other stakeholders can engage in the process, such as scheduled country visits.

¹³⁵ UNGASS Political Declaration reaffirms states commitments to implement the UNCAC and other anti-corruption agreements: "We will step up our efforts to promote and effectively implement our anticorruption obligations and robust commitments under the international anti-corruption architecture, which we as a community have created together, and will further work towards finding synergies and common solutions. We take note of the efforts of international and regional organizations and forums in preventing and combating corruption and of the important tools to effectively prevent and counter corruption contained in the Convention against Corruption and in the Organized Crime Convention, and in other international and regional instruments, including those recalled in the preamble of the Convention against Corruption." <https://undocs.org/A/RES/S-32/1>, 7 June 2021, pp. 3-4.

- Publish and regularly update a report on the status of follow-up actions from country reviews.
- Non-governmental stakeholders should be encouraged to make submissions to the review process to provide their perspectives about UNCAC implementation and all submissions should be published online along with other country review documents.¹³⁶
- The UNODC should issue an announcement when country reviews are completed, as is done in other review mechanisms.
- The UNODC should modify the country profile section of its website to provide more useful, up-to-date and detailed information that can be used by States Parties and stakeholders. Country profiles should be linked to relevant information about a country's UNCAC implementation that are in other sections of the UNODC's website, including other subsidiary bodies such as the Working Group on Prevention.

Inclusiveness: States Parties should be required to meaningfully engage CSOs and other non-state stakeholders in all stages of the review process by taking the following actions:

- Lead an inclusive and transparent process that goes beyond simply holding meetings with stakeholders in an ad-hoc manner; civil society should be proactively involved throughout the process with clear feedback provided in the country reports on how civil society and stakeholders' input was taken into account.¹³⁷
- Consider adopting a multi-stakeholder approach to country reviews for the follow-up phase and future review cycles that would allow experts from civil society organizations and other non-governmental stakeholders to serve as reviewers along with government experts, providing different perspectives and areas of expertise that could lead to more impactful reviews.
- Encourage civil society and other non-governmental stakeholders to provide written input for country reviews and publish these submissions on the UNODC website.
- Strengthen reporting of stakeholder engagement by including a section at the beginning of executive summaries and country reports that provides an overview of stakeholder engagement in the country review process. This

¹³⁶ The Follow-Up Mechanism for the Implementation of the Inter-American Convention against Corruption (MESICIC), the anti-corruption mechanism for the Organization of American States, publishes submissions from non-governmental stakeholders as part of its country reviews: <http://www.oas.org/en/sla/dlc/mesicic/documentos.html>.

¹³⁷ See the UNCAC Coalition's "Guide to Transparency and Participation in the UNCAC Review Mechanism", which outlines concrete steps to engage civil society and other non-governmental stakeholders in country reviews to ensure an inclusive and transparent process: <https://uncaccoalition.org/wp-content/uploads/UNCAC-Coalition-%E2%80%93-Guide-to-Transparency-and-Participation-in-the-IRM-1.pdf>, 1 April 2021.

section should provide specific details on how consultations were carried out, which stakeholders participated and outcomes of such participation.

- Allow civil society organizations and other stakeholders to participate as observers in the meetings of the subsidiary bodies of the UNCAC CoSP, including the IRG which oversees the UNCAC's Review Mechanism.
- Consider other ways in which to enhance transparency, including through webcasting the IRG meetings.
- Take steps to mainstream gender in the UNCAC and the Review Process, including by ensuring gender balance in carrying out country reviews and by forming objectives linked to anti-corruption that include gender equality as an integral component.¹³⁸

Monitoring and Follow-up: The CoSP should develop and adopt a clear follow-up process to ensure that country review recommendations and technical assistance needs are acted upon by taking the following actions:

- Double down on efforts to complete country reviews in order to conclude the 2nd review cycle by 2024. Adequate resources, capacity and political commitment are urgently needed to address delays and increase the pace of country visits.
- Adopt a proposal at the 10th CoSP to launch the next phase of review which should establish an official follow-up process to assess progress in addressing country review recommendations and technical assistance needs from the 1st and 2nd review cycles. The next phase should be launched even if the second cycle is not concluded by 2024 to ensure that country review recommendations from the first two cycles are addressed in a timely manner.
- Develop a template for publicly reporting on the status of follow-up actions to ensure a useful and consistent approach for reporting by all States Parties that assesses the impact of measures taken. States Parties should use this template to develop a follow-up plan and include civil society and other stakeholders as partners in this process.¹³⁹
- Each State Party should prepare a written response to the country review report. The response could identify how the government under review plans to follow up on findings and address others issues identified in the report.¹⁴⁰

¹³⁸ For more recommendations, see: Kaunain Rahman, U4 Helpdesk Answer, "Gender Mainstreaming in the UNCAC", <https://www.u4.no/publications/gender-mainstreaming-in-the-uncac.pdf>, 30 September 2021.

