
Monitoring Conventions Topic Guide

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What are convention monitoring tools?

We define convention monitoring tools as those mechanisms designed to monitor the extent to which national governments fulfil their commitments under international anti-corruption conventions and action plans. The scope of such assessments includes both legally binding¹ and voluntary² initiatives from the global to the regional level.

Tools which focus on private sector anti-corruption monitoring as well as monitoring of national anti-corruption plans are covered in the private sector guide and public integrity guide respectively.

Purpose and context of the assessments

The main purpose of anti-corruption monitoring is to apply pressure on national governments to comply with internationally recognised anti-corruption standards. This should ultimately translate into the establishment or strengthening of anti-corruption systems and the enactment and implementation of robust anti-corruption legislation at the national level.

In addition, assessments can also serve to:

- highlight difficulties encountered by states in implementing the standards and help identify specific needs for technical assistance
- promote international cooperation in the fight against corruption
- promote information exchange on successes, good practices and experiences in applying the standards³.

¹ E.g. UN Convention Against Corruption (UNCAC); OECD Anti-Bribery Convention; OAS Inter-American Convention against Corruption; CoE Group of States Against Corruption

² E.g. African Peer Review Mechanism (APRM); ADB-OECD Action Plan of the Anti-Corruption Initiative for Asia and the Pacific

³ UNODC (2011) Mechanism for the Review of Implementation of the United Nations Convention against Corruption—Basic Documents

http://www.unodc.org/documents/treaties/UNCAC/Publications/ReviewMechanism-BasicDocuments/Mechanism_for_the_Review_of_Implementation_-_Basic_Documents_-_E.pdf

Assessment approaches

Official review mechanisms for international anti-corruption conventions and action plans generally involve a combination of monitoring methods including self-assessments, expert reviews, peer reviews, country visits and the publication of a report with recommendations for improvement. Specific examples include:

- **The United Nations Convention Against Corruption (UNCAC) Review Mechanism:** The UNCAC provides a set of standards, measures and rules that all countries can apply in order to strengthen their legal and regulatory regimes to fight corruption. It calls for preventive measures and the criminalization of the most prevalent forms of corruption in both public and private sectors. The UNCAC Review Mechanism is designed to assess the extent to which signatory parties comply with the provisions of the convention. The review process combines a self-assessment with a governmental peer-review country being reviewed by the governmental representatives of 2 other countries. On-site visits and civil society participation are at the discretion of state parties.⁴
- **Monitoring the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions:** The OECD Anti-bribery Convention establishes legally binding standards to criminalise bribery of foreign public officials in international business transactions. The monitoring process involves self-assessment, on-site visits, peer reviews, plenary discussions, and the publication of country performance reports⁵.
- **Council of Europe Group of States against Corruption (GRECO) monitoring:** The Council of Europe has developed a number of legal instruments dealing with matters such as the criminalisation of corruption in the public and private sectors, liability and compensation for damage caused by corruption, conduct of public officials and the financing of political parties. GRECO is responsible for monitoring compliance with these standards through a process of mutual evaluation through on-site country visits and drafting of evaluation reports with specific recommendations. Measures taken to implement recommendations are subsequently assessed by GRECO under a separate compliance procedure⁶.
- **Mechanism for Follow-Up on the Implementation of the Inter-American Convention against Corruption (MESICIC):** The Organisations of American States (OAS) Convention obliges States Parties to implement a series of measures to prevent, detect, prosecute, and eradicate corruption in the public sector as well as to promote, facilitate, and regulate cooperation between State Parties on these matters. The monitoring process involves self-assessments and civil society input. Expert review sub-groups conduct a review with the State's response, involving meeting with government and civil society⁷.

