The "TELL US WHAT YOU'VE DONE" Initiative

Request Protocol

Prepared by

Access Info Europe

Transparency International Secretariat

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1. Introduction

The "Tell us what you've done" initiative arises out of discussions within the UNCAC Coalition, a network of civil society organisations (CSOs) dedicated to promoting the ratification, implementation and monitoring of the UN Convention against Corruption. Secretariat support for the campaign is provided by two Coalition member organisations, Access Info Europe and Transparency International.

This document sets out the protocol to be followed by partners engaged in filing access to information requests as part of the "Tell us what you've done" Initiative. Participating CSOs from around the world are conducting the same requesting exercise in approximately 25 countries.

The aim of this monitoring is to obtain information on implementation of the UN Convention against Corruption (UNCAC) and other anti-corruption conventions in different countries and to determine if that information is made available to members of the public following requests for this information. We hope to get two sorts of results from the comparative requesting exercise.

Concerning information about implementation of UNCAC and other anti-corruption conventions, the information to be requested will include the country self-assessments submitted to UNODC as part of the pilot review project. It is essential for civil society groups to have information about how their governments are implementing the conventions in order to be able to participate in public debate about the adequacy of measures to comply with the conventions and to combat corruption.

Second, we want to test public access to information about anti-corruption efforts in different countries, some with access to information laws (also known as right to information or freedom of information laws) and some without. We thereby hope to obtain comparative data on openness practices. This will enable us to identify whether the right of access to information is working in the countries involved in the survey.

This protocol sets out the procedure to be followed for this process. In order to generate meaningful comparative data about the functioning of the right to access information in different countries, *it is important that the same procedures are followed by different requesters in making requests*. It is of the greatest importance that you follow the procedures carefully and that you refer to the Project Coordinator whenever you are not sure of what to do. *The aim is not to get the information at any cost (e.g. through personal connections)* but to test whether it can be obtained in formal ways through the exercise of the right to information.

The project coordinator to contact in case of questions and to submit responses is Victoria Anderica from Access Info Europe, email: victoria@access-info.org.

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2. The Questions

The Tell Us What You've Done Initiative aims to get **two types** of information, using five questions:

(1) specific information that is useful to civil society anti-corruption work and is otherwise hard to get;

(2) information where it is estimated that implementation is inadequate or non-existent and the response to the information request would be likely to highlight this fact.

These requests will also serve to highlight the diverse content of the Convention and to raise civil society and public awareness about the breadth of issues covered.

The **five questions** are as follows:

Self Assessments

Request a copy of the government's completed UNCAC self-assessment submitted to UNODC in response to the 2007 self-assessment questionnaire circulated by UNODC. See Resolution 1/ 2 at the 1st UNCAC Conference of States Parties: http://www.unodc.org/unodc/en/treaties/CAC/CAC-COSP-session1-resolutions.html

AS APPROPRIATE: Also request the latest country self-assessment or self-evaluation responses under GRECO and OECD Convention review mechanisms.

Public Sector Integrity

Request information on whether there were disciplinary cases for violations of codes of conduct or standards by public officials in the period 2007 – 2009, and if so, what was the number initiated and concluded annually in that period and what were the number and value of sanctions imposed. See UNCAC Article 8(6).

Procurement

Request information on whether the appeals mechanism required by Article 9(d) of the UNCAC exists and, if so, what were the number of cases initiated and processed by that mechanism in the period 2007-2009 and what was the average time (in days) taken by the mechanism to make a decision in these cases. In the absence of such appeals mechanism request information on measures planned to introduce such mechanism.

Private Sector Integrity

Request information on measures taken pursuant to UNCAC Article 12(c) to promote transparency among private entities, including to promote transparency of the identity of legal and natural persons involved in the establishment and management of corporate entities.

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Actions for Damages

Request information on measures taken under Article 35 to ensure that entities or persons who have suffered damage as a result of an act of corruption have the right to initiate legal proceedings against those responsible for that damage in order to obtain compensation.

