

# ANTI-CORRUPTION HELPDESK

PROVIDING ON-DEMAND RESEARCH TO HELP FIGHT CORRUPTION

## HELPDESK ANSWERS 2014 (JANUARY - JUNE)

The Helpdesk is a knowledge base that offers the TI network and selected stakeholders on-demand research on corruption within a guaranteed timeframe. Answers typically consist of a four to eight page brief synthesising the state of knowledge on a particular topic. The Helpdesk is a key component of TI's Anti-Corruption Solutions and Knowledge Programme (ASK).

All answers listed below can be accessed on request at: [tihelpdesk@transparency.org](mailto:tihelpdesk@transparency.org).



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### ANTI-CORRUPTION LAWS

#### **Transparency laws in Latin America**

Question submitted by Transparency International Chile, June 2014

The great majority of countries in Latin America have adopted laws regulating transparency and access to public information. These laws establish the procedures and mechanisms that should be in place to ensure citizens can access public information and emphasise the role of government in proactively disclosing key information and ensure that citizens can participate in decision-making. However, the quality of the legal framework and degree of implementation of these laws varies greatly across the region.



### INSTITUTIONS

#### **Accountability of first ladies**

Question submitted by Transparency International Peru, March 2014

The involvement of first ladies in political life has been criticised for lacking accountability, which can lead to abuse for private gain. Literature on the subject remains limited and is inconclusive. While some have argued for less of a policymaking role for first ladies, to avoid perceptions and risks of nepotism and conflicts of interest, others argue that a strong (or stronger role) is the best way forward, provided that the right accountability structures are in place.

#### **Global examples of merging trade, foreign affairs and aid programmes**

Question submitted by Transparency International Australia, February 2014

There are no clear organisational “good practice” models for managing aid, and little evidence of the impact of different government systems on aid, poverty reduction or corruption. The tension between the goals of poverty

reduction and promoting economic and political interests is an issue of serious concern when merging aid, trade and foreign policy. In the case of Australia, the proposed simultaneous aid cuts may be more significant to the development agenda than its integration into the Department of Foreign Affairs and Trade.

### **Overview of good practices of judicial systems in Asia**

Question submitted by Transparency International Cambodia, February 2014

Good judicial system practices relate to the judiciary's institutional independence, the appointment of judges, their promotion, remuneration and tenure. Good practices also involve codes of conduct, technical capacity requirements and professional development. The judiciary must be open and allow access to information. The good practices listed are mostly drawn from Hong Kong and Singapore, with some examples from Indonesia, Japan, Nepal and Thailand.

### **Initiatives to reduce corruption in the judiciary in francophone West Africa**

Question submitted by EU, May 2014

The judiciary is a key pillar of good governance and necessary for anti-corruption efforts. Governments, donors, international organisations and civil society are working, together and separately, to address the issue of corruption in the judiciary. Judicial corruption in francophone West Africa stems from the systematic interference from the government, the politicisation of the judiciary and a lack of transparency and accountability. The initiatives presented attempt to reduce corruption by addressing these issues and making the judiciary more transparent, independent and accountable.

### **Innovative anti-corruption reforms in the judiciary**

Question submitted by EU, February 2014

Eradicating undue influence on the judiciary requires an overhaul of social norms and values. Reforms that may reduce certain types of corruption include: adequate case management systems; ethical and technical training; and clear rules for the appointment, promotion, transfer and removal of judges and prosecutors from office. Technology can improve document management and communication, and enhance transparency and accountability. Civil society organisations play a key role in monitoring and oversight, as well as training the judiciary and ensuring the fair appointment of judges. Other innovative approaches include the adoption of specialised prosecution bodies, the recording and monitoring of court proceedings and limitations to immunity, prosecutorial discretion and duration of proceedings.

