

# ANTI-CORRUPTION HELPDESK

PROVIDING ON-DEMAND RESEARCH TO HELP FIGHT CORRUPTION

## CORRUPTION RISKS IN VIETNAM'S ENERGY SECTOR

### QUERY

What are the key corruption risks in the energy sector in Vietnam, with a focus on international budget aid, including aid from European donors?

### PURPOSE

Identify general risks of corruption, especially in the energy sector and determine what they mean for potential donors

### CONTENT

1. Overview of Vietnam's energy sector
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### SUMMARY

A growing population, a rising appetite for goods and services, rapid urbanisation, and fast growing economic activities in industrial and service sectors are exerting increased pressure on energy supplies in Vietnam. The availability of an adequate and reliable energy supply is an essential prerequisite for maintaining the country's record of socially inclusive economic growth and achieving the government's socio-economic development goals.

Overall, the energy sector in Vietnam is affected by weak governance due to a lack of transparency, few checks and balances, bureaucracy and close ties between government and businesses. With the Vietnamese government planning to attract more investment and donor money to guarantee energy security, it has made increasing efforts to tackle corruption, which have failed to cause significant improvements.

An increasingly vibrant civil society and a growing social media realm exerts pressure on the government to continue their path of anti-corruption policies. As for international budget aid, there are concerns that large infrastructure projects and public-private partnerships will increase the risk of corruption and will be subject to corrupt practices. When it comes to investment in renewable energy, it remains to be seen how these types of investment will affect corruption.

## 1. OVERVIEW OF VIETNAM'S ENERGY SECTOR

After its reunification in 1976, Vietnam became a one-party state ruled by the Communist Party of Vietnam (CPV). From the mid-1980s, the CPV initiated the so-called Doi Moi, a socio-economic reform process allowing private entrepreneurs to enter the market, thereby transforming Vietnam from a centrally planned economy to a market economy. After the lifting of US sanctions in 1994, Vietnam managed to fully integrate into the international economic system by becoming a member of the Association of Southeast Asian Nations (ASEAN), the Asia-Pacific Economic Cooperation (APEC) and the World Trade Organization (WTO).

These developments fuelled the economy, resulting in a tripling of GDP per capita between 1990 and 2016, to US\$193.6 billion in 2016. Annual GDP growth rates have been averaging at around 6.5 per cent since 2005, with rates slightly lowering after the global economic crisis. With the growing economic wealth and large inflows of official development assistance (ODA), came human development and a significant improvement in living conditions for the population. During the 1990s, the number of people living below the poverty line was around 60 per cent, but that number had dropped to less than 20.7 per cent by 2014 (World Bank 2014). The Human Development Index confirms these developments, increasing from 0.5 in the 1990s to 0.683 in 2015 (UNDP 2016).

Accompanying the development of Vietnam into a lower middle-income country was a gradual shift from agriculture to the industrial sector throughout the 2000s, with the industrial sector growing at more than 10 per cent per annum. In 2016, industry overtook agriculture as the largest sector contributing to Vietnam's GDP.

Although private enterprises can participate in the market, most industries, particularly the heavy industry, are still controlled by state-owned enterprises (SOEs), which leads to economic inflexibility. This inflexibility, paired with a banking crisis, has led to the slowing down of economic growth after the global economic crisis. Exports have decreased, and Vietnam shows reduced foreign direct investment (FDI). Low institutional quality and bad governance also deter new investments (World Bank 2015, 2016).

## Challenges in Vietnam's energy sector

### *Fast growth and increased energy demand*

A growing economy, improvements in human development and industrialisation led to increased energy consumption, with energy consumption growth levels twice as high as Vietnam's GDP growth levels, with around 12 per cent per annum increases from 2006 to 2015. The government of Vietnam assumes that energy demand will likely increase further in the future and expects the total end-use energy demand to rise from under 44 Million tonnes of oil equivalent (Mtoe) in 2010 to about 74 Mtoe in 2020, and 126 Mtoe by 2030.

According to a 2013 World Bank report, almost all Vietnamese households have access to electricity and, with increased government efforts, remaining rural areas are supposed to be powered up by 2020 (Minh Do and Sharma 2011).

