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Other matters

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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.

* [CAC/COSP/IRG/2019/1/Add.1](#).*

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Growing Civic Space: UNCAC Coalition Statement to the 10th Session of the UNCAC Implementation Review Group Meeting

This year marks the 9th year of civil society exclusion in the Implementation Review Group Meeting (the IRG met for the first time in 2010). As a result of the Marrakesh compromise of 2011, it was agreed to exclude civil society organisations (CSOs) from participation in UNCAC subsidiary bodies. It was decided that CSOs, instead of enjoying observer status, only have access to a briefing on the work of the IRG. The NGO briefing was established as a confidence-building measure. By mutual agreement, it has shrunk to half a day.

Observer status for civil society organisations

It is not possible to tackle corruption without a well-informed and engaged civil society. Its contributions to the implementation and monitoring of the UNCAC review process are crucial, providing valuable expertise and experience, as well as a different perspective from that of public officials. Civil society participation can also help underscore the public interest in ensuring the right outcomes and help raise awareness about the processes underway.¹

A 2010 legal opinion of the Office of the Legal Counsel requested by the Secretary of the COSP, regarding the involvement of intergovernmental bodies and civil society organisations in the Implementation Review Group, stressed that the rules of procedure developed for the COSP, where civil society enjoys the observer status, “shall apply, mutatis mutandis, to any mechanism or body that the Conference may establish in accordance with Article 63 of the Convention, unless it decides otherwise.” The legal opinion recommended that the IRG take a decision on the participation of observers that is consistent with both the rules and prior practice.²

A report by the International Service for Human Rights (ISHR) shows that restrictive practices at national level towards civil society organisations find their echo in the ways the UN operates, which is inconsistent with the various obligations under international human rights law.³

- We urge States parties to review the practice of civil society exclusion from the UNCAC subsidiary bodies (IRG and working groups), to provide CSOs with the right to participate as observers and allow for onsite access to information;⁴

¹ 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

² CAC/COSP/IRG/2010/9, Legal Opinion from the Office of Legal Affairs, 26 August 2010: <https://www.unodc.org/documents/treaties/UNCAC/WorkingGroups/ImplementationReviewGroup/29Nov-1Dec2010/V1056031e.pdf>

³ ISHR (2018): The Backlash against Civil Society Access and Participation at the UN. Intimidation, Restrictions and Reprisals: 10 Case Studies. https://www.ishr.ch/sites/default/files/documents/mappingreport_web.pdf

⁴ See also: Transparency International (2017): Transparency and Participation – An Evaluation of Anti-Corruption Review Mechanisms,

- We also urge States parties and the Secretariat to develop alternative procedures so that civil society organisations no longer have to submit documents they seek to display for screening, which has resulted in situations where NGOs were not allowed to display or make available written materials;
- The no-objection approach under Rule 17 of the rules of procedure, which allows governments to object to granting a non-ECOSOC accredited organisation observer status at the COSP, should be replaced, as it is arbitrary, ad hoc and violates the principles of transparency, due process and accountability.⁵

Civic space

With populism and aggressive rhetoric on the rise, spaces for civil society are shrinking in many parts of the world. A 2018 Civius report concluded that only 280 million people enjoyed open civic space, with more than 3.4 billion people living under closed or repressed civic space.⁶ Concerns over weak justice systems, grand corruption, impunity and shrinking space for civil society and the media were also highlighted in the outcome statement of a recent meeting of civil society groups and private sector representatives from the Western Balkans focussing on UNCAC implementation.⁷ These developments are inconsistent with several UNCAC provisions, including Article 13 on civil society participation and access to information, as well as with Article 19 and other provisions of the UN Covenant on Civil and Political Rights, providing for a right to freedom of expression and to access to information held by public bodies.

The Coalition, therefore, calls on States parties to reaffirm their commitment to UNCAC Article 13 and related provisions, including by ensuring that

- access to information laws are in place in their countries and enforced in practice;
- information about the UNCAC is widely publicised, and there is widely accessible information about government anti-corruption measures, including about enforcement efforts (statistics, case law), as well as on public procurement, public budget management, and other measures;
- the public is able to participate in anti-corruption efforts, including through government consultations and inputting to monitoring processes.

See also the UNCAC Coalition's statement: Making UNCAC Work.

All Coalition submissions to the IRG and more information are available at

<https://uncaccoalition.org/uncac-bodies/implementation-review-group-irg/10th-irg/>

https://www.transparency.org/whatwedo/publication/transparency_participation_an_evaluation_anti_corrupti_on_review_mechanisms

⁵ The Special Rapporteur on the rights to freedom of peaceful assembly and of association, Maina Kiai, has strongly criticised this practice: OHCHR, *A/69/365: Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association*, 1 September 2014, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N14/523/22/PDF/N1452322.pdf?OpenElement>

⁶ See: CIVICUS: State of Civil Society Report 2019. The Year in Review, https://www.civicus.org/documents/reports-and-publications/SOCS/2019/state-of-civil-society-report-2019_executive-summary.pdf

⁷ Outcome statement, 1 February 2019, https://www.unodc.org/documents/NGO/Belgrade/Outcome_Statement.pdf