

ANTI-CORRUPTION HELPDESK

PROVIDING ON-DEMAND RESEARCH TO HELP FIGHT CORRUPTION

OVERVIEW OF CORRUPTION AND ANTI-CORRUPTION IN BENIN

QUERY

Can you provide an overview of corruption in Benin and anti-corruption efforts?

PURPOSE

This will inform our programmes and activities in the country.

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SUMMARY

Since President Thomas Boni Yayi was elected in 2006 on an anti-corruption platform, Benin has embarked on a number of legal and institutional reforms. A new anti-corruption law was passed in 2011 and a number of anti-corruption institutions have been established such as a National Public Procurement Regulatory Authority (Autorité Nationale de Régulation des Marchés Publics), a national anti-corruption authority (Autorité nationale de la lutte contre la corruption), a financial intelligence unit to fight money laundering (Cellule nationale de traitement des informations financières) and an office of the ombudsman (Médiateur de la République). Political and civil rights are also generally respected. Benin is often referred to as one of the most stable democracies in the region.

In spite of progress made, the government continues to face major governance and corruption challenges. Corruption permeates all levels of government operations, from daily interactions between citizens and low ranking civil servants to high level corruption schemes involving senior officials. Recent corruption scandals involving the highest members of government could potentially undermine the long-term credibility of the government's anti-corruption efforts and citizens' perceptions of its political will to effectively fight corruption.

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1 OVERVIEW OF CORRUPTION IN BENIN

Background

After gaining independence in 1960, Benin experienced a period of political instability and a series of coups until Mathieu Kerekou took power in 1972 and imposed a Marxist-Leninist government. A national conference was held in 1990 in response to economic hardship and rising internal unrest during which political and civil society leaders adopted a multi-party system. The first free and fair election were held in 1991 and the country entered a phase of peaceful democratic transition. Benin has since made important progress in terms of market liberalisation and political transformation and is largely considered one of the most stable democracies in the region (Freedom House 2013; Bertelsmann Foundation 2014).

As the third democratically elected president in 2006, Thomas Boni Yayi campaigned on an anti-corruption platform and is generally considered to respect democratic principles. He is credited by the international community for taking a strong stance against corruption (US Department of State 2013a). However, a number of recent corruption scandals involving ministers and high level senior officials have casted a shadow on the impact of anti-corruption reforms undertaken in recent years (Jeune Afrique 2013). At the end of 2013, the Millennium Challenge Corporation did not re-select Benin as eligible to access the Millennium Challenge Account for a second compact because of lack of progress in the fight against corruption (Rose 2013).

Critics also denounce the president's lack of consultation and authoritarian leadership style (Bertelsmann Foundation 2014) and allegedly increasingly controlling criticism through libel laws and restrictions on freedom of assembly (Jeune Afrique 2014).

Subsistence agriculture remains a key pillar of Benin's economy and the country is also heavily dependent on cotton production and regional trade,

fuelled in particular by activities in the port of Cotonou. The country's economy is also dominated by an important informal sector which may employ as much as 80 per cent of the workforce or more and accounts for more than 50 per cent of the country's GDP (Business Anti-Corruption Portal 2011). Driven by trade and agriculture, the country has experienced a GDP of about five per cent in recent years including 2013 (Ndoye and Fall 2014).

Extent and forms of corruption

Extent of corruption

In spite of anti-corruption efforts and commitment against corruption, the government continues to face major corruption challenges. This is reflected by global governance indicators and the perception of widespread corruption among citizens.

In 2013, the country ranked 94th of the 177 countries assessed by [Transparency International's Corruption Perceptions Index](#) (CPI), scoring 36 on a scale of 0 (highly corrupt) to 100 (highly clean). According to the [World Bank's 2012 Worldwide Governance Indicators](#), the situation has deteriorated in the last decade in terms of control of corruption, from 28.29 in 2002 (on a 0 to 100 scale) to 19.14 in 2012. Similarly, Benin has not progressed in terms of freedom from corruption on the 2014 [Heritage Foundation's Index of Economic Freedom](#). The country has an economic freedom score of 57.1, making it the 113rd most free economy in the index, scoring slightly above regional average (54.6). The country performed particularly poorly in terms of freedom from corruption, with a deteriorating score of 29.5 on a 0 to 100 scale.

