

## Strengthening the UNCAC Implementation Review Mechanism to enhance global efforts to prevent and combat corruption

Submission by the UNCAC Coalition to the  
13<sup>th</sup> Session of the UNCAC Implementation Review Group

26 May, 2022

As the one-year anniversary of the UN General Assembly Special Session (UNGASS) against Corruption approaches, the UNCAC Coalition urges States Parties to strengthen the Implementation Review Mechanism (IRM) of the United Nations Convention against Corruption (UNCAC), “fully and effectively following up on the conclusions and observations from the review process”.<sup>1</sup> Recent global developments highlight that large-scale corruption undermines international peace, security and human rights and that reforms are urgently needed to stem the flow of stolen money and to trace and confiscate ill-gotten assets. Now more than ever, **a rigorous, inclusive, effective and transparent UNCAC monitoring mechanism with a structured follow-up process is urgently needed** for more impactful outcomes in the global fight against corruption.

### Significant delays continue to impede the IRM’s effectiveness

Significant delays in the 2nd review cycle continue to undermine the IRM’s effectiveness and ability to improve UNCAC implementation at the country level. According to UNODC, **only 35 country reports have been completed for the 2nd cycle, representing merely 19% of States Parties**.<sup>2</sup> These delays mean that several years lapse before country reviews are completed, leading to outdated reports and preventing much-needed attention to follow-up on findings from country reviews. While States should continue to complete the 2nd review cycle by June 2024, it is critical that the next phase of the review be launched even if the second cycle is not concluded by that date, to ensure that country review recommendations from the first two cycles are addressed in a timely manner.

### Strengthening the IRM to address major weaknesses

Compared to other anti-corruption monitoring mechanisms, the IRM has significant shortcomings on several important metrics: inclusiveness, transparency, assessing the effectiveness of legal

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<sup>1</sup> UNGASS 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](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”.

<sup>2</sup> UNODC, “Performance of the Review of the Mechanism for the Review of the Implementation of the United Nations Convention against Corruption”, [https://www.unodc.org/documents/treaties/UNCAC/WorkingGroups/ImplementationReviewGroup/13-17June2022/CAC-COSP-IRG-2022-2/V2201770\\_E.pdf](https://www.unodc.org/documents/treaties/UNCAC/WorkingGroups/ImplementationReviewGroup/13-17June2022/CAC-COSP-IRG-2022-2/V2201770_E.pdf), 30 March 2022, p. 4, paragraph 16.

frameworks and a formal follow-up process. Greater inclusiveness and transparency will lead to more meaningful stakeholder engagement and more impactful and higher-quality country reviews. A structured follow-up process that focuses on compliance and the implementation of laws in practice will incentivize States Parties to follow up on recommendations and effectively apply and enforce their legal anti-corruption frameworks.

### **The need for greater inclusiveness**

Despite the spirit of Article 13, the UNCAC review mechanism does not ensure the inclusive participation of civil society and other non-governmental stakeholders in the review process. Under the IRM's Terms of Reference, engagement with non-governmental stakeholders in the review process is encouraged but not required and at the discretion of the country under review.<sup>3</sup>

Consequently, the involvement of stakeholders in country reviews varies greatly from one country to another.<sup>4</sup> Minimal to no information on stakeholder engagement is disclosed, making it difficult to know how stakeholders, including independent civil society, participated in reviews.<sup>5</sup> **Some countries have meaningfully engaged non-governmental stakeholders during the country review process; other States Parties should follow this example.**<sup>6</sup>

A lack of inclusiveness also applies to global UNCAC fora. Civil society organizations (CSOs) and other stakeholders are excluded from participating as observers in the UNCAC Conference of the States

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<sup>3</sup> UNODC, "Mechanism for the Review of the Mechanism of Implementation of the Convention - Basic Documents", [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), 2011, p. 9.

<sup>4</sup> UNODC, "Performance of the Review of the Mechanism for the Review of the Implementation of the United Nations Convention against Corruption", 30 March, 2022, see p. 10, paragraph 46: "At the time of writing, almost all the country visits (97 per cent) conducted in the first to fifth years of the second cycle had included meetings with other stakeholders, in accordance with paragraph 30 of the terms of reference". However, no further details are provided.

<sup>5</sup> Other anti-corruption mechanisms are more consistent in how they engage civil society in country reviews and in publicly disclosing this information in country reports and evaluations. See the Council of Europe's The Group of States against Corruption (GRECO)'s "Guidelines/time schedule for the organisation of evaluation visits" which includes a section on meeting with civil society and other non-governmental stakeholders during evaluation visits:

<https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=0900001680700266>, p.2. GRECO evaluation reports describe up front which stakeholders were interviewed as part of on-site visits and written input that was received from stakeholders. The OECD Anti-Bribery Convention's country reports typically include an annex with the list of stakeholders who participate in country reviews.