3. Making Requests

This section covers standard procedures requestors are asked to use in every country when making requests. The purpose is to standardise the way requestors carry out their work to ensure <u>uniform practice</u> and that a consistent level of effort is made by each requestor to obtain the final outcome to their request. Following standard practices strengthens the comparability of the results, and hence the final analyses and conclusions.

Step 1: Translate and edit the requests

You have been provided with 5 questions in English/French/Spanish which in many countries will need translating into your local language. You need to be as accurate as possible in translation, to ensure that your request is as similar as possible as requests submitted in other countries.

Note: Please take care when translating to ensure that the correct terms are used. If in doubt about the meaning of anything in the question, please contact the Project Coordinator.

Step 2: Identify the target institutions; separate requests for each question

You will need to identify the target institution for each of the 5 requests, based on the way government is organised in your country. In many cases several requests will be addressed to the same institution. In other countries they will have to be addressed to different institutions.

Separate requests, and request letters, should be submitted for each of the 5 questions, even if two or more requests are submitted to the same institution. We are interested in tracking separate data for each request and making separate requests is necessary to achieve this.

Step 3: Check the website of the target institution.

We ask you to check the websites of the relevant institutions and to record whether or not the information seems to be available.

Even if it seems that all of the information is available, you should still file the requests, but it is important to down-load and record the fact that you found that information. Later we will compare the on-line information with any answers provided in response to our requests.

Step 4: Prepare the written requests for submission

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To standardise the process, all requests should come as letters from participating CSOs. As noted, separate requests and letters should be sent for each question. Three letter templates are provided in <u>Annexes 1, 2 and 3</u>, varying depending on the status of the access to information legal framework in your country. There is:

- one for countries with an access to information law;

- one for countries with no law but a constitutional guarantee of the right of access; and

- one for countries with neither a law nor a constitutional guarantee.

<u>If your country has an access to information law</u>, please refer to this in the request letter (see template), so that it is clear that the request is a request under that law (for avoidance of any doubt). If your country has no law but a constitutional guarantee, please refer to this in the letter.

Feel free to adapt the language of the relevant letter template so that it has the appropriate level of formality and politeness which would typically be used in your country in communications with public authorities.

Note: No reasons to be included in the request. We are testing the right of access to information with this monitoring. In most countries with access to information laws, no reasons are required to be given for the requests. If your law requires reasons to be given, please contact the Project Coordinator. If you are submitting in a country which does not have an access to information law, stipulate in your request letters simply that you are requesting the information for purposes of research, without mentioning the type of research. In all cases, if, when submitting a request or during a subsequent phone call or e-mail or letter from the public institution, you are asked the reasons for submitting the request, then you should simply state "we are carrying out research into this issue". No other explanations should be given about why you want the information or what you plan to do with it. It is important that you do not mention that the request is part of an international survey, as this may affect the way the authorities respond to the request and skew the results. Report back to the Project Coordinator if you think that your simple explanation was not enough to convince the public official to process your request.

Step 5: Submit request

There are three different options in the form you use to submit the requests. In the following is some guidance for each of these options.

1) **Email**: If it is commonplace in your country to file requests by e-mail and if you will get an e-mail receipt for this, you can do this. In this case, please still prepare a formal letter of request and either attach it or paste it into the body of the email, whichever is more appropriate. If the letterhead paper of your institution is available electronically, use this to submit the request. In any case, please make sure to put the name, address and contact details (including email) of your institution at the top of the letter, as well as the name, position and contact details (including email) of the person submitting it at the bottom.

2) **Post/ snail mail**: If it is normal to file a request by post, then do this. Prepare each request on the letterhead paper of your institution. The requests should be sent

by <u>registered</u> post using the system normally used in your country so that you have a receipt or other proof of delivery.

