# Unveiling UNCAC: Analyzing the results of our Access to Information Campaign[1]

## Submission by the UNCAC Coalition to the 14th Session of the UNCAC Implementation Review Group

### May 31, 2023

27 UNCAC review documents that were previously secret have been released as the result of an Access to Information Campaign the UNCAC Coalition launched in collaboration with CSOs in 2021,[2] asking governments and relevant anti-corruption authorities across the globe to release crucial UNCAC information and documents in response to Freedom of Information (FOI) requests. Where access to information (ATI) legislation does not exist, CSOs cited the transparency principles enshrined in the UNCAC, in particular, Articles 10 and 13 on access to information and civil society participation.[3]

Almost all countries have ratified the United Nations Convention against Corruption (UNCAC),[4] which emphasizes the important role of civil society in anti-corruption. Yet, a lack of publicly accessible information on countries' efforts to combat corruption, improve their legislative frameworks and take concrete action to address weaknesses is a barrier to civil society actors seeking to inform themselves, hold governments accountable and contribute to anti-corruption efforts by pushing for reforms. Coupled with the fact that the UNCAC review process is weak,[5] since countries are not required to publish the key documents from the process (but only a shorter executive summary of their review), the information that is generally available does not give a comprehensive overview of the anti-corruption reality. Despite these barriers, civil society organizations (CSOs) are striving to make an impact.

States Parties to the UNCAC continue to acknowledge the importance of facilitating information flows as a means to prevent and combat corruption. For instance, the major outcome of the United Nations General Assembly Special Session against Corruption (UNGASS) in June 2021 was the Political

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[1] To see the full version of this analysis and detailed findings from different States Parties, please visit: https://uncaccoalition.org/ati-campaign-analysis/.
[2] More information about the Access to Information Campaign and its objectives is available on the UNCAC Coalition website: https://uncaccoalition.org/uncac-review/access-to-information-campaign/.
[3] See the full text of the UNCAC, including Articles 10 and 13: https://uncaccoalition.org/the-uncac/united-nations-convention-against-corruption/.
[4] See the full list of countries which have signed and ratified the UNCAC (*status as of 18 November 2021*), UNODC: https://www.unodc.org/unodc/en/corruption/ratification-status.html.
[5] See, 'The Way Forward: Ensuring an inclusive, transparent and effective UNCAC review mechanism', UNCAC Coalition, September 2022: https://uncaccoalition.org/new-report-on-strengthening-the-uncac-implementation-review-mechanism-irm/.

Declaration.[6] In its paragraph 22, States Parties agree to "*respect, promote and protect the freedom to seek, receive, disseminate and publish information concerning corruption, and ensure that the public has effective access to information, in accordance with the domestic laws of States…including by adopting appropriate and necessary procedures or regulations and designating and enhancing bodies responsible for facilitating access to information, as well as through the use of digital tools, open data and Internet-based portals to help make information more accessible…*". In December 2021 at the 9th Conference of the States Parties (CoSP9), resolutions 9/3 and 9/6[7] supported by consensus among States Parties to the UNCAC called upon States to increase and ensure access to information, respectively. How are countries living up to their commitments?

**The campaign in numbers: overview of findings**

Two years on, the UNCAC Coalition is taking stock of the campaign. What have we learned from submitting FOI requests in 40 countries across 6 continents, calling for the release of key anti-corruption documents which can inform civil society advocacy?

- A total of **27 official UNCAC review documents have been released so far by States Parties**,[8] ranging from full country reports to self-assessment checklists under both the first and second cycle of the UNCAC implementation review. Prior to the filing of information requests, these documents were not publicly available.
- **In 12 of the 40 countries** (30%) in which information requests were sent for this campaign, **the information request was not acknowledged, responded to, or was met with administrative silence**. In the remaining **28** countries (70%) where authorities replied, only **5 countries (12%) released all official UNCAC documents and information relevant to the first and/or second implementation review cycles within their possession**.
- The median response time for government authorities to reply to our requests was **17 working days.**
- Over **10 CSOs had to wait more than 30 working days until they received a response** from authorities. In one State Party, it took **78 working days**, the longest recorded time in this campaign.
- In contrast, **it only took the Ministry of Foreign Affairs in another State Party 5 working days to respond to the information request submitted by a CSO - the fastest response time** recorded in this campaign. **6 other CSOs heard back from authorities they submitted requests to within 10 working days,** which is good practice.

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[6] UNGASS Political Declaration, 'Our common commitment to effectively addressing challenges and implementing measures to prevent and combat corruption and strengthen international cooperation', June 2021: https://undocs.org/A/RES/S-32/1.

[7] Resolutions and decisions adopted by the Conference of the States Parties to the United Nations Convention against Corruption, UNODC: https://www.unodc.org/unodc/en/corruption/COSP/session9-resolutions.html#Res.9-3.