<sup>6</sup> UNCAC Coalition, "Keeping up with the Times: A way forward for ensuring an inclusive, transparent and effective UNCAC Implementation Review Mechanism", <https://uncaccoalition.org/wp-content/uploads/Final-Report-%E2%80%93-Keeping-Up-with-the-Times-A-stronger-UNCAC-IRM.pdf>, 7 December 2021. The report provides examples of civil society engagement at key stages in the review process which 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 process.

Parties (CoSP) subsidiary bodies. This includes the meetings of the Implementation Review Group (IRG) where States Parties discuss their implementation of the UNCAC.<sup>7</sup>

There are increasing calls for the UNCAC to be more inclusive: The European Parliament,<sup>8</sup> the UN FACTI Panel<sup>9</sup> and Mary Lawlor, the UN Special Rapporteur on human rights defenders, have called for greater engagement of civil society in UNCAC meetings and the review mechanism. The Special Rapporteur's report calls for governments to meaningfully engage CSOs and other non-governmental stakeholders in all stages of the UNCAC review process, to disclose stakeholder engagement in country review documents and to allow stakeholders to participate as observers in the UNCAC's subsidiary bodies.<sup>10</sup>

### **Lack of meaningful transparency**

While executive summaries from country reviews are published, countries are not required to disclose the full country reports and self-assessment checklists. These documents provide critically important and detailed information about UNCAC implementation that may not be publicly accessible. **Fifty-five percent of States Parties have published their full country reports from the 1st review cycle and merely 23 States Parties so far have published their full reports for the 2nd review cycle.**<sup>11</sup>

The **UNCAC IRM is far behind compared to other anti-corruption monitoring mechanisms that disclose full country reports as well as follow-up reports.** The Follow-up Mechanism for the Inter-American Convention against Corruption (MESICIC) publishes all inputs from governmental and non-governmental actors that informed the review as well as a government response.<sup>12</sup>

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<sup>7</sup> The UNCAC also has working groups on asset recovery and prevention and the expert group on international cooperation which would benefit from the expertise and experience of civil society.

<sup>8</sup> European Parliament recommendation of 17 February 2022 to the Council and the Vice-President of the Commission / High Representative of the Union for Foreign Affairs and Security Policy concerning corruption and human rights (2021/2066(INI)), [https://www.europarl.europa.eu/doceo/document/TA-9-2022-0042\\_EN.html](https://www.europarl.europa.eu/doceo/document/TA-9-2022-0042_EN.html).

<sup>9</sup> See: <https://www.factipanel.org/>.

<sup>10</sup> Mary Lawlor, UN Special Rapporteur on the situation of human rights defenders, "At the heart of the struggle: human rights defenders working against corruption", <https://digitallibrary.un.org/record/3955232>, December 2021, see paragraph 117 (i); The UN High Level Panel on International Financial Accountability, Transparency and Integrity for Achieving the 2030 Agenda (FACTI Panel), "Transparency and Integrity for Achieving the 2030 Agenda", [https://uploads-ssl.webflow.com/5e0bd9edab846816e263d633/602e91032a209d0601ed4a2c\\_FACTI\\_Panel\\_Report.pdf](https://uploads-ssl.webflow.com/5e0bd9edab846816e263d633/602e91032a209d0601ed4a2c_FACTI_Panel_Report.pdf), February 2021, p. 38 has a recommendation calling for the UNCAC IRM to meaningfully include civil society and other stakeholders in country reviews and during review visits.

<sup>11</sup> UNODC reports that ninety country reports have been published on the UNODC website out of a total out of 162 country reports that have been completed for the 1st cycle. 23 country reports have been published on the UNODC website for the 2nd cycle. See UNODC, "Performance of the Mechanism for the Review of the Implementation of the United Nations Convention against Corruption", 30 March 2022, see p. 3 for statistical overview and p. 11, paragraph 49.

<sup>12</sup> The OECD's Anti-Bribery Convention, FATF, MESICIC all publish country reports. MESICIC publishes a government response where the government completes a questionnaire which includes a section providing information on how the government has followed up on recommendations from a previous round of review: <http://www.oas.org/en/sla/dlc/mesicic/paises-home.html>.