Overall, Vietnam has been a net exporter of energy, with exports growing by an average of about 9 per cent annually. Net energy exports increased from 0.2 Mtoe in 1990 to a peak of 22.0 Mtoe in 2006 and then started to decrease because of rising local demand.

Until the 1990s, Vietnam's energy demand could be met with energy from renewable sources, such as traditional biomass and hydropower, fossil fuels and coal have recently become the main sources of energy consumption. Hydropower continues to rank as the second energy supplier, but its market share is likely to decrease significantly until 2030 (Asian Development Bank 2015). While solar, wind and bioenergy only constituted 1 per cent of total production in 2014, it is hoped that these alternative energy sources will manifest themselves in the years to come, and with the help of private investments in the energy sector, will reach over 10 per cent of market share until 2030 (Asian Development Bank 2015).

### *Striving for energy security*

To meet the increased demand for energy and sustain socio-economic development, Vietnam needs to guarantee the security of its energy supply. However, the country faces several challenges in that respect:

- Energy import dependency: Vietnam started importing electricity from neighbouring Laos at the

beginning of 2016 (Vietnam Net 2016a) and coal from Russia, China and Australia at the end of 2016 (Vietnam Net 2016b). It is expected that Vietnam will have to import almost 50 per cent of its total commercial primary energy demands within the next 10 years (Minh Do and Sharma 2011).

- Continued low energy efficiency due to poor infrastructure, provision, operation, and management practices: Vietnam's energy efficiency on both the supply and the demand side is low, with old technologies and poor energy management failing to convert and process energy efficiently (Asian Development Band 2015).
- Shortage of funds for developing energy infrastructure: to improve energy efficiency and infrastructure, Vietnam would need large-scale investments in the energy sector. With regards to investments in (renewable) energies, investors face the following challenges: a lack of reliable legal framework, delayed negotiations in the purchase of electricity from Electricity Vietnam (EVN) and a lack of electricity supply tariffs necessary for renewable energy projects (Minh Do and Sharma 2011). Despite these challenges and high levels of corruption, Vietnam has been able to attract fairly large sums in FDIs.

### *Environmental damages from energy activities*

Due to the increased energy consumption, protecting the natural environment from possible damages caused by energy activities constitutes another major challenge for Vietnam in the future. The increasing demand for energy will largely be met by coal, which creates greenhouse gas (GHG) emissions. While in 2000, GHG emissions from the energy sector made up only one-third of Vietnam's total GHG emissions, a World Bank report from 2011 estimates that GHG emissions from the energy sector will account for three-quarters of total Vietnamese emissions by 2030 (World Bank 2011).

Until 2010, Vietnam's energy related CO<sub>2</sub> emissions rose to eight times the 1971 levels, resulting in per capita emissions of 1.5t in 2010 (Zimmer et al. 2011). Overall, per capita CO<sub>2</sub> emissions in Vietnam's energy sector remain low compared to the global average and the average of other newly industrialising countries, such as China, Brazil, India and South Africa. However, Vietnam's carbon intensity (CO<sub>2</sub> per unit of primary energy) has increased significantly, and its energy intensity (primary energy per unit of GDP) lies slightly

above the global average (Zimmer et al. 2015). The country therefore needs investment in renewable energies, if it is to meet internationally agreed standards.

With 2,000 to 2,500 hours of sunshine annually, Vietnam has a high potential for making use of solar energy. Southern parts of the country are particularly suitable, where solar intensity levels can reach 5 kWh per square meter per day. In its recently revised Power Development Plan Vietnam, the government proposes to generate 12 GW of solar energy per year by 2030, which equals 3.3 per cent of the annual total energy production.

### **Current energy and climate policies in Vietnam**

To meet these challenges and achieve continuous GDP growth of about 7 per cent, the Vietnamese government updated its Seventh Power Development Plan for 2011 to 2030 in March 2016. The plan identifies the liberalisation of the market, energy efficiency, the development of the power transmission grid and renewable energies as its main objectives. To achieve these objectives, the country will rely heavily on funding from international donors (GIZ 2016).