Mismanagement and widespread corruption constitute major obstacles to doing business in the country. According to companies surveyed within the framework of the World Economic Forum's [2013-2014 Global Competitiveness Report](#), corruption is the most problematic factor for doing business in the country, before access to financing and inefficient government bureaucracy. Similarly, findings from a [2009 World Bank enterprise survey](#) show that close to one third of the firms surveyed

identified corruption as a major constraint to business operations.

Nature of corruption challenges

Corruption permeates all levels of government operations involving a wide range of state officials, from low ranking civil servants to the highest members of government.

Petty and bureaucratic corruption

Corruption is perceived to be widespread in daily interactions between citizens and public officials. In education, grades and degrees can be purchased, while bribes to health workers are frequently used to obtain treatment in public health facilities. Bribe extortion by policemen at road stops is also common (Economic Policy Research Institute 2011).

Reflecting this reality, citizens interviewed within the framework of the [2013 Afrobarometer](#) perceive corruption to be widespread across all types of government officials. The vast majority, 87 per cent of the respondents, believe that some (45 per cent), most (30 per cent) or all (12 per cent) government officials are involved in corruption. More specifically, 53 per cent of respondents perceive most or all tax officials to be corrupt; and 45 per cent believe that most or all judges, magistrates and police officials are involved in corruption. However, when it comes to actual experience of bribery, only a minority of respondents report having paid a bribe to get a permit, a water connection or access to health and education services in the year preceding the survey.

Private companies are also routinely confronted with petty and bureaucratic forms of corruption. Benin consistently performed well below the regional average in the [2009 World Bank Enterprise Survey](#). For example, 34.5 per cent (against a regional average of 22.3 per cent) of the firms surveyed reported having experienced at least one bribery request. Seventy four per cent reported being expected to make a gift to get an operating license (against 19.6 per cent in the region); 52 per cent (against 47 per cent) for getting things done; and 45 per cent (against 24.8 per cent) to get a construction permit. Fifty five per cent were

expected to make a gift of an estimated value of five per cent of the contract value to secure a government contract. Benin companies interviewed in 2008 also confirmed that areas particular prone to corruption included informal payments for obtaining tax reductions (80 per cent), a favorable justice decision (70 per cent), public procurement (70 per cent), access to public utilities (67.5 per cent) and import licenses (56.1 per cent) (Government of Benin;UNDP 2008).

Grand forms of corruption and impunity

There have been a number of recent allegations of grand corruption cases involving high level officials. This reflects badly on the government's commitment to fighting corruption.

For example, there were allegations of fraud and corruption in the organisation of the Summit of the Community of Sahel-Saharan States (Cen-Sad) in 2009. In 2010, a major financial scandal referred to as the "ICC - Services et consorts affair" was revealed involving members of the government in an illegal investment of funds scheme. The construction of a new National Assembly building that started in 2009 in Porto Novo also came under scrutiny after construction stopped with less of half the work completed but two thirds of the contracted costs authorised by the ministry and paid to the construction firm. The former minister of urbanisation was interrogated for embezzlement in this connection (Jeune Afrique 2013).

While these scandals have led to the dismissal of several senior ministers, the political elite generally enjoys impunity from punishment. While senior officials have been prosecuted in a few cases, prosecutions have rarely led to effective sanctions (Bertelsmann Foundation 2014).

Political and electoral corruption

Elections are typically considered free and fair in Benin including the 2011 poll in which president Boni Yayi was re-elected. In a poll by Afrobarometer, 74 per cent of respondents said the election was free and fair, confirming reports from international observers..

However, in the aftermath of the elections, there have been tensions with the opposition over alleged irregularities in the presidential poll. The Autonomous National Electoral Commission (CENA), which was in charge of overseeing the elections, while generally considered independent, was not sufficiently organised as a non-permanent body. In addition, the introduction of a computerised voters' roll proved to be controversial, providing grounds for the opposition to delay the recognition of president Yayi's re-election in 2011. There have also been credible reports of irregularities with voters' registration, leading political parties and civil society to demand a revision of the voters' register before the next elections (Bertelsmann Foundation 2014). However, these reports could be partly due to capacity issues and the occasional technical blunder.