### **Anti-corruption specialisation: Law enforcement and courts**

Question submitted by EU, January 2014

Specialised law enforcement bodies dedicated to the fight against corruption have been established in several European countries. They often focus on middle and high-level corruption offences and corruption-related acts committed by high-ranking officials. Bulgaria, Croatia and Romania have all adopted these bodies as part of their efforts to curb corruption and end impunity. The results achieved so far seem to vary. The effective prosecution of corruption cases also depend on an effective and impartial court system. Only a few countries have established specialised anti-corruption courts which often have jurisdiction over the offences investigated by special anti-corruption units.



## **UNDERSTANDING CORRUPTION**

### **State capture: An overview**

Question submitted by EU, February 2014

State capture is one of the most pervasive forms of corruption. Companies, institutions or powerful individuals use corruption to influence and shape a country's policy, legal environment and economy for their own interest. The literature on state capture focuses to a great extent on former Soviet countries, but this form of corruption can also be found in other countries where politics and business have close ties and transparency is lacking, such as in Singapore, South Korea, the US and some European countries. State capture may also be a problem in countries where the military, ethnic groups or organised criminal groups are powerful and use the state to extract rents.

**Literature review on social norms and corruption**

Question submitted by U4, January 2014

There is a breadth of research on social norms and corruption, but with mixed results. Some studies emphasise the correlation between norms and the propensity for corrupt behaviour. Others argue that the evidence is inconclusive and other factors are equally important. Some anti-corruption initiatives have tried to influence social norms (by appealing to existing ones or attempting to create new ones) to change corrupt behaviour.

**The impact of corruption on growth and inequality**

Question submitted by EU, February 2014

While there is a consensus on the negative impact of corruption on economic growth, some argue that corruption can compensate for red tape and institutional weaknesses in some highly regulated countries. However, evidence indicates that corruption is likely to adversely affect long-term economic growth through its impact on investment, taxation, public expenditure, human development and the country's governance and institutional environment. Corruption also affects equitable distribution of resources, increasing income inequalities, undermining the effectiveness of social welfare programmes, and ultimately resulting in lower levels of human development.

**ANTI-CORRUPTION TOOLS AND APPROACHES****Right to information laws: Impact and implementation**

Question submitted by U4, May 2014

Although RTI laws can help solve specific cases, their effectiveness depends on factors such as freedom of press and association, effective check-and-balance mechanisms, prosecution and dismissal of corrupt officials and coherent policy responses to problems in service delivery. Successfully implemented RTI laws also require a strong leadership, political will, independent and well-resourced oversight institutions, a clear legal framework and appeal mechanism, capacity building of public officials, and activities to inform citizens, civil society, media and companies on how to exercise their right to know.

**Combating illicit financial flows: The role of the international community**

Question submitted by U4, April 2014

Illicit financial flows have pervasive effects on developing countries' social and economic development. In many countries, the volume of financial outflows exceeds the inflows of aid and foreign direct investment due to corruption, money laundering, tax evasion and avoidance. Global standards to identify and prevent money laundering need to be strengthened and enforced, including rules to identify politically exposed persons and beneficial owners. At the domestic level, donors can provide technical assistance and capacity building to recipient countries, support civic organisations that hold governments to account and fund further research on illicit financial flows in specific countries to help target their development assistance.

**Transparency in budget execution**

Question submitted by Transparency International Ukraine, March 2014

Transparency in budget execution can significantly improve efficiency, prevent fraud and corruption, and help identify potential wrongdoing and leaks. Online publication of budget execution data has proven instrumental to uncovering corruption and punishing those involved. In Brazil, the Transparency Portal enables civil society, the media, public officials and citizens to monitor and verify how the budget is executed. Georgia has also opted for creating dedicated procurement platforms, making public contracting simpler, more efficient and less prone to corruption.

**Budget transparency**

Question submitted by Transparency International Israel, March 2014

Budget transparency is instrumental to monitor how public money is allocated and spent. If budget documents are accurate, timely and comprehensible, civil society and the media can better identify corruption and fraud. As a prerequisite, the information should be presented online in a user-friendly manner. Countries such as Brazil, Mexico and South Korea have created online budget portals containing key information related to budget

execution. New Zealand is one of the few governments that produce detailed annual work plans connected to the budget.