#### *Liberalisation of the energy market*

The electricity sector is still dominated by the SOE Electricity Vietnam, which generates, transmits and distributes most of the country's electricity. To develop the electricity market and promote its competitiveness, the government of Vietnam initiated a three-step process. First, from 2009 to 2014, the goal was to establish a competitive power generation market. The Vietnamese government then plans to privatise the three main electricity companies – EVN, PetroVietnam and Vinacomin – by inviting equity investments in these firms until 2018. Regulations on a competitive wholesale electricity market are arranged to be finalised in June 2017, which will lead to the replacement of EVN as the sole buyer in the generation market. Second, competitiveness is supposed to be expanded to the market in bulk power until 2022. Third, the Ministry of Industry and Trade (MOIT), in cooperation with EVN, is working on the creation of a competitive retail power market, which is supposed to be in place in 2023.

Electricity prices are still regulated by the government and kept under the cost of production, which is equivalent to an indirect government subsidies of electricity prices with the total amount of consumption subsidies in the electricity sector (Zimmer et al. 2015). In addition, the regulated electricity tariff varies in structure, with varying prices for consumer type and voltage level. Low prices for residential consumers are cross-subsidised by higher prices for commercial, industrial and international customers. This structure sends wrong signals to customers, creating a mismatch of supply and demand. When prices do not reflect the actual production costs and the supply-demand relationship are distorted by tariffs, effectiveness in the energy sector is severely impeded (Minh Do and Sharma 2011).

### *Energy efficiency policies*

In 2006, the government introduced the National Energy Efficiency Program, promoting the economical and efficient use of energy across the entire society with the goal of saving 3-8 per cent of the national energy consumption between 2006 and 2015. The programme sets out to raise citizens' awareness of energy consumption, it puts in place legal regulations for the industrial use of energy, introduces energy-saving labels on appliances, and supports investment in improved production chains in enterprises and capacity-building to facilitate a more efficient use of energy. This ambitious plan is, however, built on rather weak analytical foundations, lacking a substantial scoping of areas for the improvement of energy efficiency, which prevents the development of pragmatic policies (Minh Do and Sharma 2011).

### *Power grid*

The government aims to construct a power transmission grid with flexible operation and high automation capabilities from electricity transmission to distribution. In addition, the plan foresees an acceleration of the electrification programme in rural and mountainous areas in order to reach the goal of providing electricity to all households by 2020 (GIZ 2016).

### *Renewable energies*

Currently, Vietnam has not put in place any feed-in tariffs (FIT), leaving solar energy production at a minimum. However, MOIT has suggested incentivising

future investments in solar energy by introducing FITs of US\$0.112 per kilowatt-hour (kWh) to US\$0.167/kWh, depending on the difference between electricity consumed and generated. MOIT's proposal includes additional incentives for solar energy production and market-based instruments, such as land and investment incentives, import tax exemptions and corporate income tax reductions, to attract both domestic and international private investments in solar energy production (Zimmer et al. 2015).

## 2. OVERVIEW OF CORRUPTION RISKS IN VIETNAM

Mungiu-Pippidi et al. (2011) suggest that the level of corruption is determined by the governance equilibrium between the resources that feed corruption and the constraints that impede it. Fighting corruption thus means the influencing of the equilibrium, governed by a principal. Mungiu-Pippidi et al. (2011) argue that the fight against corruption must be driven from within, by those who have something to gain from decreasing levels of corruption. When anti-corruption efforts are built on the compliance of the corrupt elite, they are unlikely to work and might, in fact, worsen corruption because anti-corruption policies can be used against oppositional groups. Change from within can be achieved when there is freedom of information, a free press and a strong civil society. A strong civil society can, for example, monitor the implementation of corruption laws or the use of public money. To understand corruption in the energy sector in Vietnam, it is important to consider the broader governance context and the resources and constraints of corruption in general.