Findings from the 2013 Afrobarometer suggest that vote buying is prevalent in the country. It found that 37 per cent of the respondents reported having been offered a bribe or a gift at least once by one or more political parties in exchange for a vote. However, experts consulted within the electoral framework, consider that reforms over the past decade (e.g., unique voting bulletin, better structured pluri-party local electoral committees) have greatly limited the impact and opportunities for such practices. While attempts at seducing the voters through gift giving remain very present, direct buying is not possible in the same form as before.

According to an older study from the World Bank and the African Development Bank, 81 per cent of households and 87 per cent of companies consider political parties to be the most corrupt institution in the country (World Bank; African Development Bank 2007).

The country also has a long tradition of political patronage. The political elite is composed of a tight group of friends and families that stick together, fuelling a deeply entrenched system of favouritism. The diversion of funds from their intended purpose is widespread in Benin and state resources are distributed on the basis of patronage networks, making corruption a fundamental characteristic of the political system (Bertelsmann Foundation 2014).

Public financial management

The reform of public finance management has been identified as one of the key priorities of Benin's Growth for Poverty Reduction strategy, and a number of reforms have been undertaken in recent years to reform the country's public finance management (Africa Development Fund 2010).

In particular, the last published 2007 Public Expenditure and Financial Accountability Assessment noted progress made in areas such as the introduction of programme budgeting as a model of performance budgeting, the computerisation of public finance management as well as improvements in public procurement and the audit and control capacity. Results were encouraging, but the report emphasised the need to improve further the management of public revenues, the management of the state's human resources and payroll as well as the monitoring of budget execution. The production and publication of budget information was also mentioned as an area of particular concern (Achour et al. 2007). Little progress has been made in terms of budget transparency since, as reflected by Benin's poor performance in the [2012 Open Budget Survey](#). The country scores one out of 100, indicating that it still provides scant budget information to the public.

Since this report, a number of reforms have taken place. The IMF country report 2011 notes that Benin is well advanced on some of the reforms to comply with the West Africa Economic and Monetary Union (WAEMU) directives compared to peers in the region. Benin also intends to introduce a single treasury account in order to comply with the WAEMU directive (World Bank 2013). However, progress remains to be achieved. For example, while programme-based budgeting is practiced in sectoral ministries, it is not integrated into the annual national budget (IMF 2011).

Public procurement is an area particularly prone to corruption in the country. Measures have been taken to address the weaknesses of the public procurement's legal and institutional framework with a new [Code of Public Procurement](#) adopted in 2009 and the creation of the National Public Procurement Regulatory Authority in 2012 (see below). These efforts have been well received by the international community which welcomes progress in the

increase in revenue collection which reached 300 billion XOF for the first time in 2012. They also praise the government for the establishment of the National Public Procurement Regulatory Authority. However, challenges remain in terms of fiscal policy integrating the informal sector, efficient budget execution, budget control and transparency (Touré 2013).

Corruption in port and customs administration

The port of Cotonou is an important regional port, close to Nigeria and serving Niger and other land-locked countries to its north. Given its strategic importance for economic growth and diversification in Benin, corruption in port and customs administration is likely to have an important detrimental impact on shipping costs, trade and revenue collection. Corruption in customs remains an area of particular concern in Benin (Heritage Foundation 2014). Congested borders and bureaucratic customs procedures provide opportunities and incentives for bribery. In particular, the port of Cotonou is perceived to be a hotbed of corruption, with politicians having economic interests in some of the private operators in the port and widespread custom/tariff evasion undermining the state's revenues. It faces major governance challenges fuelled by non-transparent transit and import procedures and processes. This is manifested through high levels of corrupt practices ranging from negotiations between importers and customs officials concerning the value and nature of merchandise being imported and payments by truckers to gain port entry to the informal and illegal smuggling of goods into Nigeria (MacWilliam 2013). There are also high level procurement related corruption cases. In September 2012, the secretary general of the presidency, the director of the port and the chief of staff of the Ministry of Maritime Economy were dismissed for allegedly demanding bribes in connection with the construction of a dry port at Tori (US Department of State 2014).