### **What can donors do to fight petty corruption in recipient countries?**

Question submitted by EU, March 2014

In many developing countries, development agency staff may face situations in their interactions with public officials in which they are expected to pay a bribe. Measures can be taken to empower staff to resist acts of bribery and extortion by having clear anti-corruption guidelines and principles in place, building staff capacity to deal with such situations, and empower them to report safely and transparently on such occurrences through internal policies and training. Donors can also influence the overall country context by making use of internal and external reporting mechanisms and citizens' accountability tools.

### **Monitoring local governments**

Question submitted by Transparency International Turkey, February 2014

Municipalities play an important role in the provision of services and goods, but often without strong accountability mechanisms. Civil society organisations have developed monitoring tools to hold local governments accountable. Some assess transparency in contracting processes, citizens' participation and allocation of resources by analysing local governments' websites as well as filing freedom of information requests. Others focus on engaging citizens in monitoring (social accountability mechanisms). The tools may be applied to various sectors, contexts and areas of government activities, such as public procurement processes, budget allocation or the quality of service delivery.

### **Overview of chapter activity on teaching anti-corruption**

Question submitted by Transparency International Lithuania, January 2014

This answer provides an overview of the initiatives conducted by Transparency International's national chapters to engage youth in the fight against corruption through anti-corruption courses, ranging from summer schools and integrity camps, to integrating anti-corruption courses in the realm of academia and school pedagogy.

## **SECTOR SPECIFIC INFORMATION**

### **Approaches to curbing corruption in tax administration in Africa**

Question submitted by U4, June 2014

Surveys indicate that bribery is widespread among tax and custom officials in several African countries. Corruption in tax administration also includes patronage, revolving doors and regulatory capture. Approaches to fighting this corruption include enhancing autonomy and capacity of tax agencies through establishing semi-autonomous tax agencies and better remuneration, improving tax services and reducing tax-payers interactions with tax officials, by, for instance, investing in technology and tax-payer education, improving internal control and oversight and encouraging citizens to report corruption.

### **Literature review on corruption, narcotics and illegal arms trade**

Question submitted by Transparency International India, June 2014

This answer provides a non-exhaustive list of resources on corruption and narcotics and illegal arms trafficking. In addition, as organised criminal groups are heavily involved in these activities, resources analysing the relationship between organised crime and corruption are also highlighted.

### **Regulating private-to-private corruption**

Question submitted by EU, June 2014

Anti-corruption regulations have evolved from the criminalisation of bribery of public officials to specific legal frameworks criminalising corruption within the private sector. These laws aim to ensure that individuals in the private sector do not make decisions for their own benefit that could severely impact a country's economic development, distort markets and hamper employee morale and integrity. Several countries have reformed their legal framework to ensure a more coherent approach to punishing private corruption, including Croatia, Italy and the UK. Recent rules aim at criminalising active and passive corruption within the private sector, committed by any

employee in a breach of duty to gain an advantage for him or herself or a third party. However, enforcement of these rules is weak.

### **Curbing corruption in public financial management in francophone West Africa**

Question submitted by EU, May 2014

Sound public financial management systems can prevent and detect corruption by streamlining processes and enhancing accountability. In francophone West Africa, reforms and initiatives have been implemented to improve the budget process, ensure responsible budget execution, better manage resources and ensure proper oversight. Results, however, are mixed for many of these reforms. Positive results have been achieved in a few areas, such as the introduction of single treasury accounts and integrated public financial management frameworks. Other promising practices include the involvement and participation of civil society in both planning and oversight.

### **Civil society organisations working on illicit financial flows in Latin America and the Caribbean**

Question submitted by Transparency International Guatemala, May 2014

Illicit financial flows and organised crime are pernicious in Latin America and the Caribbean. There have been efforts by policy actors and civil society to set global standards and rules to combat illicit financial flows. However, the scope of civil society activity on financial regulation, tax evasion and anti-money laundering remains somewhat limited in the region.