### **Extent of corruption**

Corruption in Vietnam is "endemic, systemic, and deeply political" (Gregory 2016, 239). In 2016, Vietnam scored 33/100 on the corruption perception index (CPI), ranking 113/176 in the global index. While this score constitutes an improvement from the 31/100 score Vietnam held from 2012 to 2015, corruption remains at a high level.

More than half of the population think that corruption has in fact increased (Transparency International 2017), a perception which is supported by other studies that find that the level of corruption is not merely stagnating but deteriorating: on the Asia-based Political

and Economic Risk Consultancy's (PERC) scale of perceived corruption, Vietnam scored 7.91 (10 being the most corrupt) in 2006 and 8.24 in 2015, holding the last place among 15 other Asian and Pacific states in that year (Political & Economic Risk Consultancy, Ltd 2015). In the World Bank's Country Policy and Institutional Assessment (CPIA) transparency, accountability and corruption in the public sector rating (where 1=low to 6=high), Vietnam scored 3.0 in 2015.

Sixty-five per cent of the population reported that they had to pay a bribe when accessing public services, with richer people being more likely to pay bribes than poorer people (Transparency International 2016). Similarly, between 1996 and 2014, most firms (51 to 70 per cent) reported having to pay bribes to access government services, and the number of firms claiming that informal payments were normal practice were increasing (Vietnam Province Competitiveness Index 2006–2014).

## Resources for corruption

### *Lack of checks and balances in the political system*

The main resources fuelling corruption in Vietnam come from its political system combined with its economic liberalisation policies. Set up as a Marxist-Leninist one-party state, the Vietnamese constitution states that no institution of the state can be independent of the CPV. While, in theory, the party and the state are distinct entities, it is almost impossible for anyone who is not a member of the party to hold high-level positions in the government. Policies are largely determined by the party's central committee and the politburo, with the legislative body, the National Assembly (NA), convening only twice a year. The courts are accountable to the NA, which almost exclusively comprises of CPV members. Vietnam is a de facto autocracy because without political competition and effective checks and balances, the party is not accountable to anyone but itself (Gregory 2016).

### *Economic model*

The combination of this political system with the economic reforms policy of Doi Moi led to what has often been referred to as "Market Leninism" or "authoritarian capitalism" (Gregory 2016). Similar to the situation in China, Vietnam's rapid economic growth

has been accompanied by both grand and petty corruption. Doi Moi with its equitisation policy of transforming SOEs into joint-stock companies by selling enterprise shares to employees, domestic private and public investors, and foreign investors, has created paradoxical outcomes in Vietnam. The sales of these shares has on the one hand fuelled economic growth through the subsequent privatisation of SOEs, but has on the other also fed into the emergence of a rent-seeking state, allowing state officials to capitalise on their privileges (Gregory 2016).

Wedeman (2012) refers to this phenomenon as the "double paradox". High rates of economic growth are paired with "degenerative corruption" among party and government officials, usually found in states suffering from economic decline. This is different from "predatory corruption" where state officials plunder the state when the economy is eroding. This type of "transactive corruption" gives government officials room to trade state assets to private and semi-private sectors, turning public authority into a "tradeable commodity" (Gregory 2016, 229). Vietnam's elite neglects the realisation of the greater public good to maximise its own interests and rents, showing little political will to eradicate corruption (Gregory 2016).

### *Red tape*

Red tape refers to the excessive collection of forms and procedures necessary to receive bureaucratic approval for something. These bureaucratic hurdles prevent governments, corporations or organisations from taking action and making decisions. In Vietnam, competition among agencies for control over business and investments has created overlapping jurisdictions and bureaucratic procedures (Gregory 2016). For example, getting electricity requires five procedures, takes 46.0 days and costs 1,261.3 per cent of income per capita compared to an average of 4.5 procedures and 714.6 per cent of income in the region. Whereas it takes on average 7 procedures to start a business in the East Asia and Pacific region, in Vietnam nine procedures and 24 days are needed. (World Bank 2017).

These procedures risk delaying projects, increase costs, make failure more likely or leave processes to the whim of individual administrators. Overall, the prevalence of red tape creates ample opportunity for corruption. This tendency is enhanced by the fact that, while the government is strongly centralised, the

administration is dispersed over 58 provinces, five municipalities and countless districts and villages. In addition to further procedures, this creates opportunities for corruption at the local level.