¹³⁹ The CoSP should also consider how to effectively track and report on States Parties' progress in following through on recommendations and do so in a timely manner. The FACTI Panel's report suggests publicizing countries that have the best track records for making improvements to provide incentives for countries to strengthen implementation, see p. 38.

¹⁴⁰ As part of the country review process for the MESICIC, the anti-corruption mechanism for the Organization of American States, governments under review publish a response to the country report. MESICIC website: <http://www.oas.org/en/sla/dlc/mesicic/paises-home.html>.

- Report on actions taken to implement commitments of the Political Declaration, adopted by the UN General Assembly Special Session against Corruption in June 2021. This should be done in a transparent and inclusive format that facilitates the participation of civil society stakeholders and is publicly available.

Comprehensiveness: States Parties should place more emphasis on the implementation, application and enforcement of UNCAC provisions in practice by taking the following actions:

- Adopt increased focus in future country reviews on evaluating compliance and the effectiveness of legal frameworks. Country reviews should assess how well laws are being implemented in practice to combat and prevent corruption.
- Each State Party should provide statistics, the results of audits and evaluations and other evidence to demonstrate compliance and the outcomes of these efforts.
- Provide more detail on specific technical assistance needs to address challenges and major stakeholders that should be engaged in these efforts.

Effective implementation of Article 13 and civil society engagement: States Parties should promote the meaningful engagement of civil society and other stakeholders in the development and implementation of anti-corruption measures by taking the following actions:

- Provide a safe and enabling environment for CSOs, activists, the media and other stakeholders to carry out anti-corruption work without fear of harassment, intimidation or reprisal and hold those who carry out these attacks to account.¹⁴¹
- Engage a diverse range of stakeholders in the development and implementation of anti-corruption measures. This should entail a participatory, inclusive approach that engages civil society organizations and other stakeholders, including those that are marginalized, in a sustained and responsive manner. Clear feedback should be provided on how stakeholder views are taken into account.

¹⁴¹ The UNGASS Political Declaration outlines specific measures countries should take to protect those who are exposing corruption and journalists, “30. We will provide a safe and enabling environment to those who expose, report and fight corruption and, as appropriate, for their relatives and other persons close to them, and will support and protect against any unjustified treatment any person who identifies, detects or reports, in good faith and on reasonable grounds, corruption and related offences. To this end, we will, inter alia, enable confidential complaint systems, protected reporting systems and programmes for the protection of reporting persons, and increase awareness of such measures, in accordance with domestic legal systems and within our means. We also reiterate our obligation to criminalize obstruction of justice and to effectively protect victims, witnesses and justice and law enforcement officials from potential retaliation or intimidation, use of physical force or threats. 31. We will strive to provide a safe and adequate environment to journalists, and we will investigate, prosecute and punish threats and acts of violence, falling within our jurisdiction, committed against them.” UNGASS Political Declaration, <https://undocs.org/A/RES/S-32/1>, 2 June 2021, p. 9.

- The UNODC should prepare a thematic report on Article 13 implementation that analyzes challenges with Article 13's application and proposes recommendations to strengthen implementation.
- Provide greater focus in country reviews on assessing civil society participation in anti-corruption measures and the enabling environment for civil society organizations and other actors to carry out anti-corruption work. This should include determining whether and how civil society and stakeholder engagement shaped outcomes and providing specific recommendations and technical assistance needs to address challenges.
- Adopt and implement comprehensive legal frameworks for promoting civil society participation and government accountability, including laws on effective access to information and protection of whistleblowers, and for requiring public participation in government decision-making.
- Proactively publish documents and information of public interest on the relevant government website as well as the UNODC website, particularly for those areas with high risks of corruption (public procurement contracts and data, information on public finances, company and beneficial ownership registries and asset declarations of public officials).