The opportunities for corruption makes postings in ports and customs offices particularly attractive in Benin, particularly in the port of Cotonou, which is considered the country's most lucrative customs service. In some cases, assignments to such

attractive, lucrative positions are sold, and the buyers are perceived to be most actively involved in corrupt practices, because they must recover the resources invested in buying their new assignment. (Feldstad 2009).

In recent years, Benin has embarked on reforms to modernise its customs and port services. Progress made includes improving port management systems, enhancing the infrastructure around the port and putting in place new rules for the transit of trucks. The country also established in 2011 a one stop/full service office to expedite customs clearances which includes an electronic single window system integrating customs, control agencies, port authorities and other service providers at the Cotonou port. It also implemented an electronic document (EDI) system that is improving the time needed to clear goods at customs (World Bank; IFC 2014). In spite of these improvements, business executives still rate the burden of customs procedures (formalities regulating the entry and exit of merchandise) in Benin as three on a seven point scale. One is 'extremely inefficient' and seven 'extremely efficient' (World Economic Forum 2014).

2 OVERVIEW OF ANTI-CORRUPTION EFFORTS

Overview

The government is largely credited with having taken important steps to fight corruption in Benin. Reforms have included the passage of an anti-corruption law, the promotion of administrative and institutional reforms, the strengthening of civil society's role and the strengthening of reporting requirements. The new anti-corruption law was passed in October 2011, a National Public Procurement Regulatory Authority was set up in 2012 as well as a national anti-corruption authority— Autorité nationale de la lutte contre la corruption—in May 2013. This replaced the former Observatory of Corruption (Observatoire de la corruption) (AfDB; OECD; UNDP 2014; Economic Policy Research Institute 2011). A toll free hotline has also been established to report corruption at the presidency.

There is little publicly available information on the effectiveness of these measures and how they are implemented in practice, probably due to the fact that the legal and institutional framework to fight corruption is relatively recent and it may be too early to assess the impact of these reforms. While they have been well received by the international community, the government's failure to systematically and effectively prosecute those involved in corruption undermines the credibility of the political will to effectively tackle corruption (Bertelsmann Foundation 2014).

A number of steps have also been taken to improve the business climate, simplify bureaucratic procedures and reduce opportunities and incentives for corruption, including the establishment of a one stop shop at the Ministry of Commerce for swift registration of new companies, tax declaration and import licensing (US Department of State 2013a). While this has considerably reduced delays in registering new businesses, bureaucratic procedures remain inefficient and business executives continue to rate the burden of government regulations at 2.8 on a one to seven scale (World Economic Forum 2014).

Legal framework

The [Act 2011-20](#) on the Fight against Corruption and Related Offenses in the Republic of Benin (Act 2011-20), which had been pending since 2006, was adopted by the National Assembly and signed into law by the president in 2011. The law criminalises and provides sanctions for a wide range of corruption offences, including active and passive bribery, bribery of foreign officials, abuse of office, private corruption, illicit enrichment, money laundering and insider trading, among others. It also provides for the creation of the national anti-corruption authority (see below) and contains a number of preventive measures including (US Department of State 2014):

- Whistleblower protection: The anti-corruption law protects public and private employees making internal disclosures or lawful public disclosures of evidence of corrupt practices from retaliation. According to the US Department of State in 2014, there were no

reports, however, that the law was implemented effectively.

- Assets declarations: The law requires income and asset disclosure by appointed and elected public officials when assuming and leaving office. Supreme Court and Court of Appeals' chambers of accounts are mandated to monitor and verify disclosures, but declarations are not made available to the public.
- Conflicts of interest: The law also has provisions for preventing and managing conflicts of interest, including a disclosure requirement of private interests and activities that may interfere with the exercise of functions.
- Public access to information: There are no laws providing for public access to government information.

In 2008, a code of conduct for public officials was adopted by decree.(le Code des valeurs et d'éthique de la fonction publique, CVEFP) aimed at supporting public officials and raising ethical standards in public administration (Attolou and Houessou 2010). The Helpdesk has found no information on how this code is implemented and enforced in practice.