#### *Lack of transparency in public procurement*

The same can be said about public procurement processes, which are characterised by high levels of corruption (TI 2012, GAN 2015). For example, in the project selection phase, the decision to create a new project or simply maintain the currently existing infrastructure can be abused to allow corrupt officials and businesses to gain.

New infrastructure bids and contracts require much higher levels of resources, therefore increasing the opportunity for corrupt officials to siphon resources from such projects. By contrast, maintenance projects, where the sums are much smaller and there is little need to buy resources in bulk, are less attractive to potential rent-seeking officials as they offer less opportunity for corrupt payments to be hidden within bloated budget lines (Transparency International 2008).

In addition, projects can be deliberately identified to serve the interests of particular bidders and officials with conflicted interests. During the bidding phase, corrupt officials can abuse procurement processes for projects by demanding and offering bribes and kick-backs to accept inflated bills for services and goods. Such payments are usually made via subcontractors and other third party agents. Officials can also help to rig bids to favour a company in which the official has a close interest (Morgner and Chêne 2014).

#### *Favouritism in privatisation processes*

Although the country is in the process of privatising SOEs, they still play a prominent role in Vietnam's economy. In 2014, SOEs accounted for roughly one-third of the country's GDP (The Economist 2014). They are also particularly opaque in their governance and in their financial matters. In fact, a 2014 World Bank study found that their "standard of public disclosure [of information] is below levels in comparable jurisdictions". (World Bank 2014, 9) Furthermore, leaders of the SOEs have strong ties to the Communist Party (Zimmer et al. 2015). The lack of transparency and the close connections between the government and the SOEs invite collusion and corruption, to which

SOEs internationally are particularly prone (OECD 2015). Furthermore, resulting anti-competitive practices hamper the development of the private sector and impede the effective functioning of the market, which creates little incentive for enhanced transparency and efficiency.

#### *Lack of competition in the energy sector*

As the privatisation process of the three main SOEs in the energy sector (EVN, PetroVietnam and Vinacomin) is not yet completed, the market remains dominated by the government. Given the government's reputation for corruption and the close ties between SOEs and the government, corruption remains a particular issue when Vietnam's energy SOEs are involved. The on-going privatisation process provides additional cause for concern. Privatisation processes in the past, both internationally and in Vietnam specifically, have not necessarily led to more transparency and competition, but have often benefited corrupt government officials who continue harmful practices once they are private shareholders in the newly privatised enterprises. Given the nature of the electricity sector as a network industry, market entry by new enterprises is particularly difficult as colluding government officials and private sector stakeholders will not facilitate the process. It therefore remains to be seen whether the privatisation process will reduce corruption in the energy sector.

### **Constraints on corruption**

Publicly stating that corruption constitutes one of the major obstacles to economic development and foreign investment, the VCP has increased its endeavours to combat corruption in an effort to get good publicity (Zimmer et al. 2015). The government has tasked several agencies with the investigation and reporting of corruption cases, it has improved the legal anti-corruption framework and prosecuted prominent figures charged with corruption, but patronage continues to be a major challenge (BTI 2016).

#### *Anti-corruption legal framework*

##### *International anti-corruption conventions*

Vietnam signed the UN Convention against Corruption (UNCAC) in 2003 and ratified it in 2009 with certain reservations. The country is a member of the ADB/OECD Anti-Corruption Initiative for Asia and the Pacific. In addition to these global and regional treaties, Vietnam entered into several bilateral agreements,

establishing information sharing, the exchange of best practices and the promotion of effectiveness of anti-corruption programmes. These agreements include: the Development Partnership Agreement with the United Kingdom (2006), the Joint Committee with Japan for Preventing ODA Related Corruption (2008), the Cooperation Agreement on Anti-Corruption Measures with Malaysia (2010) and the Partnership and Cooperation Agreement with EU (2012). In 2014, Vietnam – in cooperation with the World Bank and other donors – initiated the Vietnam Anti-Corruption Initiative Programme to promote grassroots transparency, accountability and integrity (Gregory 2016). However, Vietnam has not yet signed the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions.