Other important information on country reviews is also not published – with few exceptions not even on a voluntary basis – including updated timetables on the status of an often-delayed review process and the timing of upcoming country visits, as well as contact information for UNCAC focal points and country reviewers. This low level of transparency hinders the ability of civil society and other stakeholders to substantially contribute to the review process.

The UNCAC Coalition has launched several initiatives to address this low level of transparency. Through the Coalition’s **Transparency Pledge**, countries voluntarily commit to six principles to ensure an inclusive and transparent review process. **32 countries have signed on to the pledge** as of May 2022.<sup>13</sup> Through its **UNCAC Review Status Tracker**, the Coalition now publishes information on the national reviews that is otherwise often not publicly accessible.<sup>14</sup>

Under the UNCAC Coalition’s **Access to Information Campaign**, CSOs across the globe are submitting formal Freedom of Information (FOI) requests to relevant government authorities, asking for the release of crucial information and documents related to UNCAC country reviews. To date, CSOs in over 30 countries have already filed FOI requests, resulting in the disclosure of previously inaccessible self-assessment checklists and country reports. The Coalition publishes the results of these requests, providing the replies received from authorities, official documents released and other information obtained.<sup>15</sup>

#### **Lack of focus on compliance and outcomes**

Country reviews often lay out the legal and policy framework for tackling corruption but place inadequate emphasis on how laws are applied in practice.<sup>16</sup> To demonstrate effectiveness, **country reports should provide concrete evidence and data to show the implementation of laws and the impacts of such efforts.**<sup>17</sup>

#### **Lack of structured follow-up process**

There is **no formal follow-up procedure in place to assess whether and how countries have acted on recommendations.** States Parties are also not required to publicly report on these efforts. As a result, only 38 of 188 States Parties have published follow-up actions for the 1st review cycle and only one

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<sup>13</sup> Transparency Pledge: <https://uncaccoalition.org/uncac-review/transparency-pledge/>.

<sup>14</sup> The UNCAC Coalition has also recently launched the UNCAC review status tracker which provides the status of UNCAC reviews in all States Parties, if available, based on information the Coalition has obtained, see: <https://uncaccoalition.org/uncacreviewstatustracker/>.

<sup>15</sup> Access to Information Campaign’s table of findings and campaign highlights: <https://uncaccoalition.org/uncac-review/access-to-information-campaign/campaign-findings/>. The table will be updated on a quarterly basis.

<sup>16</sup> The Financial Action Task Force’s (FATF) mutual evaluation process provides an example of how this can be done through the development of key goals to measure effectiveness. It has developed 11 key goals or ‘immediate outcomes’ that are used to evaluate whether a country has an effective framework in place to combat money laundering and terrorist financing. For more information, see: <https://www.fatf-gafi.org/publications/mutualevaluations/documents/effectiveness.html>.

<sup>17</sup> FACTI Panel Report, “Financial Integrity for Sustainable Development”, [https://uploads-ssl.webflow.com/5e0bd9edab846816e263d633/602e91032a209d0601ed4a2c\\_FACTI\\_Panel\\_Report.pdf](https://uploads-ssl.webflow.com/5e0bd9edab846816e263d633/602e91032a209d0601ed4a2c_FACTI_Panel_Report.pdf), February 2021, p. 38.

country has published follow-up actions for the 2nd cycle.<sup>18</sup> The IRM's accountability measures should be strengthened by adopting an official follow-up process to periodically track the progress of States Parties on implementation of country review findings and recommendations, and to encourage countries to address outstanding recommendations within specific time frames. Other anti-corruption mechanisms, including the OECD Anti-Bribery Convention, FATF, GRECO and MESICIC, have clear follow-up processes to strengthen their impact.<sup>19</sup>

## Recommendations for Strengthening the IRM

We propose the following reforms to strengthen the Review Mechanism:

### Inclusiveness

- Require States Parties to carry out inclusive and transparent reviews that proactively and meaningfully involve civil society and other stakeholders at key stages of the process.<sup>20</sup>
- Include a section in executive summaries and country reports that provides information about stakeholder engagement in the review and outcomes of such participation.
- Allow civil society and other stakeholders to participate as observers in the IRG and other subsidiary bodies of the UNCAC CoSP.<sup>21</sup>

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<sup>18</sup> See UNODC country profile page: <https://www.unodc.org/unodc/en/corruption/country-profile/index.html>.

