

Distr.: General
7 December 2021

English only

Ninth session

Sharm el-Sheikh, Egypt, 13–17 December 2021

**Statement submitted by the UNCAC Coalition, a
non-governmental organization not in consultative status
with the Economic and Social Council***

The following document is being circulated in accordance with paragraph 1 (i) of resolution 4/6 of the Conference of the States Parties to the United Nations Convention against Corruption and rule 17, paragraph 3 (b), of the rules of procedure for the Conference.

* The present document is processed in the form in which it was received.





23.11.2021

**Costa Rica: Civil Society Report
by Costa Rica Íntegra
An input to the UNCAC Implementation Review Mechanism:
Fourth year of review of UNCAC Chapters II and V**

-Executive Summary-

This is the executive summary of a civil society shadow report from June 2021 that reviews Costa Rica's implementation and enforcement of selected articles in United Nations Convention against Corruption (UNCAC) Chapters II (Preventive Measures) and V (Asset Recovery). The report was supported by the UNCAC Coalition and is intended as a contribution to the UNCAC peer review process of Costa Rica covering those two chapters. The full report is available on the UNCAC Coalition's website.¹

While Costa Rica has made progress towards developing normative legal frameworks for the implementation of Chapter II of the UNCAC, several challenges remain to effectively advance anti-corruption efforts, especially regarding the implementation of Chapter V articles. Better inter-institutional coordination and effective asset recovery laws and practices are needed.

Assessment of the review process

Has the government disclosed information about the country focal point?	Yes	The Office of the Public Ethics Prosecutor is the focal point for the two anti-corruption conventions (OAS and UN).
Was the review schedule published somewhere?	No	It is not published, nor reported directly.
Was civil society consulted in the preparation of the self-assessment checklist?	No	The report is being compiled without the participation of civil society.*
Was the self-assessment checklist published online or made available to civil society?	No	
Did the government agree to a visit to the country?	Pending	As of March 2021, it had not been carried out due to the pandemic.
Was a country visit undertaken?	Pending	

¹ <https://uncaccoalition.org/uncac-parallel-report-costa-rica/>.

Was civil society invited to provide input to the official reviewers?	No	*
Was the private sector invited to provide input to official examiners?	No	*
Has the government committed to publishing the full country report?	Yes	

Main findings and Recommendations (R)

Prevention of corruption

There are several different institutions dealing with aspects of corruption prevention, but no leading body in this regard in Costa Rica. Existing institutions lack sufficient economic and human resources. The main public policy instruments, such as the National Development Plan, do not establish clear policies in this area, which limits the allocation of resources. There is an extensive agenda of legislative proposals related to the prevention of corruption, including a comprehensive reform of the Law against Corruption and Illicit Enrichment, a law on Access to Information, among others, but there is no legislative support for their approval. Currently, the National Strategy for Integrity and Prevention of Corruption is being developed by a multi-sectoral working group to establish the strategic framework for action by the State and other actors in society.

R: Finalize and implement the National Integrity and Corruption Prevention Strategy; consolidate the steering role for the prevention of corruption in a single body; and provide monitoring bodies with more resources for preventive purposes.

Whistle-blower protection

Costa Rica does not have a regulatory framework that establishes mechanisms to facilitate the reporting of acts of corruption by public officials, or to protect them from possible reprisals in the workplace as required by UNCAC Article 8.4. This discourages public servants from sharing valuable information about corruption cases with competent authorities. Within the Judicial Branch, there is a Victim and Witness Protection Office for general criminal proceedings, but no specialization for corruption-related crimes. The existing complaint channels are not uniform in terms of the level of protection, publicity, accessibility, and not all of them have a clear regulatory framework. Data on the effectiveness of these channels is very scarce, and most complaints end up being dismissed.

R: Review the effectiveness of public reporting channels and their protection protocols; strengthen the Office of Victim and Witness Protection to become a body responsible for providing protection to whistle-blowers.

