

6 June 2014

English only

Implementation Review Group**Fifth session**

Vienna, 2-6 June 2014

Briefing for non-governmental organizations in accordance with resolution 4/6 of the Conference of the States Parties to the United Nations Convention against Corruption entitled “Non-governmental organizations and the Mechanism for the Review of Implementation of the United Nations Convention against Corruption”**Summary**

At its fourth session, the Conference of the States Parties to the United Nations Convention against Corruption adopted resolution 4/6 entitled “Non-governmental organizations and the Mechanism for the Review of Implementation of the

United Nations Convention against Corruption”. In this resolution, the Conference decided that briefings for non-governmental organizations would be convened on the margins of the sessions of the Implementation Review Group (herein after Group) on the outcomes of the review process, including technical assistance needs identified. These briefings would be conducted by the secretariat in cooperation with a member of the bureau and would be based on the reports of the Group, and thematic implementation reports and regional supplementary addenda.

The Conference requested States parties and signatories to use the briefings and to draw on the discussions and proposals of its fourth session to continue constructive dialogue on the contribution of non-governmental organizations to the Mechanism. The Conference also encouraged non-governmental organizations to report to it and/or the Group, as appropriate, individually or collectively, on their activities and contributions to the implementation of the recommendations and conclusions of the Group approved by the Conference, including those related to meeting technical assistance needs and advancing capacity to effectively implement the Convention. The briefings would serve to further promote constructive dialogue with non-governmental organizations dealing with anti-corruption issues, while recognizing the continuing deliberations to build confidence in the role of



non-governmental organizations in the review process. The first briefing for non-governmental organizations in accordance with Conference resolution 4/6 had been held on the margins of the third session of the Group on 20 June 2012, and the second briefing had been held on the margins of the fourth session of the Group on 30 May 2013.

The third briefing for non-governmental organizations was held on the margins of the fifth session of the Group on 5 June 2014 and was chaired by the Vice-President of the Conference, Ion Galea (Romania). The Chair delivered introductory remarks, welcoming the decision taken by the Conference to involve non-governmental organizations in the work of the Mechanism, and noting the constructive dialogue that was to take place.

When initiating the briefing, the secretariat recalled resolution 4/6 and reminded participants to respect its terms. The invitations to the relevant non-governmental organizations contained specific language on expectations and the contributions to be made. A copy of resolution 4/6 had been attached to the invitation, in order to fully ensure compliance with its terms. The briefing was to be structured in such a way as to allow participants from non-governmental organizations to make their contributions at the outset. Several non-governmental organizations had confirmed their attendance by the deadline and written comments from non-governmental organizations received in accordance with resolution 4/6 and made available for the briefing. The programme for the briefing was contained in document CAC/COSP/IRG/2014/CRP.3. Two panel discussions had been foreseen in order to facilitate contributions.

The secretariat provided an introduction to the work of the Group based on the following documents: the progress report available to the Group (CAC/COSP/IRG/2014/4); the thematic reports on the implementation of Chapters III (criminalization and law enforcement) and IV (international cooperation) and regional supplementary addenda as reflected in documents CAC/COSP/IRG/2014/6 to CAC/COSP/IRG/2014/9; a thematic overview of recommendations contained in document CAC/COSP/IRG/2014/10; an introduction to two conference room papers compiled under item 3 of the agenda of the Group (CAC/COSP/IRG/2014/CRP.1 and 2); and, an overview of technical assistance needs emerging through the review process as reflected in document CAC/COSP/IRG/2014/3, including UNODC activities in this respect (CAC/COSP/IRG/2014/2).

Noting that the briefing should provide an opportunity for non-governmental organizations to make contributions on their activities, the Chair opened the floor for interventions.

Speakers reiterated their willingness to promote ratification, and support governmental efforts in the implementation of the Convention. In relation to priority issues of implementation, speakers highlighted criminalization, access to information and international cooperation. With regard to the review process, speakers commended the progress achieved to date and referred to the discussion on follow-up to recommendations, such as the preparation of national action plans, and on the self-assessment checklist for the second cycle. Speakers also mentioned their concern about the transparency of the process and the finalization of reviews. The need to provide adequate resources for the functioning of the Mechanism and provision of technical assistance was underscored. Several speakers expressed their

hope that future review cycles, non-governmental organizations could participate actively in the sessions of the Implementation Review Group, as well as other subsidiary bodies of the Conference of the States Parties.

Several speakers made reference to the contributions non-governmental organizations can make in the areas of protection of victims and whistle-blowers, as well as for developing freedom of information legislation. In this context a Council of Europe Recommendation by the Committee of Ministers to Member States on the protection of whistle-blowers, adopted in April 2014 was referred to, as was the establishment of a platform used as a forum for citizens to report corruption as it happened, but also to lobby for whistle-blower protection.

A panel discussion on issues regarding the enforcement of the Convention was held. Mr. Mazoor Hasan of the Institute of Governance Studies moderated the panel, and opened by noting that enforcement depended on the level of commitment by States and that stakeholders could play a role as watchdog. The importance of resource availability, training, advocacy and research were stressed.

The first panellist, Ms. Sophie Lemaître of Sherpa, underlined the importance of action by civil society to promote enforcement of the Convention. She presented Sherpa's mandate and provided an overview of corruption cases in which Sherpa had contributed, with other organizations and in cooperation with national authorities, to the prosecution of alleged offenders. She also drew attention to the issue of granting the right of standing to sue to such organizations. She recalled the importance of allocating adequate financial and human resources to enforcement agencies, and of strengthening international cooperation and mutual legal assistance as crucial elements of the fight against corruption. Furthermore, the panellist reported that the experience of her organization had been sought by national authorities in legislative reforms, and highlighted an example of assistance provided with a 'legal advisory caravan' that had provided expertise to national organizations on finding and gathering evidence.