#### *Anti-bribery legislation*

Throughout 2016, Vietnam has taken positive steps by improving its legal frameworks and anti-corruption policies. A law on access to information was passed, the law on anti-corruption was revised after a ten-year trial period, and the UNCAC's regulations on corruption in non-state sectors were incorporated in the revised penal code (Conventus Law 2016).

Anti-corruption and anti-bribery are governed by the Anti-Corruption Law, dated 29 November 2005, and the penal code, introduced in 1999 and revised in 2015. The former is considered a "code of conduct" for public and political officials holding positions of responsibility and power in the government and the administration. The Anti-Corruption Law constitutes the basis for the application of the penal code, which applies both to the persons holding public positions of power and responsibility and to those paying the bribes or acting as intermediaries for bribery. It neither specifically addresses the act of bribery nor does it prescribe sanctions for non-compliance. In case of non-compliance, the Anti-Corruption Law refers to the penal code, the Law on Cadres and State Officials and the Law on Public Employees for sanctions, depending on the seriousness of the violation (Conventus Law 2016).

The revised penal code broadens its application to cases of private bribery, bribery to foreign public officials and officials of public international organisations. Due to this recent inclusion of private bribery into the corruption legislation, persons holding a position in non-state-owned companies and organisations who receive bribes may be subject to criminal liability, up to and including the death penalty.

Those who give bribes to persons holding positions in non-state-owned companies and organisations may be subject to criminal liability, including fines and/or prison terms ranging from six months to 20 years (Conventus Law 2016).

While the Anti-Corruption Law demands that government officials declare their assets and requires the strict punishment of corrupt practices, the law has been insufficiently enforced. Since 2013, government and public officials are required to submit financial disclosure forms, declaring any income that exceeds US\$2,400, including cash, gifts, vehicles or other savings, both inside and outside the country. However, in light of the bribery record in the public sector and the overall high levels of corruption in Vietnam, the outcomes of these financial disclosures do not seem to match. Only five out of one million public officials required to file their declarations in 2013 were accused of making false declarations and only one was arrested, in 2014.

The financial disclosure law has remained toothless because the financial disclosure forms are not made publicly available and only need to be approved by the heads of the respective departments in an annual review process, and they might not be qualified for this exercise. The verification process is only carried out in cases of the promotion of the public official or a complaint against him (The Diplomat 2016).

In April 2016, the government passed a new Access to Information Law, which will come into effect in July 2018, under which citizens may access all unclassified information created by state agencies (Vietnam Law Magazine 2016). While the revisions to the anti-corruption legal framework and the introduction of the Access to Information Law are positive developments, it remains to be seen how strictly the new laws will be enforced by Vietnam's anti-corruption enforcement agencies.

#### *Investment laws*

In 2014, Vietnam passed a new investment law to improve the investment climate in the country. While the old laws restricted the operation of foreign enterprises to a specific list of sectors determined by law, the new investment law now applies a negative list approach, allowing foreign businesses to invest in all but six prohibited sectors. Having come into effect in 2015, the new investment law stipulates that businesses must apply for investment licences when

setting up a new company and must update their licence when restructuring, changing or adding to the business. Foreign investors must undergo a different licensing process that, overall, fails to speed up and the processes for investors to complete the necessary investment licence paperwork or make it more transparent (US State Department 2016).

#### *Public procurement*

Vietnam's Law No. 43/2013/QH13 on Tendering (Law 43) came into force on 1 July 2014, repealing Law No. 61/2005/QH11 on Tendering (Law 61). The overall procurement process receives average scores in the analysis of the World Bank's Benchmarking Public Procurement project. However, as mentioned above, legal theory and implementation in practice diverge significantly, and anecdotal evidence suggests that the procurement process is riddled with fraud and corruption.

#### *Budget oversight*

According to a 2015 assessment of the International Budget Oversight, the government of Vietnam provides the public with scant budget information (score 18/100) and allows for limited opportunities to engage in the budget process (score 42/100). As of 31 December 2016, the government of Vietnam has only published four of eight key budget documents online in a timeframe consistent with international standards, indicating a deterioration of the level of government transparency compared to 2014.

