

Advancing UNCAC Implementation: Improving Effectiveness, Transparency and Inclusiveness of the Implementation Review Mechanism

UNCAC Coalition Statement to the first resumed 12th Session of the
UNCAC Implementation Review Group

27 August 2021

The resumed 12th IRG session takes place midway between the adoption of the Political Declaration of the UN General Assembly Special Session (UNGASS) against corruption in June 2021 and the 9th UNCAC Conference of the States Parties (CoSP). Still in the midst of the pandemic and more than a year after exceeding the original deadline for the completion of the second review cycle, **the UNCAC Coalition calls on States Parties to address weaknesses in the review mechanism and improve its comprehensiveness, efficiency, inclusiveness, transparency and follow-up monitoring.**

Transparency and civil society participation in the UNCAC review process

As recognized by UNCAC Article 13, civil society can make substantial contributions to the fight against corruption with its expertise and insights, on national and regional levels, as well as in global UNCAC fora. Civil society should therefore be included in the fight against corruption and sufficient resources should be made available to support their inclusion, in particular in times of crisis. For the UNCAC to be an effective anti-corruption instrument, rigorous monitoring of its implementation is crucial. This can only be achieved by ensuring a high level of transparency and inclusiveness.

The **UNCAC Coalition welcomes that the G7 countries in their statement** to the UNGASS committed to consulting civil society in their UNCAC implementation reviews and to promoting civil society inclusion as observers in UNCAC CoSP subsidiary bodies. The G7 also called on all countries to publish their full UNCAC review reports.¹

¹ G7 UNGASS Statement: <https://www.gov.uk/government/news/g7-ungass-statement>.

The UNCAC Coalition **reiterates its invitation to all States Parties to sign the Transparency Pledge** for the Second Review Cycle and commit to six principles to ensure a transparent and inclusive review process.² **28 States Parties have already signed the Pledge.**

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 that involves civil society.³

An **open and inclusive review 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. Other anti-corruption review mechanisms, including those of the OECD, the OAS and the Council of Europe's GRECO have recognized the importance of this approach and have benefited from them as a result.

As for the second review cycle, 54 executive summaries and 30 country review reports were completed. Eight States Parties have so far opted to voluntarily make their self-assessment checklist accessible to the public on the UNODC website; 17 countries have published the full country report. Only 5 countries so far have published both the self-assessment checklist and the full report. **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.**

The publication of both, the self-assessment checklist and the full country report, is crucial, as they contain relevant details regarding the implementation of the Convention and 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 private sector, donors, organizations providing technical assistance, and the general public to gain a better understanding of the measures countries are taking to fight corruption. **Restricting the public's access to documents of the UNCAC review is inconsistent with the UNCAC's emphasis on transparency in Chapter II, and undermines the credibility of the review process and the Convention itself.**

² The Transparency Pledge embodies a voluntary commitment to meet minimum standards of transparency and civil society participation in the UNCAC IRM and to date has been signed by 28 States parties: <https://uncaccoalition.org/uncac-review/transparency-pledge/>.

³ Guide to Transparency and Participation in the UNCAC Implementation Review Mechanism: <https://uncaccoalition.org/wp-content/uploads/UNCAC-Coalition-%E2%80%93-Guide-to-Transparency-and-Participation-in-the-IRM-1.pdf>.

Civil Society contributions to the 2nd Review Cycle

The UNCAC Coalition in the past year has been supporting non-governmental organizations in more than 25 countries in producing civil society reports on UNCAC implementation.⁴ The reports assess how States Parties have implemented UNCAC provisions on prevention and asset recovery in law and practice, highlighting good practices, identifying needs for reforms and proposing specific priority actions. The reports, which in many cases have been developed with input from competent government bodies, seek to inform the official UNCAC review process.

However, the ability of any non-governmental stakeholders to contribute to the review process is undermined by the fact that several non-sensitive data points linked to the UNCAC review process are not publicly accessible:

- Non-governmental stakeholders are unable to identify the current state of the review process because **no updated timetables for UNCAC country reviews are publicly accessible.**
- Similarly, **scheduled country visits are not made public.** As a result, civil society may miss out on important opportunities to engage in the review process and contribute their expertise.
- The **names of contact information of UNCAC focal points** and even the department or agency in charge of coordinating a country review remains secret.
- The **names and contact information of the country reviewers** are not publicized.