In terms of its international commitments, Benin ratified the UN Convention against Corruption (UNCAC) in 2004 and the Africa Union Convention on Preventing and Combating Corruption in 2007. It is also a party to the United Nations Convention against Transnational Organized Crime. As a member of the West Africa Economic and Monetary Union, Benin is also a member state of the West African Economic and Monetary Union directive on the fight against terrorism and corruption.

The institutional framework

The National Authority Against Corruption

The Nationale Authority Against Corruption (Autorité nationale de la lutte contre la corruption) was established in May 2013 and is not fully operational according to media reports. It is composed of 13 members including representatives from civil society, academia and the private sector. Some members are designated by the executives while others are nominated by their peers.

It has primarily a prevention and public education focus, making recommendations on anti-corruption measures, providing anti-corruption advice to individuals as well as public and private institutions. It also follows up on corruption-related complaints that it can refer to the relevant prosecutor. It also receives and archives the asset declarations of public officials. One of its first activities upon creation was to require ministers to submit their asset declarations.

It is still too early to assess the effectiveness of the institution, but there are indications that it lacks the financial resources and capacity to conduct its mandate effectively. For example, the authority's staff had allegedly not been paid as of November 2013 (L'évenement précis 2013).

The National Public Procurement Regulatory Authority

The National Public Procurement Regulatory Authority ([Autorité nationale de régulation des marchés publics](#), ANRMP) was established in 2012. Its council is composed of a president designated by the president, six representatives from various ministries, three from civil society organisations and three from the private sector. It is in charge of overseeing and regulating public procurement including providing support to contracting authorities, training procurement officials and implementing independent audits and sanctions, among others. It publishes audit reports and annual reports on its website (although not recently) as well as decision made in appeal processes of procurement decisions.

Other measures to address corruption challenges in public procurement have included capacity building of public procurement officials, the modernisation and development of various tools, guides and manuals for managing public procurement and the conduct of annual independent audits of public procurements. A more detailed overview of recent reforms undertaken in public procurement is available [here](#). In spite of progress made, public procurement in Benin remains characterised by resource and capacity challenges including lack of training for public procurement officials.

Financial Intelligence Unit

The Finance Intelligence Unit (Cellule Nationale de Traitement des Informations Financières, CENTIF) forms part of the country's anti-money laundering efforts. Created in 2008, CENTIF is a central administrative structure responsible for receiving and handling reports of suspicious money laundering activities. It is composed of a multi-disciplinary team of six members with expertise in finance, justice and law enforcement. It cooperates with regional efforts to fight money laundering and hosted a number of workshops organised by the Intergovernmental Action Group Against Money Laundering (GIABA).

There is no recent publicly available assessment of CENTIF's activities. A GIABA 2010 mutual evaluation report assesses that the attributions of CENTIF do not cover terrorism financing, and its correspondents in the administrations had not yet been formally appointed at the time of the report. The suspicious reporting model fixed by ministerial decree had also not been disseminated in all the institutions subject to it. The report also indicates that the institution's financial and human resources seemed inadequate at the time to ensure its real autonomy (GIABA 2010).

Inspection of the government

The [Inspection Générale de l'Etat](#) (IGE) was established in 2006 as Benin's state audit institution. Placed under the authority of the president, it is mandated to control, investigate and monitor public institutions at the central and local levels, state-owned enterprises and other institutions receiving public resources and make recommendations for the fight against corruption. There is little updated information on the IGE website and few reports.

In 2013, the IGE conducted financial audits of several state companies to verify if public funds were well managed. Based on findings from these audits, the government fired and arrested the general manager of the oil parastatal Sonacop in May 2013 on allegations of corruption, misappropriation of resources and conducting business with a company accused of money laundering (US Department of State 2014).

The ombudsman

The office of the ombudsman ([Médiateur de la République](#)) was established in 2009. It is an independent body in charge of handling complaints made by citizens on central and local public institutions and makes recommendations to the president on the functioning of public institutions. The ombudsman is appointed by the president for a period of five years and enjoys protection from removal of office, except in the case of misconduct which must be confirmed by the Supreme Court. The ombudsman's reports are made publicly available on its website.