### **Overview of corruption in the telecommunications sector**

Question submitted by U4, April 2014

High revenue generation, complex technical and governance structure, and relations between the public and private sector, make the telecommunications industry vulnerable to corruption, from bribery by consumers to the capture of regulatory authorities. The licensing process, regulation, price-setting, supply chain and customer services are all prone to corruption. Many segments of telecommunications are prone to network and scale effects and technological disruption, making competitive markets, fair prices and public-interest oriented regulations difficult to achieve. This also means that policies and regulatory actions that have been corrupted by special interests are often difficult to address.

### **Anti-corruption laws in the extractives industries**

Question submitted by U4, April 2014

Corruption in oil, gas and mining in Central Africa risks the countries' economic development and is a potential deterrent to investment. Many anti-corruption provisions have been adopted in order to bring the individuals and companies involved to justice, and many countries have adopted legislation criminalising bribery. Emerging trends include extra-territoriality, corporate and individual liability. Other relevant anti-corruption provisions are those that provide for greater transparency and disclosure in order to help detect corruption and enable prosecution.

### **Integrity issues related to lawyers and law firms**

Question submitted by U4, March 2014

Independence, confidentiality, conflicts of interest and professional integrity are the four core principles of legal practice. Integrity challenges include: the attorney-client privilege, the role of lawyers as intermediaries and the globalised nature of contemporary law firms. Further challenges include the pressure some lawyers have in turning a profit for their clients, their undermined independence, weak industry-wide anti-corruption standards, and weak internal policies and controls within law firms. Some lawyers also lack awareness of anti-corruption provisions.

### **Codes of ethics and remuneration policies in banks**

Question submitted by Transparency International Israel, March 2014

Following the 2007/2008 financial crisis, governments have carried out regulatory reforms aimed at curbing risky behaviour in the banking sector and preventing future crises. Some countries mandate the adoption of a code of ethics in banks, though in most this is voluntary. In contrast, there have been many initiatives to curb what is deemed "excessive" executive compensation. The mechanisms vary from establish fixed pay ratios between CEOs and workers, set caps on bonuses and give shareholders a "say on pay". While popular, these initiatives have been criticised for being arbitrary and having unintended consequences.

**Local Integrity: Allowances, declaration of interests and assets and the revolving door**

Question submitted by Transparency International Georgia, February 2014

The remuneration of city councillors should be determined by the nature of their workload and the size of their local government area. Compensation is still advisable so that less privileged citizens can afford to be a city councillor. Rules restricting engagement of councillors in private activities can prevent potential conflicts of interest. Elected officials should regularly disclose information on gifts, properties, income, debts, shares in companies and potential conflicts of interest. Municipalities could also restrict pre and post-public employment to avoid beneficial treatment and misuse of confidential information.

**Proactive disclosure of information and state-owned enterprises**

Question submitted by Transparency International Slovenia, January, 2014

State-owned enterprises are increasingly required to provide access to information to ensure citizens know how public money is managed, such as in Brazil, Estonia and Spain. However, the type and level of information required varies and there is no agreed good practice. Proactive disclosure often includes information on organisational structure, salaries, job descriptions, budget and expenditures, public procurement processes and contracts. Attention should also be paid to the exceptions to the law as well as to potential contradictory provisions set in dedicated laws.

**Corruption risks and mitigation strategies in climate finance**

Question submitted by U4, January 2014

There are major challenges associated with climate finance as huge amounts of money flow through new, complex and relatively untested funding mechanisms. Yet, as climate governance is still in a formative stage, research on the corruption risks associated with climate finance is nascent. Important research focuses on understanding the actors and institutions involved in climate finance decisions, the scale and nature of money flows, as well as where the money is coming from and where it is going, but it is also important to explore the risks and opportunities of local level climate financing, so that the interests can be better balanced, articulated and integrated.

