

## Promoting an Inclusive, Transparent and Effective UNCAC Implementation Review Mechanism

Submission by the  
UNCAC Coalition  
to the 9th Session of the UNCAC Conference of States Parties

**1 December 2021**

At a time of global crisis and the ongoing, significant delays with the 2nd review cycle, the UNCAC Coalition calls on States Parties to adopt strong measures to strengthen the UNCAC Implementation Review Mechanism (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.<sup>1</sup> A rigorous review mechanism that is transparent, inclusive and effective is crucial to achieving this goal.**

**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 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 that have carried out country reviews for the 2nd cycle have "included meetings with other stakeholders", no further details are provided.<sup>2</sup> Our analysis of country review documents found that minimal to no information on

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<sup>1</sup> 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](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](https://uncaccoalition.org/wp-content/uploads/UNCAC-Coalition-%E2%80%93-2nd-UNGASS-submission_March-20201.pdf), March 2021.

<sup>2</sup> UNODC, "Performance of the Review of the Mechanism for the Review of the Implementation of the United Nations Convention against Corruption, 28 September 2021,

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.**<sup>3</sup>

Civil society organizations (CSOs) and other stakeholders are also not allowed to participate in the UNCAC Conference of the States Parties (CoSP) subsidiary bodies – the IRG, working groups on prevention and asset recovery, and the expert group on international cooperation – where important substantive discussions about States' efforts to implement the Convention take place.

**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.**<sup>4</sup>

The **UNCAC IRM is far behind compared to other anti-corruption monitoring mechanisms that typically disclose full country reports from peer reviews** – some also publish all inputs from governmental and non-governmental actors that informed the review, as well as a reaction from the government under review.<sup>5</sup>

Other important information on country reviews is also not published – with few exceptions not even on a voluntary basis – includes updated timetables on the status of an often-delayed review process

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[https://www.unodc.org/documents/treaties/UNCAC/COSP/session9/CAC-COSP-2021-2/V2107189\\_E.pdf](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”.

<sup>3</sup> 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.

<sup>4</sup> 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](https://www.unodc.org/documents/treaties/UNCAC/COSP/session9/CAC-COSP-2021-2/V2107189_E.pdf), 28, September 2021, p. 3.

<sup>5</sup> 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 the Organization of American States’ Anticorruption Mechanism (MESICIC), publish full country reports as part of their reviews of country implementation. MESICIC also all documents submitted by stakeholders to the review process and a statement by the government under review on the findings of the evaluation, see: <http://www.oas.org/en/sla/dlc/mesicic/paises-home.html>.

and 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 and is inconsistent with the spirit of UNCAC Article 13.

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. **31 States Parties have so far signed the Pledge.**<sup>6</sup>

**Lack of focus on compliance and outcomes:** Country reviews often lay out the legal and policy framework for tackling corruption but put little emphasis on actual compliance.<sup>7</sup>

**Lack of clear follow-up process:** There is **no structured and formal follow-up procedure in place to assess whether and how countries have acted on recommendations** and States Parties are 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 country has published follow-up actions for the 2nd cycle. In addition, there is no template for how to report on follow-up actions that would help ensure that the information provided is useful and comparable. Yet, in the UNGASS Political Declaration, States Parties committed to “fully and effectively follow up on the conclusions and observations from the review process”.<sup>8</sup> Other review mechanisms have a clear follow-up in place to strengthen their impact.<sup>9</sup>

**Challenges with 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.<sup>10</sup>

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<sup>6</sup> 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/>.

<sup>7</sup> UN 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.

<sup>8</sup> 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](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>9</sup> See 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>.

<sup>10</sup> 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](https://www.unodc.org/documents/NGO/Fast-tracking/18-06316_eBook.pdf), 2019. Provides many examples of meaningful civil society engagement in UNCAC implementation and in UNCAC country reviews.

- About half of the countries reviewed had recommendations related to improving implementation of Article 13. Many recommendations focused broadly on strengthening civil society participation in preventing corruption, increasing transparency around decision-making processes to promote public participation and raising awareness about reporting corruption cases.
- Many reviews highlight 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, making it difficult to evaluate whether there was 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.

### **Recommendations for Strengthening the IRM:**

The UNCAC Coalition proposes the following reforms to strengthen the Review Mechanism:

#### **Inclusiveness:**

- 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.<sup>11</sup>
- 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 CoSP.

#### **Transparency:**

- 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 and all submissions should be published on the UNODC website along with other country review documents.

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<sup>11</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.

- UNODC should improve transparency of the process by publishing an announcement when country reviews are completed and by providing more useful, up-to-date and detailed information on its website.

#### **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 be launched even if the second cycle is not concluded by 2023 to ensure that country review recommendations from the first two cycles are addressed in a timely manner.
- 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 actions taken to implement UNGASS 2021 commitments.
- Country reviews should evaluate the implementation and enforcement of UNCAC provisions and their effectiveness. Each State Party should provide available statistics, results of audits and evaluations, and other evidence to demonstrate 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:

- UNODC should prepare a thematic report on Article 13 implementation that analyzes challenges and proposes recommendations to strengthen its implementation.
- 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.
- Country reviews should also provide greater focus on assessing the enabling environment for civil society to carry out anti-corruption work and the outcomes of civil society participation.