⁴ Comprehensive Self-Assessment Checklist on the Implementation of the United Nations Convention Against Corruption (UNCAC)

⁵ Country Monitoring of the OECD Anti-Bribery Convention

⁶ GRECO Evaluations

⁷ Mechanism for Follow-Up on the Implementation of the Inter-American Convention against Corruption (MESICIC)

- **Monitoring of the ADB/OECD Anti-corruption Plan for Asia Pacific:** The Action Plan sets out a series of goals and standards for sustainable safeguards against corruption in the economic, political and social spheres of the countries in the region. The monitoring process involves the development of self-assessment reports in specific areas which are reviewed in plenaries by the Steering Group to assess progress achieved. Report results provide benchmarks to measure subsequent progress⁸.
- **The African Peer Review Mechanism (APRM):** The APRM is a mutually agreed programme, voluntarily adopted by the member states of the African Union, to promote and re-enforce high standards of governance in the areas of: democracy and political governance, economic governance, corporate governance and socio-economic development. The review process includes country self-assessments, onsite visits by expert review teams who consult with government, private sector and civil society representatives, and the development of country reports and action plans⁹.

Third party monitoring is usually undertaken by civil society organisations to provide an independent assessment of countries compliance with anti-corruption commitments and reform progress. Parallel/shadow reporting is one such approach, designed to supplement the official review process of international conventions. Parallel/shadow reports typically assess governments' implementation of the convention/action plan in question and provide insight into the transparency of the review process itself. Reporting is generally based on a standardised questionnaire completed by national experts, sometimes in consultation with government officials and other knowledgeable persons in their countries¹⁰. Other third party approaches are not tied to a specific review process but assess country performance on anti-corruption against a set of indicators based on international standards and/or commitments (whether voluntary or binding)¹¹.

Data sources

A common source of data for anti-corruption assessments is the use of self-assessment questionnaires to be completed by representatives of state parties and/or relevant national experts. This is often complemented with an analysis of the legal and institutional framework and other secondary data. In some cases interviews with key informants are also used to verify the information collected or to gather more detailed data on specific areas. Validation is also sometimes conducted through focus groups/workshops.

⁸ Anti-Corruption Policies in Asia and the Pacific: Progress in Legal and Institutional Reform in 25 Countries

⁹ African Peer Review Mechanism (APRM)

¹⁰ United Nations Convention Against Corruption (UNCAC) Review Mechanism - Parallel Reporting; Progress Report 2011: Enforcement of the OECD Anti-Bribery Convention; Informe de Representantes de la Sociedad Civil Ante at MESICIC

¹¹ E.g. The State of Anti-corruption: Assessing Government Action in the Americas; CIMAP: Comparative Indicator-based Monitoring of Anti-corruption Progress in Albania, Kosovo, Macedonia and Turkey – Manual; Monitoring the European Neighbourhood Policy

Key issues and challenges

Intergovernmental peer review can be a highly effective method of applying pressure on poorly performing governments to implement their anti-corruption commitments. However, the peer review process can present a number of challenges. The reliability of information from self-evaluation, for example, may be compromised if government responses are not sufficiently self-critical or objective. Expert review, on the other hand may ensure greater independence, although governments may be less inclined to accept and act on the results. Mutual evaluation as practised under the Council of Europe, OAS and OECD Conventions is a less adversarial approach but relies heavily on mutual trust among participating states. In all these cases, some of the key requirements for effective peer review include:

- Serious commitment by a critical mass of governments
- An independent secretariat with adequate and long-term resources
- Appropriate expertise at the national level
- Civil society inputs and access to key documents to feed into independent evaluations¹²

Civil society participation is rarely mandatory in such processes, however. In the case of UNCAC for example, it is left at the discretion of governments to decide whether to involve civil society and the private sector. In the case of MESICIC, on the other hand, civil society is encouraged to submit written responses to the official questionnaire. Even in cases where civil society has participated in the preparation of official reports, its concerns are not always included in the final drafts¹³.

