

Russia: Comments on the Executive Summary of the UNCAC Review

Submission to the
13th Session of the UNCAC Implementation Review Group

Submission of the UNCAC Coalition, authored by Transparency International Russia

This submission has been authored by Transparency International - Russia, which is an accredited member of the global Transparency International movement and a member of the UNCAC Coalition. As part of our activities, as one of the few representatives of civil society engaging in fighting corruption in our country, we also assess our country's compliance with its international obligations.

We call on the State Party to immediately publish the full version of the country report to make it available for public scrutiny and provide the following remarks in reaction to the Executive Summary of the 2nd Cycle UNCAC implementation review (CAC/COSP/IRG/II/2/1/Add.29¹).

1. There are no independent bodies in the State Party that carry out activities to prevent and detect corruption (UNCAC Article 6). The Presidential Anti-Corruption Council and the Office of the President for Anti-Corruption are directly subordinate to the President of the country. The Prosecutor General is appointed and dismissed only by the decision of the President. The same also applies to the Chairman of the Investigative Committee, whose department investigates bribery and other corruption and malfeasance.
2. Contrary to what is stated in the Executive Summary, there is little open competition in public sector hiring: The public service portal² does not publish vacancies in the Administration of the President, the Supreme Court, the prosecutor's offices, and many other public authorities (Art. 7).
3. Measures to prevent and manage conflicts of interest are foreseen to be implemented in a non-public manner. The law does not provide for the publication of notices, the compilation of registers of interests, the publication of minutes of meetings of the relevant commissions and decisions taken.

¹ https://www.unodc.org/documents/treaties/UNCAC/WorkingGroups/ImplementationReviewGroup/13-17June2022/CAC-COSP-IRG-II-2-1-Add.29/V2108943_E.pdf

² <https://gossluzhba.gov.ru/>

Moreover, the decisions of the commissions are only recommendations; the final decision is made by the immediate supervisor of the official (Arts. 7, 8 and 11).

4. In recent years, the Government has significantly lowered the level of transparency of the public procurement system (Art. 9). Participants in a tender are no longer published; only the winner of a tender is announced.
5. Many legal entities have been allowed to hide their owners, directors, and financial statements due to foreign sanctions against them, and even due to the potential threat of sanctions being imposed, as well as due to their registration in certain territories.
6. The system for providing information about the beneficial owners of legal entities to law enforcement agencies is extremely inefficient because there is no register of ultimate beneficiaries. Instead, legal entities have to only report the beneficial owners upon request to law enforcement agencies, which instantly disavows any investigations of corruption (Art. 12).
7. The right to access information upon request does not work – there is no effective access in practice (Arts. 10 and 13). Authorities arbitrarily withhold information under false pretenses and the courts uphold such decisions. Our organization has received refusals to provide information about sociological surveys on the level of corruption in the regions of the country that were carried out with public funds. Examples of refused access to information also concerned materials about inspections carried out at our request. Similarly, a copy of the plan for the implementation of the Council of Europe Civil Law Convention on Corruption in the country was refused, as was the case with requested information about efforts to combat corruption from an information system that is operated by the Presidential Administration. The law does not provide for systematic supervision over the exercise of the right to access information upon request.
8. Civil society is excluded from decision-making processes in the field of anti-corruption policy (Arts. 10 and 13). Our organization is not aware of a single case when non-governmental organizations (NGOs) that are independent of the authorities were able to take part at the federal level in the development and implementation of anti-corruption measures. According to our research,³ only actors and organizations that are not independent of the authorities, such as representatives of state universities, regularly participate in the activities of conflicts of interest commissions as representatives of civil society.
9. The presence of an anti-corruption compliance system is not taken into account in the legislation as any mitigating circumstance when courts decide on the legal liability of a company for corruption offences (Art. 12).

³ <https://transparency.org.ru/research/v-rossii/komissii-po-konfliktu-interesov-na-severo-zapade-issledovanie-transperensi>

10. The legislation does not ban the tax-deductibility of bribes to foreign officials (Art. 12).
11. The AML/CFT system is largely built on administrative pressure on individuals, small and medium-sized businesses. Although information from investigations such as the Panama Papers, the Pandora Papers, and the Paradise Papers caused a public reaction from the Financial Intelligence Unit, the materials it sent to law enforcement agencies did not result in any publicly known investigations. The leaks contained information about some individuals with close ties to the President (Article 14).
12. The country's definition of a *politically exposed person* (PEP) is too narrow and does not meet the standards used by the FATF, including due to an incorrect translation into the national language. In particular, the definition of a PEP in national legislation neither includes persons who are closely related to public officials, nor does it include heads of city administrations, district and regional deputies, regional ministers, and other officials (Article 14).⁴

We ask that our comments be taken into account by the members of the IRG when discussing the executive summary at the IRG meeting.

Sincerely,

CEO

Transparency International - Russia

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Материал произведен и (или) распространен АНО «Центр «ТИ-Р», принудительно внесенной в реестр некоммерческих организаций, выполняющих функции «иностранный агент»

⁴ Paragraph 1 of Art. 7.3 of the Federal Law of August 7, 2001 N 115-FZ "On counteracting the legalization (laundering) of proceeds from crime and the financing of terrorism".