[8] To see the detailed findings and results of each information request sent through this campaign, refer to the request tracking table and campaign highlights on the UNCAC Coalition website:https://uncaccoalition.org/uncac-review/access-to-information-campaign/campaign-findings/.

In their responses, some States Parties demonstrated their commitment to freely accessible, open information by way of several good practices related to response times, user-friendly request systems, government web pages dedicated to the UNCAC review, and thorough replies from anti-corruption authorities. Yet, the majority of States Parties did not respond to information requests sent by civil society, while others blocked the release of information and documents for various reasons, hindering the full participation of CSOs in anti-corruption efforts. Nearly half of the attempts to obtain information from authorities were unsuccessful (no or little information of relevance shared) or met with administrative silence, in violation of ATI legislation, where applicable. In two States Parties, certain denials to share information cannot be appealed.

Throughout the campaign, major deficiencies were apparent in relation to administrative silence, lengthy response times, the necessity of appealing, unnecessarily burdensome procedures and processes and confidentiality claims citing the UNCAC's Terms of Reference (ToR).[9] Four States Parties did not share UNCAC review documents on the basis of ongoing country reviews, concerns about adversely affecting the review process amidst negotiations and respecting intergovernmental confidentiality, which reflects a troublesome misinterpretation of the ToR.[10] In fact, the latter encourage the publication of UNCAC documents, albeit somewhat vaguely.[11]

**Key recommendations**

Since launching our campaign, **civil society in 17 countries has successfully pressured for the release of crucial anti-corruption documents**. What are our main takeaways, and what needs to improve?

- Access to information empowers civil society and creates openings for participation in the UNCAC review: through this campaign, UNCAC focal points have become more aware of civil society demands for updates on UNCAC progress, and in several cases, maintained contact with civil society stakeholders to invite them to participate in ongoing official country reviews.
- Governments need to proactively, rather than reactively, disclose information on their own websites in an accessible and visible manner. The upcoming 10th UNCAC Conference of the States Parties (CoSP10) presents states with an opportunity to advance civil society participation and access to information, clarifying the need for and importance of proactive disclosure of information.

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[9] Mechanism for the Review of Implementation of the United Nations Convention against Corruption - Basic Documents, United Nations, March 2011: https://www.unodc.org/documents/treaties/UNCAC/Publications/ReviewMechanism-BasicDocuments/Mechanism_for_the_Review_of_Implementation_-_Basic_Documents_-_E.pdf.

[10] To see the full version of this analysis indicating country names and detailed findings from different States Parties, please visit: https://uncaccoalition.org/ati-campaign-analysis/.

[11] See Article 38 of the Terms of Reference, "*The State party under review is encouraged to exercise its sovereign right to publish its country review report or part thereof*", page 10, https://www.unodc.org/documents/treaties/UNCAC/Publications/ReviewMechanism-BasicDocuments/Mechanism_for_the_Review_of_Implementation_-_Basic_Documents_-_E.pdf.

- In line with the UNCAC Coalition's own Transparency Pledge,[12] we call on States Parties to publish and share information about the second cycle country review in a proactive manner.
- In countries where international standards on FOI are not applied, we encourage the upgrading of existing legal frameworks; or the adoption of an FOI law that reflects the minimum standards of the Tromsø Convention[13] alongside other relevant international best practices, such as target 16.10 of the Sustainable Development Goals on public access to information.[14]
- Where UNCAC-specific information portals or webpages already exist, States should ensure they are easily accessible to users, and ensure that the information listed on these pages is up-to-date and complete. Such information should include:
  - Full country reports, self-assessment checklists and executive summaries, as well as other key information such as the country focal point and up-to-date contact details, a timeline for the review that is regularly updated, and how civil society is involved in the review process and/or can become involved in any follow-up actions.
- UNODC should take steps to improve transparency of the review 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, such as UNCAC submissions and official country review documents that can be used by States Parties and stakeholders.[15]
  - In addition, the UNCAC Secretariat should clarify to States Parties to the UNCAC that they are free to release information and documents related to the UNCAC review, and are not bound by restrictions derived from the UNCAC's own Terms of Reference (ToR).

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[12] Learn more about the UNCAC Coalition's Transparency Pledge: https://uncaccoalition.org/uncac-review/transparency-pledge/.

[13] Council of Europe Convention on Access to Official Documents (CETS no. 205), Council of Europe, June 2009: https://www.coe.int/en/web/conventions/full-list?module=treaty-detail&treatynum=205.

[14] Sustainable Development Goal 16, Targets and Indicators, Indicator 16.10 states, "Ensure public access to information and protect fundamental freedoms, in accordance with national legislation and international agreements", UN DESA: https://sdgs.un.org/goals/goal16.

[15] See, 'The Way Forward: Ensuring an inclusive, transparent and effective UNCAC review mechanism', page 7, UNCAC Coalition, September 2022, available at: https://uncaccoalition.org/wp-content/uploads/Final-IRM-Report-September-2022.pdf.