While transparency and public participation in the budget process are low, both the oversight by legislature (score 61/100) and by the supreme audit institution (score 75/100) are categorised as adequate.

The legislature provides adequate oversight during the planning stage of the budget cycle and limited oversight during the implementation stage of the budget cycle. While the legislature maintains a Committee for Finance and Budget that conducts budget analysis, the legislature does not have a specialised budget research office.

The supreme audit institution provides adequate budget oversight. Under the law, it has significant discretion to undertake audits as it sees fit. Moreover, the head of the supreme audit institution cannot be removed without legislative or judicial approval, which bolsters its independence. Finally, the supreme audit

institution is provided with sufficient resources to fulfil its mandate, but has a weak quality assurance system in place.

#### *Anti-corruption enforcement agencies within the government*

While the government of Vietnam does not have one singular body addressing corruption, it engages various agencies in its efforts to tackle corruption. The Steering Committees for Corruption Prevention and Combat, at the central and provincial levels, were created in 2005 and 2008 respectively. The committees are responsible for directing, coordinating, inspecting and expediting anti-corruption activities at nationwide and local levels.

The Office of the Central Steering Committee for Anti-Corruption (OSCAC), led by the Communist Party Secretary General, is responsible for directing and coordinating anti-corruption activities in Vietnam. The office was established in 2007 as a support to the committees and, by law, is a part of the Communist Party. While it does not have a judicial or executive function, given the current political structures in Vietnam, the office possesses significant weight in the fight against corruption.

Created in 1956, the Government Inspectorate is a government ministerial agency responsible for corruption inspections, complaints and settlements. Each ministry has its own inspection unit that reports to both the Government Inspectorate and the top level of the ministry. Due to these reporting mechanisms, the inspection units lack actual execution power when it comes to the implementation of their findings, and their output is merely treated as suggestions.

The State Audit of Vietnam reports directly to the National Assembly and is responsible for the verification of the state budget and the guaranteeing of its accuracy. Throughout the last decade, the State Audit has significantly improved the quality of its audits with the help of capacity strengthening efforts by international donors (World Bank 2010). In addition, holding its first ever vote of confidence, it seems like the National Assembly is starting to engage more in political processes, which could support a more transparent audit process (BTI 2016).

Since there is no de facto separation of power in Vietnam, the judiciary responsible for prosecuting



corruption charges adheres to the VCP, even though the party and the judiciary are formally institutionally distinct entities. All levels of the judiciary lack experience and suffer from corruption and outside influence. Judges are chosen through political processes, leading to opacity, a weak legal system and a lack of judicial independence (Global Competitiveness Index 2016). Citizens distrust the legal system and believe that the judiciary is corrupt (BTI 2016). Despite the formal existence of these agencies, their actual enforcement of laws remains weak. In a 2013 survey, Global Integrity found that while the legal anti-corruption framework in Vietnam was “strong”, its actual enforcement was very weak.

### *Civil society and media watchdogs*

Civil liberties and political rights are highly restricted in Vietnam. Freedom House ranks Vietnam as “not free” in its Freedom in the World report (Freedom House 2017) and gives the country 7 out of 7 (7 being the worst) on its political rights indicators and 5 out of 7 on its civil liberties indicator. The press is also assessed as “not free” by Freedom House. Unsurprisingly, the role of civil society and the media in uncovering corruption and holding public officials to account is highly limited.

However, in recent years, Vietnam has seen some improvements with regards to the opening up of public space. Since 2006, civil society has become increasingly active, voicing its political opinion and organising itself more efficiently. Even though a new constitution re-emphasising the central role of the PVC was eventually passed in 2013, civil society and pro-democracy actively opposed the drafting of the new constitution by organising public demonstrations and petitions. Public protesters also rallied against social injustice and inequality, increasing the pressure on the government to provide better social security.