<sup>19</sup> The OECD Anti-Bribery Convention, FATF, GRECO and MESICIC have specific procedures for reviewing the status of recommendations identified from previous reviews and in some cases carry out increased monitoring for countries that have significant weaknesses. For MESICIC, at the start of each round, each country must complete a questionnaire that includes a section on "Follow-up on Recommendations" where countries report on progress made to implement recommendations from previous rounds; for the second and subsequent rounds, the country reports addresses whether recommendations have been implemented or that need further attention by the country under review. See MESICIC's Rules of Procedure, Chapter IV on Follow-up and Reports: [http://www.oas.org/en/sla/dlc/mesicic/docs/mesicic4\\_rules\\_en.pdf](http://www.oas.org/en/sla/dlc/mesicic/docs/mesicic4_rules_en.pdf). The Anti-Bribery Convention's follows up on unimplemented recommendations from previous rounds, with follow-up reports issued for the second, third and fourth review phases and made publicly available. There are additional measures that can be taken to address inadequate implementation, including repeat evaluations: <https://www.oecd.org/daf/anti-bribery/countrymonitoringoftheoecdanti-briberyconvention.htm>. Also see FATF's formal follow-up process: "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.

<sup>20</sup> 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.

<sup>21</sup> MESICIC takes a more proactive approach to ensure civil society input on country reviews. NGOs registered with the Organization of American States (OAS) can participate in the Committee of Expert's meeting that is held in advance of the plenary to present previous submissions they have made for a country's review. The MESICIC website clearly outlines how civil society can participate at each stage of the MESICIC's review process, see: <https://www.oas.org/en/sla/dlc/mesicic/sociedad-civil.html>. The UN Convention against Transnational Crime (UNTOC) has constructive dialogues with NGOs and other stakeholders following sessions of the working groups, where the outcomes of the review process can be discussed: <https://www.unodc.org/unodc/en/ngos/constructive-dialogues.html>.

## Transparency

- Require States Parties to publish self-assessment checklists, full country reports, country focal points and their contact information, a regularly updated schedule of the review process and opportunities for non-governmental stakeholders to engage.<sup>22</sup>
- Encourage non-governmental stakeholders to make submissions to the review process to provide their perspectives about UNCAC implementation and publish all submissions on the UNODC website along with other country review documents.<sup>23</sup>
- UNODC should be mandated to improve transparency of the process, including by putting 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 take action at the 10th CoSP to decide on the next phase of review and adopt a structured, transparent follow-up procedure to regularly track progress on addressing recommendations and technical assistance needs identified in both review cycles. Civil society and other stakeholders should be partners in the follow-up process.
- Establish clear deadlines for when countries should follow through on unmet recommendations and report on progress.<sup>24</sup>
- Develop a template for States Parties to publicly report on follow-up actions to ensure a consistent and comparable standard.<sup>25</sup>
- Place more emphasis in future country reviews on the application, implementation and enforcement of UNCAC provisions to evaluate their effectiveness in curbing corruption.
- Require States Parties to report in a transparent and inclusive manner on the status of actions taken to implement commitments adopted by the UNGASS in June 2021.

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<sup>22</sup> See FATF's Global Assessment Calendar that provides a publicly available timetable for possible dates for on-site visits and plenary discussions in each country: [https://www.fatf-gafi.org/calendar/assessmentcalendar/?hf=10&b=0&s=asc\(document\\_lastmodifieddate\)&table=1](https://www.fatf-gafi.org/calendar/assessmentcalendar/?hf=10&b=0&s=asc(document_lastmodifieddate)&table=1). See the OECD's Anti-Bribery Convention's published schedule for evaluations: <https://www.oecd.org/corruption/anti-bribery/Phase-4-Evaluation-Calendar.pdf>.

<sup>23</sup> CSOs and non-profit organizations can provide input to upcoming FATF mutual evaluations if they send their input two months ahead of an onsite visit which is published on the FATF's Global Assessment Calendar, see: <https://www.fatf-gafi.org/faq/mutualevaluations/>.

<sup>24</sup> For example, GRECO issues compliance reports for each round of evaluation, evaluating whether each recommendation has been partially implemented or not. Countries under review must complete a "situation report" which is used by the reviewers as a basis for the compliance report. The compliance reports have a conclusion section which outlines next steps and the country's deadline for reporting on progress made to implement any unmet recommendations. The country has 18 months after the adoption of the compliance report to submit the situation report and has a separate compliance procedure for those countries that fail to implement recommendations. For more information: <https://www.coe.int/en/web/greco/evaluations/round-4>.

<sup>25</sup> For the MESICIC, member countries must complete annual progress reports outlining measures taken to implement recommendations from previous rounds of review which are made publicly available in the country report section of the website: <https://www.oas.org/en/sla/dlc/mesicic/paises-home.html>.