**Best practices in implementing EITI**

Question submitted by EU, January 2014

The Extractive Industries Transparency Initiative standard sets the basic requirements for increasing transparency and accountability. Some countries have opted for a basic implementation, while others have extended implementation. Experience shows that the latter, including Nigeria, Ghana and Liberia, have achieved better results and managed to foster reforms in the sector. Nigeria conducts physical, financial and product audits of the information provided by reporting entities, Ghana includes payments made to sub-national governments in its report, and Liberia includes other relevant extractive sectors such as forestry and agriculture.

**Supporting EITI implementation through capacity building**

Question submitted by EU, January, 2014

The effective implementation of the Extractive Industries Transparency Initiative depends on the participation of companies, governments and civil society organisations. These stakeholders must have an understanding of the process and of the technicalities around the oil, gas and mining sectors. International donors have provided technical and financial support. Activities have focused on different stages of implementation. Capacity building workshops have ranged from advocacy training to more specific technical trainings on tax systems revenues disbursements and sharing calculations and projections, to trainings on oversight and dissemination strategy and peer learning.

**COUNTRY-SPECIFIC INFORMATION****Bosnia and Herzegovina: Overview of political corruption**

Question submitted by EU, June 2014

Political corruption remains a serious concern in Bosnia and Herzegovina. The popular protests that shook the

country in February 2014 were partly motivated by social frustration with a structurally corrupt political system, as well as with the apparent lack of political will to tackle this situation. Successive assessments have repeatedly underlined that Bosnia and Herzegovina needs to step up the fight against corruption, a key precondition for its accession to the European Union. Nevertheless, the track record of the institutions on corruption related issues remains rather poor. Most worryingly, recent reforms appear in some cases to have weakened existing anti-corruption legislation, undermining previously obtained achievements.

### **Montenegro: Overview of political corruption**

Question submitted by EU, June 2014

The abuse of public office and resources for private benefit, and corruption within political parties and electoral processes are some of the greatest challenges in the fight against political corruption in Montenegro. The country has made some progress in strengthening its legislative framework with amendments to laws on party financing, conflicts of interest and asset declaration. In 2013 the government also adopted a new Action Plan for the Fight against Corruption and Organised Crime. But implementation and enforcement are weak as the entities that supervise the implementation are neither entirely independent nor have sufficient power and resources to sanction perpetrators.

### **Ethiopia: Overview of corruption in land administration**

Question submitted by U4, June 2014

Land administration in Ethiopia is seen to be rife with petty corruption and state capture due to an absence of clear policies, transparency, public participation and resources. Donors can play an important role in combatting corruption and build well-functioning land administration by supporting domestic government efforts as well as engaging in international and multi-country initiatives. However, donors are advised by experts to be mindful of the possible impact of their interventions on issues of land grabbing and forced relocation.

### **Serbia: Overview of political corruption**

Question submitted by EU, April 2014

Serbia has strengthened the institutional framework for fighting corruption, and its anti-corruption campaign has resulted in a number of arrests of prominent political figures and former government officials. The new laws bring greater control to public procurement, conflict of interest, financing of political parties, as well as and increased capacity to the agencies responsible for investigating and prosecuting corruption. However, effective enforcement of the existing laws and oversight exercised is still weak.

### **Zambia: Overview of corruption and anti-corruption**

Question submitted by U4, April 2014

Zambia has made considerable progress in the fight against corruption in the last decade. The legal and institutional frameworks have been strengthened, red tape reduced and corruption cases have been investigated and prosecuted, including those involving high ranking officials. Despite progress made, corruption remains a serious issue, affecting the life of ordinary citizens and their access to public services. Corruption in the police emerges as an area of particular concern, with the frequency of bribery well above any other sector, followed by education and health services.

