

**Benin: Civil Society Report
by Social Watch Benin
An input to the UNCAC Implementation Review Mechanism:
Third year of review of UNCAC chapters II and V**

-Executive Summary-

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

The UNCAC articles and topics that receive attention in this report are: preventive anti-corruption policies and practices (Article 5), preventive anti-corruption body or bodies (Article 6), public sector (Article 7.1), codes of conduct for public officials and private sector (Articles 7, 8 and 12), participation of society (Article 13), political financing (Article 7.3), public procurement and management of public finances (Article 9), measures relating to the judiciary and prosecution services (Article 11), private sector (Article 12), and public reporting (Articles) under Chapter II; and prevention and detection of transfers and proceeds of crime (Articles 52 and 58, 14 and others) under Chapter V.

While Benin has made great strides in improving its legislative and institutional frameworks with regards to the implementation of provisions under both UNCAC chapters, impartial anti-corruption bodies, private sector transparency and the formal monitoring of asset recovery measures to combat and prevent money laundering, are among others, requisite next steps to combat corruption effectively in the country.

Assessment of the review process

Has the government disclosed information about the country focal point?	No	The government did not domestically publish information about the focal point.
Was the review schedule published somewhere?	No	No timetable has been made public.
Was civil society consulted in the preparation of the self-assessment checklist?	No	We were told that the Coalition of National Anti-Corruption Organisations (FONAC) was consulted. The President of the National Anti-Corruption Authority (ANLC) is also President of FONAC.

¹ <https://uncaccoalition.org/new-civil-society-report-on-benin-impartial-anti-corruption-bodies-and-private-sector-transparency-needed-to-effectively-combat-corruption/>

Was the self-assessment checklist published online or made available to civil society?	No	The self-assessment checklist was not published by the ANLC online, nor shared among civil society and the media.
Did the government agree to a visit to the country?	Yes	For the moment we have no official information on when it will be held.
Was a country visit undertaken?	No	It has not yet taken place, as the ANLC has been dissolved, and we are awaiting the setting up of the High Commission for the Prevention of Corruption (HCPC), which is the institution that will replace it.
Was civil society invited to provide input to the official reviewers?	No	No such invitation has been made by the dissolved ANLC. It is hoped that the HCPC will do so.
Was the private sector invited to provide input to official examiners?	No	Same situation as civil society – no invitation.
Has the government committed to publishing the full country report?	Not yet	It was not published for the first cycle.

Main findings and Recommendations (R)

Victims of corruption

One article of the Law on Criminal Procedure allows for the defense of the collective interests of certain categories of victims, and to bring a civil action for compensation for damage caused by a crime, offence or contravention in relation to acts that directly or indirectly harm such collective interests. Since 2018, around 10 corruption cases have been brought before the courts through the filing of civil action complaints by various civil society organizations (CSOs).

Access to information and civil society participation

The failure to decriminalize all press offences; the closure of several privately-owned media outlets by the High Authority for Communication and Audio-visuals (despite a court ruling in May 2017 calling for the reopening of one of them), and poor media coverage of opposition activities by state television, are palpable signs of the difficult media environment within which journalists and civil society operate. However, civil society was actively involved in the development of the government-approved National Integrity System Assessment and the Integrity Promotion and Anti-Corruption Action Plans, which constitute the current strategic framework for the fight against corruption in Benin.

R: Establish a specific law on access to public information and administrative documents, in line with good international standards, including the creation of an independent body such as an Information Commissioner's Office, to oversee the implementation of the law. Moreover, a comprehensive whistleblower protection law is needed in the country.

Judicial independence

In 2018, the government launched an initiative to provide the judiciary with an ethics guide to establish basic standards of conduct and implement sanctions when violated. Training programmes for judges and prosecutors to promote integrity and combat corruption risks are organized by the Supreme Court, with support from the Ministry of Justice and Legislation. However, the Supreme Council of the Judiciary (CSM) has been problematic, indicative of political influence in judicial affairs,

due to the President of the Republic, the Minister of Justice and six other ministers as members of the CSM, meaning that eight governmental figures are part of the Council.

R: Ensure that declarations of assets and interests of judges and law enforcement actors are actually filed, that they are correct and complete, that income over the years is not unduly increased, and that the data from such declarations is used to prevent conflicts of interest.

Private sector transparency

Although business leaders are calling on the public administration through the media to fight corruption, there are no initiatives involving businesses and civil society to do so. Furthermore, the register of companies and businesses is not made public, nor is it available online. Apart from legal announcements published by the Investment and Export Promotion Agency (APIEx) on a virtual platform,² which provides information about the creation of companies, no other data on companies and their managers or beneficiaries is accessible.

R: Instruct the APIEx to publish and make a register of companies and businesses available online, as well as a central register of beneficial owners of companies and businesses. Promote corporate social responsibility and corporate commitments to fighting corruption. Promote the adoption of a code of good business ethics in the conduct of business activities.

Money laundering

State authorities have made strong commitments to eradicate all offences or underlying crimes that generate illicit financial flows. Several reforms and new legislation which is more than 90% compliant with Financial Action Task Force (FATF) recommendations have been undertaken by the government to strengthen the legal, institutional and operational frameworks for the prevention and repression of all economic or financial offences, to effectively combat money laundering and terrorist financing. Several capacity-building workshops for criminal investigation and prosecution authorities on money laundering, financial investigation techniques and anti-money laundering enforcement have been organized, and the Financial Information Processing Unit (CENTIF) has published quarterly reports since 2017, apart from collaborating with regional groups and initiatives, including the FATF and Interpol. Nevertheless, stakeholders suffer from a lack of knowledge on Anti-Money Laundering/Countering the Financing of Terrorism (AML/CFT) and consequently from a lack of awareness of their obligations – in the case of notaries, lawyers, accountants, bailiffs, casinos and gaming companies and hotels in particular, much expertise needs to be acquired.

R: Encourage companies to set up internal AML/CFT systems, with the necessary resources (AML/CFT management, qualified staff trained periodically on new types of transactions, appropriate equipment, software, etc.) to effectively process suspicious transaction reports (STRs) in accordance with the laws in force.

Asset declarations and conflicts of interest

Candidates for elected office are not obliged to file an asset declaration prior to an election: a presidential candidate must only do so once elected. Previously, this obligation to declare assets also applied to elected parliamentarians and councilors at the municipal and local levels. However, a new law passed in April 2020 repealed this provision, meaning that the list of authorities and civil servants subject to the obligation to declare their assets is still to be decided by a new decree. Since 2014, the authority responsible for receiving copies of the declarations – the former National Authority for the Fight against Corruption (ANLC) – has published periodic reports, presenting the list of those subject to the obligation who have or have not fulfilled their duty.

² www.monentreprise.bj

R: *Ensure that the decree to be issued by the Council of Ministers, redefining the list of public authorities and agents subject to the obligation of declaring their assets, complies with the provisions of international commitments ratified by Benin, which do not exempt members of parliament and mayors from such an obligation. Make the information contained in asset declarations publicly available online, and put in place a system of effective and dissuasive sanctions in case of non-compliance with asset declaration obligations (such as delays and submission of empty, incomplete or false declarations).*