



UNODC

United Nations Office on Drugs and Crime

Introduction to article 5 of UNCAC



Article 5: Preventive AC policies and practises

Content:

State Parties shall:

- Develop, implement or maintain effective, coordinated AC policies;
- Establish and promote effective practices aimed at prevention of C;
- Periodically evaluate adequacy of legal and administrative measures;
- Collaborate with each other and with international and regional organizations in promoting and developing such measures (through international programmes and projects aimed at the prevention of C.)



Content of article 5: Preventive AC policies and practices

Binding obligations for States Parties:

- Develop, implement or maintain effective, coordinated AC policies;
- Establish and promote effective practices aimed at the prevention of Corruption
- Periodically evaluate relevant legal instruments and administrative measures (determination of adequacy)
- Collaborate with each other and with regional and international organizations (international programs and projects)



Area of Competence covered by article 5

- Preventive AC policies and practices
- Effective and coordinated policies
- Promotion of the participation of Civil Society
- International Cooperation



Preventive AC policies

- Can take different forms:
 - Explicit and direct anti corruption strategies
 - Public integrity policies or public sector reforms (so called implicit strategies)
- Can cover different levels:
 - Strategic Level (refers to what should be achieved and includes a preamble, a background analysis, specific objectives/ goals and proper indicators for each strategic goal and specific objective).
 - Operational Level (refers to how the strategic goals can be achieved and should contain concrete activities/actions, assigned responsibilities/ timeframes, resource plans and budget and indicators)



AC policies and strategies

Key features for the design and the implementation:

- Ownership (national actors running the content and the process of the AC policies such as Government, Law enforcement agencies, Judiciary, P. companies, NGOs)
- Balanced approach between repressive measures and preventive ones
- Knowledge-based design (data collection and diagnosis analysis identifying trends, causes, types and impact of C.)
- Monitoring/ evaluation (specific indication of goals/objectives concretely achievable)
- Comprehensive and coordinated approach (among Gov. , AC bodies agencies, Judiciary)
- Stakeholder participation (other non governmental actors especially Civil Society)



Key guidelines (for SM) to develop an AC policy/strategy

- Promotion of :
 - Fundamental Principles of Rule of Law
 - Proper Management of public affairs and public property
 - Integrity
 - Transparency
 - Accountability
- Participation of citizens in planning and implementation of policy/ies (internal level)
- Sharing good practice and elaborate regional/international agreements to facilitate cooperation and mutual support (external level)



International Cooperation

- Art 37 UNCAC Cooperation with Law Enforcement Authorities
- Art 38 UNCAC Cooperation between National Authorities
- Art 39 UNCAC Cooperation between National Authorities and Private Sector



Participation of Civil Society

Art 13 UNCAC

Content.

- Each State Party shall promote the active participation of individuals and groups outside the public sectors, such as civil society, non governmental organization and community based organizations, in the prevention of and the fight against corruption and to rise public awareness regarding the existence, the causes, the gravity of and the threats posed by C.
- States shall also take appropriate measures to assure that relevant AC bodies are known to the public and provide access to such bodies, for the reporting, including anonymously, of any incidents that may be considered to constitute an offence in accordance to this Convention.



Key elements emerging from art 13 provision

Preventing corruption shall consist also in:

- Promoting the participation of society in the prevention of C.
- Raising public awareness on C.
- Promoting the contribution of the public to the decision making-process
- Raising public information and education
- Recognising and assuring freedom to seek, receive publish and disseminate information concerning C. and its restrictions
- Raising public awareness of anticorruption bodies
- Guaranteeing public access to information and reporting (also anonymously) of C.



Creating the policy

- Adoption of an Overall Practical Strategy and Action Plans thereto endowed with:
 - Holistic approaches
 - Organic, specific and reachable objectives
 - Coordinated deadlines for the implementation of measures
 - Efficient and effective mechanisms to fully review results
 - Impartial designation of an independent and autonomous body to oversee the implementation process



Under art. 6 (strictly related to 5)

- Action Plans should:
 - Follow the guidelines given by the overall strategy
 - Be established at Institutional Level
 - Assure the indispensable presence of an Independent Body
 - Be developed also by individual sectors or institutions to ensure the full adherence of the A.P. to the S. (through all public bodies)
 - Be credible, detailed, coordinated and containable measurable objectives in terms of outcomes and impacts on the C. prevention and wider benefits



Stages of the implementation of the Policy

- **First Stage: Development phase of Set Priorities**
 - Estimation of probable duration of the policy (short, medium, long term policy)
 - Determination of the resources required to implement it (as a consequence)
 - Necessity of an holistic/ whole of approach during this assessment stage (all sectors should be involved)
- **Second Stage: Design Phase**
 - Setting of clear, rational and reasonable elements and objectives for the strategy
 - Individuation of measurable performance indicators for the fulfilment of the fixed objectives
- **Third Stage: Delivery Phase**
 - Awareness-raising effect towards all the key stakeholders and the public
 - Support mobilization for AC measures from Private Sectors/ Civil Society/ NGOs
- **Fourth Stage: Follow-up Phase:**
 - Assess Progress
 - Provision of periodic information on the implementation of all the strategic components/their effects on corruption
 - Identification of priorities and maximization of successes/ good results



Implementation

- UNCAC offers a comprehensive reference framework for anti-corruption work
- UNCAC provides new opportunities to orient policies and anti-corruption measures at national levels.
- UNCAC also poses considerable new challenges. The temptation to undertake too many anti-corruption measures
- UNCAC may be also reinforced, and the drive to amend or pass ever new laws in line with high
- international standards might draw attention away from effective implementation of what is already in place (even if it does not live up to the highest standards).
- Implementation of UNCAC could become an end in itself instead of serving as a vehicle for strengthening governance systems, accountability and public integrity.

For further information contact:

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