### **Former Yugoslav Republic of Macedonia: Overview of political corruption**

Question submitted by EU, April 2014

Every government that has been in power in FYR Macedonia since independence has declared the fight against corruption a priority, with mixed results. Although progress has been made in establishing the legal and institutional framework for fighting corruption, implementation of anti-corruption laws and independent handling of corruption cases by the relevant supervisory bodies and courts remains a major challenge. Political corruption through abuses of power, conflicts of interest and dubious practices of financing political parties and election campaigns is widespread, while political interference in all spheres of governance seriously hampers anti-corruption reforms.

### **Albania: Overview of political corruption**

Question submitted by EU, March 2014

Pressed by the European Commission and GRECO recommendations, the Albanian government has recently adopted a number of measures intended to reduce political corruption in the country. In 2012 the Albanian Constitution was amended to restrict the immunity of high-level public officials, politicians and judges, widen the range of officials subject to asset disclosure and set stricter sanctions for violations of conflict of interest provisions. There were legal changes to annual political party funding, while further legislation was passed in 2013 to improve transparency in party funding. Despite these reforms, corruption continues to be a barrier to Albania gaining EU membership.

### **Kosovo: Overview of political corruption**

Question submitted by EU, March 2014

Since Kosovo's independence, the fight against corruption has been among the priorities of the international community and, more recently, of the Kosovar government. Amendments to political party financing and conflict of interest and asset declaration laws were approved in 2013, but there were no developments on the electoral reforms initiated in 2011 or changes to the code of conduct for members of the government. Implementation and enforcement of the current rules remains a serious problem, reflected by the poor track record of punishment of high-level corrupt officials.

### **Ghana: Overview of corruption and anti-corruption**

Question submitted by EU, January 2014

Ghana is often referred to as a success story of democratisation in Africa. Successive administrations have declared their commitment to curbing corruption, resulting in strengthening the legal framework, simplifying bureaucratic procedures and establishing anti-corruption bodies. However, there are still important gaps in the legal framework and the country continues to face major corruption challenges. In particular, the Freedom of Information Law is still pending, patronage networks are deeply rooted, and petty corruption also seems to be on the rise.

### **Tanzania: Overview of corruption and anti-corruption**

Question submitted by U4, February 2014

Corruption both within the public and the private sector risks undermining any benefit that citizens can gain from the extraction of natural resources in Tanzania. The Tanzanian government has taken a variety of anti-corruption steps through its National Anti-Corruption Strategy and Action Plan. While there is an established media and civil society presence, the government's restrictions on freedom of press and association limit the role these stakeholders can play in the fight against corruption. Joint ventures are a common practice for companies wishing to gain entry into Tanzanian markets, and the complex corporate nature of joint ventures presents additional corruption challenges.

### **Turkey: Overview of corruption and anti-corruption**

Question submitted by EU, January 2014

Triggered by the country's accession to full EU membership candidacy status in 1999, Turkey has made progress in terms of democratisation and economic liberalisation. However, the situation of human rights and political freedoms remains an issue of great concern. And the country faces high levels of corruption. The government has taken steps to reduce corruption in the country, including the adoption of an anti-corruption action plan in 2010 and a series of commitments in June 2012. However, existing anti-corruption strategies are criticised for lacking coordination and civil society participation, and the political system continues to be criticised for lacking transparency and accountability.

### **Democratic Republic of Congo: Overview of corruption and anti-corruption**

Question submitted by EU, February 2014

Ongoing fighting over the control of the DRC's considerable mineral wealth sustains a climate of violence, insecurity and public discontent in the eastern provinces, fuelling the country's persistent governance crisis and undermining its capacity to escape the trap of mismanagement, conflict and poverty. The president has declared his commitment to fighting corruption on numerous occasions, but there is neither indication of firm political will, nor evidence of progress beyond the establishment of a strong legal framework, which is rarely enforced in practice. The establishment of transparent and accountable institutions is further hampered by the existence of a rent-seeking elite and a complex web of political patronage that permeates all sectors of society.