3) **By hand**: If it is normal to hand-deliver requests, then prepare <u>two copies on letterhead</u> so that one can be stamped with the date of delivery. In this case, you may encounter problems, such as the person delivering the request not being allowed to enter the government building or to approach the desk where they would submit the request, or being refused an official stamp on the copy of the request. If, after trying politely but firmly to submit the request, it is impossible to do so, this will be an 'unable to submit' outcome. Please contact the Project Coordinator for assistance in this case.

BUT NOT FAX: Requests should **NOT** be submitted by **fax** as experience in previous monitoring exercises shows that there are problems with requests submitted by fax. However, if this a normal method of communicating with government departments in your country, please discuss with the Project Coordinator.

Note: Contact from the public institution: In some cases, public authorities may contact you regarding the processing of your request. For example, they might ask for clarification of how you would like to receive the information, or to indicate that the information is spread across a lot of documents, the provision of which may be expensive, or to indicate that processing the request will be difficult for some reason and to seek ways to narrow it. There is nothing wrong with this in principle and you will need to use your discretion when answering. We believe that in most countries, provision of the information requested should be possible. If you are not sure how to deal with a response from the public institution, contact the Project Coordinator to discuss.

Note: Submission Fees: In some countries, the rules allow public authorities to charge fees for the submission of requests. Where this is the case and the fee is legitimate, this should be anticipated at the outset of the requesting process and the fee should be paid. However, if a fee in excess of $10 is charged, also contact the Project Coordinator, even if this is allowed by law. Further, if an institution attempts to charge a submission fee which is illegitimate do not pay it and contact the Project Coordinator to discuss.

Step 6: Follow-up

In most cases, you should undertake follow-up immediately upon this being triggered by a response from the institution (e.g. in case of a refusal to accept a request, an oral refusal to provide the information, provision of partial access and so on). There are <u>two exceptions</u> to this. First, if a satisfactory answer to the request is provided, the process comes to an end. Second, if the institution fails to respond to a request, this is called a <u>mute refusal</u>. A mute refusal applies either after 30 days or when the period in the access to information law for responding to requests has expired, whichever comes sooner.

Following up can be done by:

- phoning the institution to see if the request is still being processed;

- sending an email to inquire about the request;

- returning in person to the institution to ask about the request.

If you received an acknowledgement of your request or an official reference number, use

this to enquire about the status of the request.

Specific follow-up actions for each type of response are provided in Section 5, depending on what happens to your request.

We are working to a rule of one attempt to get the information. In case you do not get the information before the deadline is over you can try to do the follow up to check if there is a chance that you will get the information.

Step 7: Receiving the Information

If your request is successful, either fully or partially, you will either receive the information directly or be notified that the information is ready to be collected. You may also be informed that you may come to the institution to view the information.

Note: Viewing only: If you are told that you can view the information but not receive copies, you should contact the Project Coordinator to discuss.

Note: Fees for receipt of copies: In some countries, institutions may charge fees for copying and sending you the information, and sometimes also for searching for it. If you are asked to pay for information in accordance with these rules, these fees should be paid, unless they exceed $5, in which case you should contact the Project Coordinator to discuss. If you are asked to pay a fee which is higher than what is allowed under national law or rules, or which seems unreasonable, then contact the Project Coordinator to discuss.

4. Record keeping

Apart from gathering information about how the UNCAC is being implemented we also want to evaluate the process of accessing that information. To do so, we ask you to write down the main information about this process for each question.

The essential information that we need to do so is:

- the date you send the request (which in this case is the 3rd of May for all of us)

- the way you sent the request (by email, post, hand delivered...)

- the date you get the answer to your request

- the content of the answer (whether your answer was complete, partial, refusal...)

5. Timelines

Please try to keep as close as possible to the following timetable:

- **On 3 May, World Press Freedom Day**

    o submit the letter requesting information to responsible government agencies

    o issue the press release in your country

- **By 3 June**

    o send an update to Access Info Europe and TI on what responses have been received

    o if no government response has been received, undertake a follow-up inquiry and then send an update to AIE and TI on any additional response

- **By 14 June** submit final information to AIE and TI