

Promoting Transparency and Inclusiveness in the UNCAC Review Process

UNCAC Coalition Statement to the first resumed 11th Session of the UNCAC Implementation Review Group

21 August 2020

Around the world, the COVID-19 pandemic has led not only to a health and economic crisis but also to a governance crisis.

The UN Convention against Corruption (UNCAC) provides a comprehensive framework to promote transparency and accountability – principles that are of particular importance today as countries are mobilising large sums of money in response to the crisis.

Now, more than ever, citizens around the world are urging their governments to tackle corruption in a decisive manner to reverse systems and trends of injustice and inequality.

As recognised by Article 13 of the UNCAC, civil society can make substantial contributions to the fight against corruption with its expertise and insights, on the local, national and regional levels, as well as in global UNCAC fora. It is therefore of utmost importance that civil society is included in the fight against corruption and that enough resources are made available to support their inclusion in such efforts, even in times of crisis.

For the UNCAC to be an effective anti-corruption instrument, rigorous monitoring of the implementation of the Convention is crucial. This can only be achieved by ensuring a high level of transparency and inclusiveness. The involvement of civil society is essential at all stages of the review process, as well as in any follow-up action.

The UNCAC Coalition **reiterates its call on States Parties to reaffirm their commitment to an effective implementation of the UNCAC through an inclusive review process by signing the UNCAC Coalition’s Transparency Pledge for the Second Review Cycle.**¹

The Pledge, which consists of six principles, embodies a voluntary commitment to meet minimum standards of transparency and civil society participation in the UNCAC Review Mechanism and has been signed by 25 States Parties to date – seven of them have signed the Pledge in recent months. The aim of the Pledge is to **encourage States Parties to actively include civil society in the review process**, to share documents and information in relation

¹ Please visit the following link for more information regarding the Transparency Pledge, <https://uncaccoalition.org/uncac-review/transparency-pledge/>.

to the review with the general public, and to increase the overall level of transparency during the process.

Complementary to the Pledge, the UNCAC Coalition has developed a **Guide to Transparency and Participation in the UNCAC Review Process**, which highlights good practices to ensure an inclusive and transparent process. The Guide is an excellent tool for States Parties to develop, enable and strengthen civil society participation in the review process.² An open and inclusive process can bring additional technical expertise to the discussions, safeguard the legitimacy and accountability of the process, and ensure compliance with international human rights law, as well as compliance with the commitments and principles contained in the UNCAC itself.

In order to facilitate the involvement of civil society organisations in the UNCAC implementation review, **the UNCAC Coalition is providing technical and financial support to civil society organisations (CSOs) contributing to the review process on the national level by producing parallel reports on national UNCAC implementation. CSOs from more than ten countries are currently working on such assessments.**

As of August 2020, we found that 40 of the 186 States Parties had completed the Second Review Cycle – a modest increase of ten completed reviews since August 2019.³ A few countries are leading by example: Six States Parties have so far opted to voluntarily make their self-assessment checklist accessible to the public on the UNODC website; 13 countries have so far published the full country report. However, the ratio of countries that have published the full report remains lower than in the First Review Cycle – 32.5% of countries that have completed the Second Review Cycle, compared to 49% in the First Review Cycle. Only two countries so far have published both the self-assessment checklist and the full report in the Second Review Cycle.⁴

The UNCAC Coalition welcomes the initiative of the countries that have made the two key documents of the UNCAC review accessible to the public and strongly encourages other countries to follow their example and engagement to transparency. We hope that in many cases, full country reports have not been published yet due to delays or other technical constraints, but that they will be published as soon as they are finalised.

The publication of both the self-assessment checklist and full country report is very important as these documents contain information and data regarding the implementation of the Convention, as well as detailed references to relevant legal provisions, policies and practices that are not included in the executive summaries and are often not accessible to the public. Open access to these documents would enable civil society, academia, the

² Guide to Transparency and Participation in the UNCAC Implementation Review Mechanism, <https://uncaccoalition.org/wp-content/uploads/UNCAC-Coalition—Guide-to-Transparency-and-Participation-in-the-IRM.pdf>.

³ Making UNCAC Work: UNCAC Coalition Statement to the 10th Session of the UNCAC Implementation Review Group Meeting, https://www.unodc.org/documents/treaties/UNCAC/WorkingGroups/ImplementationReviewGroup/2-4September2019/IRG_2019_NGO_6.pdf.

⁴ States Parties are officially supposed to submit a comprehensive self-assessment checklist within two months of being officially informed of the beginning of the review.

private sector, donors and the general public to gain a better understanding of the measures countries are taking to fight corruption. Restricting the public's access to these documents in an unduly manner is inconsistent with the UNCAC's emphasis on transparency in Chapter II and undermines the credibility of the Review Process and the Convention itself, as there appear to be no legitimate reasons that would justify the secrecy of these documents.

The absence of publicly accessible, updated timetables for UNCAC country reviews makes the involvement of civil society in the process very difficult. Furthermore, substantial delays in the review process in many countries make it difficult for non-state actors to identify the current stage of the review process. As a result, civil society may miss out on important opportunities to engage in the review process and contribute their expertise. The UNCAC Coalition has received feedback from several CSOs that were struggling to identify and obtain the contact information of their government's focal point for the UNCAC country review.

Analysing the publicly available documents from the Second Review Cycle, the UNCAC Coalition found references to non-state stakeholders being consulted during the review process only in a few of the published country reports. At the same time, the Coalition is aware of several cases where civil society groups were consulted and involved in the review process. By not documenting these contributions, States Parties are selling themselves short in getting recognition for their positive civil society engagement.

In moving forward in implementing the UNCAC, it is critical that States Parties assume a transparent and inclusive mechanism in which they support and enable civil society organisations' contributions and consecutively publish full Country Reports. Civil society participation is an imperative precondition for a constructive and exhaustive review process. Other anti-corruption review mechanisms, including those of the OECD, the OAS and the Council of Europe's GRECO have recognised the importance of these practices and have benefited from them as a result.⁵

The following actions would result in improvements in the openness and inclusiveness of the Review Process:

- States Parties should actively facilitate civil society involvement by implementing the principles of the Transparency Pledge as well as best practice approaches detailed in the UNCAC Coalition's Guide on Transparency and Participation in the Review Process⁶;
- States Parties should establish a follow-up process on the findings and recommendations of the review process, with the inclusion of civil society organisations;
- Self-assessment checklists and full country reports should be published online by default;

⁵ See: Transparency International (2017): Transparency and Participation – An Evaluation of Anti-Corruption Review Mechanisms, https://www.transparency.org/whatwedo/publication/transparency_participation_an_evaluation_anti_corruption_review_mechanisms.

⁶ <https://uncaccoalition.org/uncac-review/transparency-pledge/>

- The names, positions and contact information of the focal points (or the relevant departments) and of the reviewers should be made available on the country profile pages when this information is submitted to UNODC⁷;
- The UNODC country profile page should also show a tentative schedule and milestones of the Review Process, including tentative dates of a country visit – such information would facilitate stakeholder engagement with the process, even if this schedule is subject to revisions;
- Self-assessment checklists, executive summaries and country reports should contain a section with information on consultations with all stakeholders, as well as on how consultations were conducted and how their outcomes were reflected;
- The re-introduction of a news ticker highlighting the most recent documents from the UNCAC Review Mechanism published on the UNODC website, which disappeared after the site's recent re-launch, would allow for a better overview of the most recently published documents from country reviews.

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⁷ Any concerns about spam or privacy violations could be addressed by creating a dedicated e-mail address for the Review Process through which messages are automatically forwarded to the focal point and the reviewers.