



IACC
MONITOR



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EXECUTIVE SUMMARY

SUMMARY OF FINDINGS

Total number of commitments made at the 18th IACC	11
Total number of commitments selected for monitoring	6

Current level of progress in commitment implementation	
Number of completed commitments	0
Number of partially completed commitments	4
Number of commitments not started/dropped	2

KEY CHALLENGES TO COMMITMENT IMPLEMENTATION

The lack of political will to implement the government's anti-corruption commitments made at the IACC and UK anti-corruption summit is the greatest challenge to commitment implementation.

The successive governments since the Tunisian Revolution, which ended the long presidency of Zine El Abidine Ben Ali in January 2011, have all included anti-corruption reforms in their electoral campaigns but made minimal progress in the implementation of their national anti-corruption plans.

The implementation of commitments requiring legal reforms have been delayed for various reasons, such as lengthy

procedures, the prioritising of laws to be reviewed by parliament, political instability and early elections as all effort was redirected towards the elections.

The Tunisian administration have has shown some resistance to change in general, in areas such as digitalisation and transparency by refusing to answer access to information demands and neglecting proactive information publishing.

Tunisian administrations have had limited resources due to the low level of the allocated budget and the lack of fundraising, which also made the implementation of these commitments challenging.

The strategy of digitization 'Digital Tunisia 2020' of the public administration has been adopted since 2012, however it is until 2019 that things seemed to be finally moving. This delay along with the bureaucratic nature of Tunisian administration contributed to the slow progress on the implementation of the announced commitments in 2018.

Similarly, the lengthy and dispersed complex administrative procedures make it difficult to track and monitor, which means corruption is more likely to occur.

KEY OPPORTUNITIES TO ACCELERATE COMMITMENT IMPLEMENTATION

The adoption of the Organic Law No.22-2016 on Access to Information and the Organic Law No. 10-2017 on the denunciation of corruption and protection of whistle-blowers are considered as important step for the consolidation of integrity and the establishment of transparency and accountability rules. This also illustrates the relatively compliance of the national legal framework with the international law. Thus, we can conclude that these two legal frameworks have contributed to the implementation of few of Tunisia's commitments.

The implementation of the 2016-2020 good governance and anti-corruption strategy¹ by the national anti-corruption authority through its 2019-2020 action plan² has presented an important opportunity to accelerate commitment implementation. Some commitments intersect with some objectives in the anti-corruption action plan. However, some commitments should have been included in this strategy but were not.

Authorities are also using digital tools to provide information as part of their opening up process and ensuring transparency. The government has launched the Tunisia Online e Procurement System, known as Tuneps to provide clear and accessible online procedures for the public. Since September 1, 2018, public enterprises are obliged to go through the online public purchasing system (TUNEPS) or "Tunisian e-procurement system", for the conclusion of their public contracts", in compliance with the decree published in the Official Journal of Tunisia (JORT) dated July 31, 2018.

This system concerns all ministries, non-administrative public enterprises and public establishments for the conclusion of their public contracts. e TUNEPS includes a device for managing user files and a secondary one including data for suppliers and public buyers.

A second mechanism is responsible for managing calls for tenders online with the support of a secondary system through which public contracts are concluded.

The purchasing system also contains a device for the acquisition of electronic equipment supported by a secondary process which includes data relating to products and services, as well as their technical specifications. This digitized system would ensure equal opportunities to all relevant actors and enhance integrity mechanisms in the management of public market.

The government made huge efforts to monitor public service by creating authorities and launching audit missions within multiple institutions.

KEY RECOMMENDATIONS

1. Some commitments need to be reformulated as they are not specific enough to be feasibly implemented, The government should have been more specific when addressing these commitments so that the implementation process would be easier ,when committing to developing

¹ République Tunisienne, *Stratégie Nationale de Bonne Gouvernance et de Lutte Contre la Corruption 2016-2020*, December 2016, <http://197.5.145.96/www.inlucc.tn/fileadmin/pdf/isfr.pdf>

² République Tunisienne, *Plan d'action 2019-2020 de la Stratégie Nationale de Bonne Gouvernance et de la Lutte Contre la Corruption*, no date

the accounting standards for a greater a conformity with international standards ,the government should have mentioned which international standards is she referring to .

2.The relevant authorities need to specify and mention specific measures and actions, in accordance with international standards, to be taken to ameliorate their anti-corruption efforts

3. The Tunisian government should consider all stakeholders' recommendations and reform the legal framework related to corruption; for example, the access to Information law, and money laundering and fighting terrorism law

. Review the whole legal arsenal, codes of conduct and monitoring processes of the public services and functions that could enhance the progress of the commitments' implementation.

