

Anti-Corruption Priorities in Europe and Call to Action

UNCAC Coalition Regional Submission to CoSP 10

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The UNCAC Coalition civil society organizations from Europe make this contribution to the States Parties' discussions at the tenth Conference of the States Parties in Atlanta, Georgia (USA).

As we celebrate the 20th anniversary of the UN Convention against Corruption (UNCAC), it is time to assess how the only universal, legally binding anti-corruption agreement has impacted the fight against corruption and to identify the areas where expectations have not been met. Relatively strong laws criminalizing the most common forms of corruption are in place, as are institutions that can prevent and prosecute corruption offenses worldwide. The UNCAC and its peer review mechanism played a significant role in triggering change and continue to serve as a basis for designing effective anti-corruption regimes.¹ However, **the Convention is not sufficiently and uniformly implemented by all States Parties**; some mandatory provisions lack enforcement (to prosecute foreign bribery or recover stolen assets), and especially non-mandatory provisions have largely not been brought into effect.²

Progress in the fight against corruption is needed everywhere, including in Europe. The Council of Europe and the European Union successfully prompted their respective Member States to establish anti-corruption frameworks. A proposal for a European Union Directive on combating corruption to cover the full scope of corruption offences as defined in the UNCAC and criminalize them is under consideration. Yet, this momentum must be sustained and international organizations must forcefully push for reforms on the ground, to enforce and update laws, institutions and policies.³ We need greater international and inter-institutional cooperation to identify new risks and corrupt practices, take a gender-sensitive and inclusive approach in anti-corruption efforts, pursue cross-border investigations and facilitate the recovery and return of the proceeds of corruption to countries of origin and affected

¹ UNODC (2017), State of Implementation of the United Nations Convention against Corruption, https://www.unodc.org/documents/treaties/UNCAC/COSP/session7/V.17-04679_E-book.pdf.

² FACTI Panel (2021), Financial Integrity for Sustainable Development, https://factipanel.org/docpdfs/FACTI_Panel_Report.pdf.

³ UNODC website, Statement submitted by the UNCAC Coalition, a non-governmental organization not in consultative status with the Economic and Social Council to CoSP9, Sharm el-Sheikh, Egypt, 13–17 December 2021: UNCAC Coalition (2021), Anti-Corruption Priorities for Europe, <https://www.unodc.org/documents/treaties/UNCAC/COSP/session9/NGO/CAC-COSP-2021-NGO-24.pdf>.

communities. **Governments across Europe need to recognize the expertise and essential contributions made by civil society organizations, journalists, whistleblowers and other actors outside the public sector** and ensure they have sufficient space to nurture systems where corruption has no place and where the corrupt find no protection.

More than ever, States Parties must uphold not only the letter but also the spirit of the UNCAC, implement it to its full potential and **strive for even higher anti-corruption standards with determination, cooperation and innovation**. This requires strong political efforts to help defend, uphold and promote the rule of law and the independence of the judiciary as well as a pluralistic media in the region. The path ahead is overshadowed by a context of climate urgency, political instability and violent conflicts, and increasing inequalities, even within the European Union.⁴

Given these challenges, **UNCAC Coalition members and affiliated groups in Europe call on States Parties to the Convention to take action on the following priority issues** to drastically counter corruption in the region and beyond:

1. Remove legislative and operational obstacles to effectively prosecute corruption

To safeguard against improper conduct of public officials in the execution of their duties, States Parties should:

- Better define all corruption-related crimes in line with the UNCAC, including illicit enrichment, abuse of functions, trading in influence, bribery and embezzlement in the private sector, attempted corruption, concealment; and improve sanctions regimes.
- Criminalize and enforce the obstruction of justice, in particular, hindering or attempting to hinder the judiciary and law enforcement authorities in the execution of their duties including criminal investigations, and make holding public office an aggravating factor.
- Build effective and independent anti-corruption institutions and ensure judicial independence and professionalism. Facilitate the exchange of good practices, publish timely data on enforcement actions and engage with civil society and the media to improve it.
- Prioritize the dismantling of state capture and enable the investigation and prosecution of high-level political corruption.
- Identify corruption trends and schemes and suggest new counter-measures; develop methodologies and indicators to measure corruption and its differential impact on all genders, and the effectiveness of anti-corruption policies.

⁴ Eurofund, Inequality, <https://www.eurofound.europa.eu/topic/inequality#s-03>.

2. Tackle foreign bribery and grand corruption, and eliminate safe havens

States Parties “exporting” corruption through companies based in their jurisdictions⁵ and providing a safe haven to misappropriated funds proceeding from grand or large-scale corruption should:

- Actively enforce against bribery in foreign trade, as established by the UNCAC and the OECD Anti-Bribery Convention and increase penalties for lack of compliance.
- Introduce Unexplained Wealth Order legislation and establish a global sanctions regime for corruption in the European Union.⁶
- End “cash-for-passports” and residence-by-investment / Golden Visas schemes in exchange for pre-determined payments or investments, in the absence of a genuine link of the applicant to the country.
- Encourage and cooperate in the investigation and prosecution of cases of transnational grand corruption. In particular, adopt a definition of ‘public official’ that includes politically exposed persons and other persons from foreign countries entrusted with public functions, even if not formally appointed.
- Ensure transparency of beneficial ownership information of all types of legal entities and arrangements through centralized and public registers; facilitate interoperability of the registers and develop data verification mechanisms. Make beneficial ownership information publicly and freely accessible to all relevant actors that can help prevent and detect corruption, including civil society, in accordance with domestic personal data protection legislation but without undue obstacles or barriers.
- Reinforce the supervision of professional “enablers” of corruption including financial and non-financial service providers and of sectors, such as real estate, to counter money-laundering.
- Encourage international cooperation to exchange information on assets, in particular on beneficial owners and asset declarations of public officials.