Parallel/shadow reporting is therefore crucial to ensure that alternative perspectives are recorded. However, parallel/shadow reporting is not without its own challenges, including: lack of capacity in terms of knowledge and skills on shadow reporting; limited time and funding; poor civil society - government relations; failure to track official reporting processes; and limited access to information. Nevertheless, many of these challenges can be overcome by working in a coordinated fashion with other CSOs, including those who are accredited with the relevant treaty bodies, are trained in shadow reporting, or have specific technical capacity (e.g. data collection, report writing)¹⁴. A further challenge with shadow reporting is knowing which parts of the convention to target, how to interpret the different clauses and which indicators to use. One approach is to mirror the government format to allow for comparative analysis. Referring to material used for official review processes, including official guidance material, questionnaires and indicators, as well as related international standards best practice or model legislation, can also provide a useful guide¹⁵.

¹² U4 (2008) Comparative Assessments of Anti-Corruption Conventions' Review Mechanisms, Transparency International: Anti-corruption conventions and instruments explained http://archive.transparency.org/global_priorities/international_conventions/conventions_explained

¹³ Human Rights Trust of Southern Africa (2006) Shadow Reporting as a Tool to Monitor Implementation of Anti-Corruption Measures http://iacconference.org/documents/WS_11_SAHKIT1.PDF

¹⁴ Human Rights Trust of Southern Africa (2006) Shadow Reporting as a Tool to Monitor Implementation of Anti-Corruption Measures http://iacconference.org/documents/WS_11_SAHKIT1.PDF;

¹⁵ Transparency International: Anti-corruption conventions and instruments explained http://archive.transparency.org/global_priorities/international_conventions/conventions_explained

Promising practices

Thematic focus: A number of official review mechanisms include a special thematic focus for each round of monitoring in order to perform a more in-depth assessment of progress in specific priority areas. Under the MESICIC, for example, the most recent round of evaluations (fourth round), which began in 2011, has a special focus on the role of oversight bodies¹⁶. In the case of GRECO, the last round of evaluations (2007) dealt with two distinct themes: incriminations and the transparency of party funding, whilst the current round (2012) focuses on corruption prevention in respect of Members of Parliament, Judges and Prosecutors¹⁷. In addition to the thematic focus, successive rounds provide an opportunity to follow up on recommendations from previous rounds.

Gap analysis: Prior to the establishment of the UNCAC Review Mechanism, UNCAC Compliance Reviews and Gap Analyses were pioneered by GTZ and the Basel Institute on Governance as a voluntary monitoring tool for UNCAC compliance¹⁸. The gap analysis is undertaken through a three-step process: (i) a systematic comparison of national legislation and practices with the UNCAC provisions through a broad national consultative process; (ii) an assessment of the extent to which the legal framework and the institutional set-up implement UNCAC in practice; and (iii) identification of reform priorities and technical assistance needs. Despite the recent establishment of an official review process, the voluntary gap analysis remains a valuable tool to support the UNCAC review process as it provides a more comprehensive analysis of countries' anti-corruption systems, legislation and practice. To this end, UNDP has recently developed a guidance note which applies the UNCAC Gap Analysis methodology to official UNCAC Self-Assessments, with a view to encouraging State parties to go beyond the minimum reporting requirements under the Review Mechanism¹⁹.

Using the right to information: Access Info Europe and Transparency International have recently undertaken an independent monitoring exercise using access to information laws to obtain information on the implementation of the UNCAC. The study consisted of five identical questions that were presented to public bodies responsible for implementing the convention in 20 countries as well as at the level of the European Union. The novelty of this approach is that it tests the principles of access to information and citizen participation which are implicit in the UNCAC and which are crucial to ensuring that civil society can provide meaningful inputs to the review mechanism and monitor whether State parties are reporting to the respective oversight bodies on the implementation of the convention²⁰.

All tools referenced in this guide are accessible via the gateway tool database:

<http://gateway.transparency.org/tools>

¹⁶ Mechanism for Follow-Up on the Implementation of the Inter-American Convention against Corruption (MESICIC)

¹⁷ GRECO Evaluations

¹⁸ UNCAC Compliance and Gap Analyses

¹⁹ Guidance Note: UNCAC Self-Assessments – Going Beyond the Minimum

²⁰ Tell Us What You've Done

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Date:

May 2012

<http://gateway.transparency.org>

The GATEway project is co-funded by the European Commission and the United Nations Development Programme.