Public procurement

The establishment of the Integrated Public Procurement System (SICOP) was a major achievement, as it brought together 20 virtual public procurement platforms and was made mandatory for the entire public administration in 2016. However, until 2019, 30% of institutions were missing, and even those that implemented SICOP do not use it for all stages of the contracting procedure, nor purchases. Despite this, its use has brought the country savings in resources (0.9% of GDP in 2017), as well as greater dissemination of information, generating more bidder competition in procurement procedures. A draft Public Procurement Law was co-developed with civil society, and intends to prevent the coexistence of

multiple procurement regimes, to reduce exceptions to circumvent ordinary procedures and to introduce requirements for the application of direct contracting.

R: Incorporate all public entities into the SICOP, including the decentralized sector, and incorporate more citizen participation and independence standards in the recent Public Procurement Observatory project.

Access to information

Costa Rica does not have a law on access to public information, but there is a broad national and international regulatory framework in place. Among the most important initiatives is the Decree on Transparency and Access to Public Information of 2017, defining which information is publicly accessible, creating the legal concept of Access to Information Officer and obliging entities to include a transparency section in their work reports. However, compliance with these regulations is inconsistent, and the scope of the Decree is limited to the Executive Branch, although a guideline was issued on the matter that is mandatory for the Decentralized Administration.

R: Develop and adopt an access to information law that is binding on the entire public administration.

Asset declarations

Asset declarations of public officials are not published, despite the fact that the follow-up mechanism for the Implementation of the Inter-American Convention against Corruption and the Office of the Comptroller General of the Republic have repeatedly stated the need to make them public, in order to exercise adequate political and citizen oversight.

R: Publish the contents of public officials' sworn asset declarations.

Participation of society

The results of both the 2016 and 2019 National Transparency Consultation reveal that there is little transparency regarding civil society participation. Only 24% of respondents know about their right to participate in the decision-making processes of public entities and 44% negatively assess the current mechanisms of participation because they consider them as insufficient, lacking proper publicization and not user-friendly. Nevertheless, initiatives from certain entities such as the Office of the Comptroller General of the Republic and the Ombudsman Offices, have informed the general public about their rights and created spaces to promote participation.

R: Conduct more awareness raising campaigns to promote the active participation of the young Costa Rican population in anti-corruption efforts and improve publicity and mechanisms for citizen participation in public entities.

Judiciary and Public Prosecutor's services

Citizen's trust in the judiciary has been declining over the past decade. Several of the bodies and initiatives created in the judicial sphere require review in order to eliminate overlapping powers and manage the limited resources more efficiently. The sanctioning regime has not been a useful tool for detecting areas most vulnerable to corruption, or for sanctioning misconduct. Both the appointment process for the Supreme Court and Constitutional Chamber justices, as well as of the Plenary Court lack transparency and impartiality, and are constantly called into question.

R: Strengthen the capacity and independence of the Court of Judicial Inquiry; reform the appointment process for Supreme Court and Constitutional Chamber justices; and improve the disciplinary regime.

Anti-money laundering

Despite the continuous development of anti-money laundering regulations in Costa Rica, the application of the sanctioning regime by competent superintendencies has been almost non-existent over the last five years. Prosecution of money laundering offences is limited by their definition in legislation, since a distinction is made between the offence of laundering of proceeds of drug trafficking and laundering of proceeds derived from acts of corruption; therefore investigated by two separate Deputy Prosecutors Offices, leading to a lack of coordination. However, a bill is being developed that seeks to unify the two types of offences and centralize prosecution in the Deputy Prosecutor's Office for Money Laundering and Emerging Capital, although this institution also has investigative limitations.

R: Provide more resources to the entities dealing with anti-money laundering and monitor their performance; make the register of beneficial owners public.

Asset recovery

There are significant gaps in country measures for the recovery and direct return of assets. There is no domestic legislation in this area and no specific international cooperation agreements have been signed for this purpose. Thus, it is not even clear to the Costa Rican authorities what the best way for another State to bring legal action or claim compensation is in the national courts, nor has a request to that effect been submitted. The same is true in the case of the return of assets central to the crime committed. In addition, confiscation cannot be applied to assets of economic interest of equivalent value, which could be a constraint on international cooperation.

R: Develop and adopt domestic legislation regulating the direct recovery of assets by other States and the return of assets that have been confiscated; and enter into international cooperation agreements.