Judiciary

Judicial power is exercised by the Supreme Court, the courts and tribunals. Although the constitution provides for judicial independence, the executive has considerable influence over judicial nominations and promotions and is suspected by human right groups of meddling in court cases (Bertelsmann Foundation 2014). Business executives surveyed within the framework of the Global Competitiveness Report 2013-2014 give the judiciary's level of independence from influences of members of government, citizens, or companies a score of 2.7 on a seven point scale (one being 'heavily influenced' and seven 'entirely independent') (World Economic Forum 2014). However, Freedom House praised the remarkable independence demonstrated by the Constitutional Court in 2010 with its rulings on electoral reform as well as in 2011 over the election controversy.

Courts are considered to be highly inefficient and lacking resources and capacity (Freedom House 2013). Their operations are also undermined by widespread corruption. According to the Bertelsmann Foundation 2014, more than half of Benin's magistrates may have been involved in financial scandals. According to 2013 Afrobarometer data, only 36 per cent of respondents trusted all or most members of the judiciary, and 45 per cent thought that most or all judges were corrupt.

Other stakeholders

Media

Freedom of speech and freedom of the press are guaranteed by the constitution and private and public media operate relatively freely in practice in Benin (Freedom House 2013). Benin enjoys a pluralistic and vibrant press which does not hesitate to criticise the government or members of the opposition. Benin was ranked 79 out of 179 in the Reporters Without Borders' [2013 World Press Freedom Index](#). While it is still rated as one of the best performing African countries in Freedom House's 2013 Freedom of the Press report, perceptions of press freedom are declining, and it is rated as only "partly free". Libel and defamation are criminalised in Benin even if this law is rarely used.

There are also concerns over emerging trends in recent years. The Bertelsmann Foundation 2014 reports an increase in the prosecution of libel and harsher sanctions against the media. Trust in the independence and fairness of the High Authority of Broadcasting (HAAC) has declined as many sanctions imposed appear biased and politically motivated, especially in the run up to the 2011 elections. A new chairman considered to be partisan of President Yayi was appointed in a non-transparent process, and a private television station was closed down in 2012 at the request of the president for "undermining national unity" (Freedom House 2013).

Civil society

Freedom of assembly and association is guaranteed by the constitution and civil society generally operates freely in Benin (Freedom House 2013; US Department of State 2014). While permits are required for public gatherings, they are usually granted by government and association and assembly rights are rarely restricted. However, there were a few instances in which permits were denied during the 2011 elections, which was denounced by the opposition as politically motivated (Bertelsmann Foundation 2014). In the same period, some demonstrations were also violently suppressed by the police (Freedom House 2013). Some opposition groups do not request permits, anticipating that they could be denied (US Department of State 2014).

Benin is characterised by a vibrant civil society and a wide range of political parties and NGOs that can be critical of the government and play an important watchdog role in the country. President Yayi has co-opted some civil society leaders in government and civil participation in newly established anti-corruption institutions has been provided for. A number of civil society organisations are involved in anti-corruption and governance issues, such as :

- FONAC (Front des organisations nationales anti-corruption) : FONAC is a national network of about 60 NGOs against corruption.
- Plateforme des acteurs de la société civile au Bénin (PASCIB). Established in 2003, PASCIB advocates for the participation of civil society organisations in the design, implementation and monitoring of development programmes. It is composed of 12 members, including journalists associations, trade unions and development NGOs.
- Social Watch Benin : Social Watch Benin is an international network of citizens' organisations working on poverty alleviation, eradication of all forms of discrimination and racism, human rights and social justice issues. It was established in 2005 and focuses on citizens monitoring of the implementation of poverty reduction policies, the promotion of good governance, democracy, and the fight against corruption as well as capacity building of civil society organisations.
- African Parliamentarians' Network Against Corruption Benin (APNAC): APNAC aims to coordinate, involve and strengthen the capacities of African parliamentarians to fight corruption and promote good governance. APNAC Benin focuses on capacity building, awareness raising and the promotion of anti-corruption legislation.

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