Almost all of the country visits conducted so far during the second cycle "included meetings with other stakeholders."⁵ However, the executive summaries – and in many cases even the full country reports – do not provide sufficient information on the level of involvement of non-governmental stakeholders in the review process and do not identify the specific non-governmental stakeholders consulted.

On a positive note, the Coalition is aware of numerous cases where civil society was consulted and involved in the review process by the State Party under review. By not documenting these contributions, States Parties are selling themselves short in gaining recognition for their positive civil society engagement.

Shortcomings of the review mechanism

⁴ All civil society reports on UNCAC implementation are available at <https://uncaccoalition.org/uncac-review/cso-review-reports/>.

⁵ UNODC, Performance of the Mechanism for the Review of Implementation of the United Nations Convention against Corruption: <https://www.unodc.org/documents/treaties/UNCAC/WorkingGroups/ImplementationReviewGroup/14-18June2021/CAC-COSP-IRG-2021-2/V2102111e.pdf>, 31 March 2021.

The UNGASS Political Declaration includes a commitment "to fully and effectively follow up on the conclusions and observations from the review process", and welcomes "the efforts by the CoSP to assess the performance of the Mechanism and adapt, where appropriate, procedures and requirements for the follow-up."⁶ The mechanism should enter its follow-up phase upon completion of all country reviews under the first phase.

As the review mechanism is currently designed, States Parties are not required to publish information on their actions to address their country review recommendations. There is no streamlined reporting template on follow-up actions and useful and comprehensive information is provided by States voluntarily. So far, very few States have published such information on their UNODC country profile page, although the UN Common Position to Address Global Corruption mentions that "as part of the follow-up process, States are expected to report on progress made in the implementation of recommendations from previous reviews."⁷

In terms of comprehensiveness, the country reviews focus on the existing domestic legal framework, and the recommendations given to reviewed states address gaps in this regard. **Discussion on actual enforcement and application of provisions is often left aside.**

Earlier this year, the UN FACTI Panel report echoed recommendations the UNCAC Coalition by recommending to update the UNCAC IRM "to improve comprehensiveness, inclusiveness, impartiality, transparency and especially monitoring". The Panel suggested reviewing not only the legal implementation of UNCAC but also States' actual compliance and impact. Furthermore, it recommended to increase visibility of and accessibility to the whole review process by webcasting the IRG meetings, requiring the publication of full reports, and creating a mechanism to follow up on recommendations.⁸

Recommendations

⁶ United Nations General Assembly Special Session against Corruption Political Declaration, P. 16: <https://undocs.org/A/S-32/2/ADD.1>, 17 May 2021.

⁷ The UN common position to address global corruption. Towards UNGASS 2021, P. 9: https://ungass2021.unodc.org/uploads/ungass2021/documents/session1/contributions/UN_Common_Position_to_Address_Global_Corruption_Towards_UNGASS2021.pdf, August 2020.

⁸ Report of the High Level Panel on International Financial Accountability, Transparency and Integrity for Achieving the 2030 Agenda, P. 37-38: https://uploads-ssl.webflow.com/5e0bd9edab846816e263d633/602e91032a209d0601ed4a2c_FACTI_Panel_Report.pdf, February 2021.

Unique in its universality, the UNCAC IRM provides a platform for States Parties to identify challenges and solutions that are needed to better implement the provisions of the UNCAC. To fulfill its potential, the mechanism should address the following issues:

Transparency: States Parties should commit to providing public access to the self-assessment checklists, and the full country report, details on the country focal point, a regularly updated schedule of the review process and the country visit by the peer reviewers.

Inclusiveness: States Parties should promote the inclusiveness and contributions of non-state stakeholders, including civil society, to the review process, in line with Article 13 of the UNCAC. The key documents of the review should contain detailed information on the consultations made with all stakeholders.

Comprehensiveness: The country reviews should place a stronger emphasis on the implementation, application, and enforcement of UNCAC provisions *in practice*, as well as elaborate on specific technical assistance needs of States Parties.

Conclusion of the current review phase: States Parties should redouble efforts to conclude the second review cycle by 2024, in order not to leave the mechanism stagnant and further delay the necessary follow-up actions on the findings of country reviews.

Monitoring and follow-up: States Parties should publish information on their actions to address their review recommendations and agree on a structured follow-up phase based on the findings of their previous review cycles, including civil society organizations in the process.

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