The second panellist, Ms. Gillian Dell of Transparency International, presented the organization's work in a range of areas and informed participants that a report providing an overview of the work of the Mechanism had been prepared and contained, inter alia, recommendations for legislative reform and the strengthening of the judiciary. She outlined how national chapters of the organization were engaged in building the capacity of national authorities to strengthen the law enforcement system and making policy recommendations. She referred to the whistle-blower protection activities through the Advocacy and Legal Advice Centres (ALAC) programme. With regard to challenges, she indicated that current systems for sanctioning corruption were often insufficient due to system weaknesses, and highlighted that the allocation of resources and priorities to the fight against corruption were also a matter of political will.

The third panellist, Ms. Diana Kovatcheva of Transparency International Bulgaria, stressed that enforcement of the Convention was not only the task of dedicated institutions but required support and cooperation from all actors. She presented a report prepared by her organization and highlighted the extensive cooperation with institutions and the government in its drafting. She noted that the key pillars of enforcement were: prevention; sanctions; training and expertise; public trust; and objective and expert monitoring. She referred to the issue of liability of legal

persons and to that of statistics. In this regard, the panellist pointed out that these were frequently difficult to assemble as data was often collected according to different criteria and according to the different mandates of the relevant authorities. In order to improve enforcement of the Convention, she recommended that civil society organizations play a monitoring role, remain objective and supportive, and offer solutions to challenges identified.

Speakers welcomed the presentations delivered by the panellists and the ensuing discussion focused on the collaboration between non-governmental organizations and law enforcement agencies in the prosecution of alleged corruption offences, as well as the collaboration between such organizations and lawyers. Transparency International also referred to their range of tools for civil society organizations wishing to become involved in supporting the implementation of the Convention, such as a guide, videos and sample reports available from their website. Reference was made to the UNODC database on civil society organizations, and to the multi-stakeholder trainings that were being carried out to provide a platform for constructive dialogue. Speakers stressed the importance of civil society in raising awareness of the Convention and the review process. Some speakers also shared their States' positive experience in working with civil society organizations during legislative reform processes and outlined the consultations that had been undertaken on specific laws and amendments, which they viewed as a good practice. One speaker also provided the example of a meeting that had been organized in his country between representatives of a non-governmental organization and the police, in order to provide guidance on evidentiary requirements in cases.

The second panel, moderated by Mr. Saad Filali Meknassi of Transparency International Morocco, focused on the issues of beneficial ownership transparency and anti-money laundering. The moderator opened by noting that the panel would be an opportunity to exchange points of view on the implementation of Chapter V (asset recovery) of the Convention as well as Chapter II (preventive measures) and IV (international cooperation). International cooperation and mutual legal assistance were crucial, as was cooperation between national authorities and the private sector.

The first panellist, Ms. Christine Clough of Global Financial Integrity, provided information on beneficial ownership, starting with the very definition of the concept. She discussed the specific provisions of the Convention addressing this issue, as well as resolutions adopted by the Conference of the States Parties. Furthermore, she highlighted how secret companies, as well as trusts and foundations, facilitated corruption and pointed out that civil society was conducting critical research on financial flows and mechanisms contributing to corruption, assisting legislators in implementing the Convention and working with States to see how beneficial ownership could be addressed. She indicated her organization's willingness to work with States and stakeholders going forward to the second cycle of reviews.

Mr. Kol Preap of Transparency International Cambodia, the second panellist, focused on the efforts of States parties to the Convention to fulfil their obligations with regards to beneficial ownership and highlighted the opportunity of receiving support in upholding transparency. He reiterated that technical and financial support was available and that many civil society organizations were prepared to support and actively address issues related to transparency. With regard to challenges encountered, he highlighted the lack of political will from some relevant and

competent authorities, thus limiting the role of civil society organizations to advocacy and awareness-raising. Furthermore, the panellist recommended that in order to promote transparency, disclosure of ownership in trusts, accounts and foundations should be achieved.

The third panellist, Mr. Themba Mahleka of Transparency International Zimbabwe, discussed the relationship between beneficial ownership and asset recovery. He reiterated the negative effects of corruption on development and the investment climate, and referred to the principle of asset recovery as contained in article 51 of the Convention. With regards to civil society, the panellist pointed out that its role was to advocate and lobby for public registers, assist with financial and technical assistance where necessary, and highlight the benefits of publicly available information to ensure the verification of information and its accuracy. The panellist further stressed the role of civil society and the media in unearthing corruption cases.

During the ensuing discussion, speakers agreed that momentum had been created in some countries, while in others, anti-corruption measures were not yet as high on the agenda as they could be. Speakers also referred to the role of non-governmental organizations in exposing corruption and pointed out the need for regional and international cooperation to trace and recover assets. The cooperation between financial intelligence units and civil society and the private sector was noted as an important feature that would also assist in combating a wider range of serious crime. Regional cooperation was also highlighted and reference was made to the Guide developed in the context of the Arab Forum on Asset Recovery, focusing on how civil society organizations can assist in asset recovery in the Middle East and North Africa region, in particular in the areas of awareness raising and research, advocacy, case work and legal analysis, and the return of confiscated assets.

Several speakers again highlighted their States' experience of cooperating with civil society organization in the drafting and evaluation of legislation and national action plans. One speaker reported that the anti-corruption body in her country had established a directorate for relations with civil society. Speakers also referred to the work ongoing in the G20 with regard to beneficial ownership. Furthermore, measures taken by non-governmental organizations to ensure that their organizations were not involved in corruption were discussed, such as zero tolerance policies, the publishing of audited accounts and the publishing of donors.