3. Recover and return assets to the countries of origin and compensate the victims of corruption

To boost their asset recovery efforts,⁷ States Parties in Europe should:

- Equip financial intelligence units and law enforcement authorities with adequate resources to investigate suspicious transaction reports and carry out cross-border investigations in money laundering and corruption cases.

⁵ Transparency International (2022), Exporting Corruption 2022: Assessing enforcement of the OECD Anti-Bribery Convention, <https://www.transparency.org/en/publications/exporting-corruption-2022>.

⁶ European Parliament (2023), Towards an EU global sanctions regime for global corruption, [https://www.europarl.europa.eu/RegData/etudes/BRIE/2023/739340/EPRS_BRI\(2023\)739340_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2023/739340/EPRS_BRI(2023)739340_EN.pdf).

⁷ Council of the EU (2023), Freezing and confiscating criminal money: Council agrees negotiating position for new EU law, <https://www.consilium.europa.eu/en/press/press-releases/2023/06/09/freezing-and-confiscating-criminal-money-council-agrees-negotiating-position-for-new-eu-law/>.

- Enhance international cooperation to recover the proceeds of crime and collaboration between law enforcement authorities from countries of origin and countries of destination.
- Facilitate the prosecution of money laundering, including by introducing a presumption of money laundering with a reversal of the burden of proof, as established in some countries, when no lawful justification can be provided for a highly opaque investment or other transaction.
- Effectively freeze, seize and confiscate proceeds of crime through innovative mechanisms such as non-conviction-based asset forfeiture and using civil law approaches.
- Demonstrate a strong commitment to the repatriation of confiscated assets and their use to compensate victims of corruption. Develop an asset restitution policy and transparent mechanisms for the return of these assets, involving civil society monitoring, in line with the Global Forum on Asset Recovery principles of transparency, accountability, and inclusivity in the disposition and transfer of confiscated stolen assets in corruption cases.⁸
- Provide legal standing for victims of corruption as well as for independent anti-corruption organizations so that they have the right to file a criminal complaint in corruption cases, sue for damages and seek compensation, representing the public interest.⁹

4. Safeguard the integrity of the public sector and in public procurement and expenditure

Beyond criminalization and law enforcement, States Parties in Europe should prevent and anticipate risks by:

- Establishing a duty for a wide range of public officials to periodically report on their assets and interests. Asset declaration systems should include verification mechanisms and sanctions for undeclared wealth; the most effective systems are publicly accessible to the general public.¹⁰
- Consistently regulating and providing transparency to lobbying and revolving door practices, in particular regarding connections of high-level officials with third parties.¹¹

⁸ Global Forum on Asset Recovery (2017), GFAR Principles for Disposition and Transfer of Confiscated Stolen Assets in Corruption Cases, <https://star.worldbank.org/sites/star/files/the-gfar-principles.pdf>.

⁹ UNCAC Coalition: Victims of Corruption: Damage Reparation and Legal Standing, <https://uncaccoalition.org/get-involved/working-groups/victims-of-corruption-working-group/database-on-legal-standing/country-profiles/france/>.

¹⁰ Stolen Asset Recovery Initiative, Asset Declarations, <https://star.worldbank.org/focus-area/asset-declarations>.

¹¹ Group of States Against Corruption – GRECO (2022), Anti-corruption trends, challenges and good practices in Europe & the United States of America, <https://rm.coe.int/general-activity-report-2022-eng-web-2769-5632-1800-1/1680ab9bc1>.

- Advancing public procurement transparency and integrity through central and open systems to collect, manage and publish comprehensive data on all phases of a public contract in an open, user-friendly and structured format;
- Updating technical guidance for procurement reforms in line with state-of-the-art technology and data solutions.
- Ensuring greater transparency in the spending of post-Covid recovery and resilience funds by EU Member States. There is a need for more detailed, timely, accessible and harmonized information on the implementation of contracts to enable civil society monitoring.¹²
- Pursuing efforts for the effective protection of whistleblowers reporting on corruption and related offenses, and other witnesses and corruption victims, addressing gaps in the implementation of the European Union whistleblower Directive.¹³

5. Systematically and meaningfully involve civil society in anti-corruption efforts

States Parties in the Europe should do more to create an environment in which civil society organizations and citizens thrive and are considered as partners in anti-corruption efforts, and should:

- Ensure higher standards of transparency and civic participation in the UNCAC implementation review mechanism, in line with the UNCAC Coalition's Guide.¹⁴
- Systematically and meaningfully integrate civil society organizations into the design, implementation and monitoring of anti-corruption policies and strategies.
- Ensure access to information in practice, especially relating to prevention and combatting of corruption, including making judicial decisions in corruption cases publicly available, along with essential datasets such as asset declarations, land and real estate ownership and lobbying data.

¹² Open Spending EU Coalition (2023), European Economic and Social Committee recommends more transparency in Recovery funding, <https://www.open-spending.eu/news/1030-2/>.

¹³ EU Whistleblowing Monitor, <https://www.whistleblowingmonitor.eu/>.

¹⁴ UNCAC Coalition (2022), A 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-Dec.-2022.pdf>.