The traditionally state-controlled press has slowly been replaced by social media and the blogosphere, offering platforms for political discussions on sensitive topics such as human rights, corruption and democratisation, and even stimulating academic discussion. In 2013, the government introduced Decree 71 aimed at controlling internet forums by forbidding the distribution of and dialogue about news in online forums. The decree made citizen journalism and online political discussion illegal to prevent further democratisation processes. In the years to follow, bloggers experienced prosecution

and arrest on the charges of “abusing democratic freedoms to infringe upon the interests of the state” (BTI 2016).

### 3. CORRUPTION RISKS FOR BUDGET SUPPORT IN THE ENERGY SECTOR

The legal framework governing corruption in Vietnam, therefore, has leaves some gaps and its enforcement of existing laws remains weak. This is especially problematic for the energy sector, since it “is known to be both a target and a source of corruption, owing to the characteristics of energy resources, the possibility of generating rents and the key oversight role played by the government” (Gennaioli and Tavoni 2016). Direct budget support in particular runs the risk of both fuelling corruption and falling victim to the corrupt structure.

#### Large infrastructure projects

Large infrastructure projects can be particularly prone to corruption, as the amounts dealt with are particularly large, procedures particularly long and cumbersome and projects complex and, therefore, opaque (Butterworth and de la Harpe 2009).

There is precedent in Vietnam regarding corruption in large aid-funded projects. Between 2005 and 2007, it became public that members of Project Management Unit 18, responsible for the distribution of development aid for transportation projects, had misappropriated large amounts of development aid to spend on gambling, prostitution and bribes (Gregory 2016).

#### Corruption challenges associated with renewable energy projects

The Vietnamese government has pledged to make increasing use of renewable energy to sustainably meet its growing energy demand. As such projects are new to the country, there is little experience regarding corruption in such projects. However, internationally, corruption has been identified as a key risk to renewable energy projects in developing countries (Komendantova et al. 2009). Gennaioli and Tavoni (2016) find that in the presence of poor institutions, publicly subsidised renewable energy can trigger

criminal action and stimulate the formation of criminal associations between entrepreneurs and politicians able to influence the licensing process. Well-designed market policies can thus have negative impacts.

### Public-private partnerships (PPPs)

PPPs are medium- to long-term agreements between public sector actors and private sector actors, whereby a degree of the public sector's service obligations are provided by the private sector (Public-Private Partnership in Infrastructure Resource Center 2015). They can circumvent issues such as insufficient government investment and inefficient public sector service delivery by leveraging private sector resources and expertise. PPPs are common in the funding of economic infrastructure, including in the power, transport and telecommunications sectors of the beneficiary countries (Iossa and Martimort 2014). PPPs are often part of a privatisation process, supposedly reducing corruption by reallocating assets from the state to private companies, thereby shifting decision-making mechanisms to the market, away from official state action.

Although the use of PPPs in Vietnam has thus far been limited, they are generally regarded as a means of meeting the country's rising energy demand. However, while PPPs carry the potential for greater transparency and efficiency, there are a number of corruption and rent-seeking risks associated with PPPs, both during the procurement phase and implementation if there is insufficient transparency and governance is weak (World Bank 2013).

Arguably, the capacity to carry out PPPs in a transparent manner and to properly monitor all partners involved does not exist in Vietnam. Under such circumstances, PPPs might entail collusion between parties, officials or staff soliciting and accepting bribes to be considered for a particular bid, the misuse of confidential or privileged information and the inappropriate exchange of gifts as bribes or facilitation payments (Klitgaard 2012).

Overall, the energy sector in Vietnam is affected by weak governance due to a lack of transparency, few checks and balances, red tape and close ties between government and businesses. With the Vietnamese government planning to attract more investment and donor money to guarantee energy security, it has made increasing efforts to tackle corruption, which have

failed to cause significant improvements. An increasingly vibrant civil society and a growing social media realm exerts pressure on the government to continue on the path of anti-corruption policies. As for international budget aid, there are concerns that large infrastructure projects and PPPs will both increase the risk of corruption and will be subject to corrupt practices. When it comes to investment into renewable energy, it remains to be seen how these types of investment will affect corruption.

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