INTRODUCTION

The 18th IACC in Copenhagen featured a series of high-level meetings among countries in the Organisation for Economic Co-operation and Development (OECD) and non-OECD countries as well as international and regional organisations. As part of these meetings, participants made a set of statements on the steps that each intends to take to make progress in the field of anti-corruption, based on existing commitments, such as Open Government Partnership (OGP) action plans, UK summit, United Nations Convention against Corruption (UNCAC), OECD instruments, Sustainable Development Goals (SDGs), etc.³ Participants at the high-level meetings agreed to establish a follow-up mechanism engaging all stakeholders (including governments, international and regional organisations, companies and civil society) in monitoring the implementation of these commitments.

The aims of the follow-up mechanisms are to:

- assess the level of progress towards the implementation of the commitments
- provide further analysis on, and complement, other reporting mechanisms
- focus on the qualitative nature of the commitments rather than quantitative scoring or ranking
- provide insights into what has and has not worked and why
- provide insights into the opportunities and challenges for implementation as a basis for understanding where technical support should be targeted

This report aims to capture the context and conditions under which the commitments are being implemented as well as recording progress in the implementation of the commitments. It provides further analysis on, and complements, other reporting mechanisms, rather than duplicate them.

This report aims also at revealing the context and the circumstances under which the commitments are being implemented as well as recording progress on the delivery. Furthermore, this report serves as a means by which all stakeholders can track the progress of the fulfilling of the commitments. Recommendations to the Tunisian government can be also formulated based on this assessment report.

This report presents the results of the first round of monitoring for Tunisia.

The report contains the following sections:

1. Filtering of commitments: presents the results of selecting Tunisia's commitments based on an assessment of their level of specificity and measurability, and hence the feasibility of monitoring each one of them.
2. Analysis of the Tunisian context: presents a brief analysis of the extent to which the commitments overall are considered pertinent to the country context.
3. Progress in implementing the commitment: presents the level of progress of the commitments selected for monitoring as well as the challenges and opportunities for implementation.

³ 18th IACC high level segment commitments, <https://iaccseries.org/18th-iacc/18th-iacc-high-level-segment-commitments/>

FILTERING OF COMMITMENTS

In total, Tunisia presented 11 commitments at the 18th IACC in 2018. Of these, six commitments are deemed feasible to monitor based on their level of specificity and measurability, as presented below

COMMITMENT 1: “Adopting a legal framework by June 2019 for open data and to submit a draft law on the reuse of public data.”

IS THE COMMITMENT SPECIFIC? YES

The commitment is specific as it mentions a specific anti-corruption mechanism and a transparency tool, namely access to information and open data.

IS THE COMMITMENT MEASURABLE? YES

This commitment is measurable as we can check if the government did or did not establish a legal framework for open data and we can also track the submission of a draft law on the reuse of public data.

HAS THE COMMITMENT BEEN SELECTED FOR MONITORING? YES

COMMITMENT 2: “Adopting a clean construction system (CCS) / ministry of equipment and housing by June 2020.”

IS THE COMMITMENT SPECIFIC? YES

This commitment is specific and can be easily monitored since CCS consists of specific standards and measurements which will move Tunisia towards achieving recognised international standards in the construction industry.

IS THE COMMITMENT MEASURABLE? YES

This commitment could be considered measurable as it consists of clear deliverables that are part of CCS, such as transparency mechanisms, access to information and open data enforcement. We can identify the steps and actions that must be adopted by the ministry according to the CCS implementation steps.

HAS THE COMMITMENT BEEN SELECTED FOR MONITORING? YES

COMMITMENT 3: “Establish a new legal framework for public service that will enshrine the principles of fairness and merit and includes specific requirements for high-level posts and sensitive public functions to prevent from the dangers of corruption by December 2019.”

IS THE COMMITMENT SPECIFIC? YES

This commitment is specific as it targets the narrow policy area of the public service legal framework. Fulfilling this commitment could take the country to an advanced level in its measures to counter corruption.

IS THE COMMITMENT MEASURABLE? YES

The commitment is measurable enough to be monitored as it identifies some clarifications and specific actions. It mentions specific requirements to be included in the draft law which strengthens transparency and prevent corruption.

HAS THE COMMITMENT BEEN SELECTED FOR MONITORING? YES

COMMITMENT 4: “Developing the accounting standards for a greater conformity with international standards in this field by December 2019.”

IS THE COMMITMENT SPECIFIC? NO

The commitment is too general as it is hard to define the international accounting standards which the Ministry of Finance should adopt. The commitment also does not identify any specific anti-corruption mechanism or policy.

IS THE COMMITMENT MEASURABLE? NO

This commitment does not identify any measurable action as we cannot define which international accounting standards are being considered.

HAS THE COMMITMENT BEEN SELECTED FOR MONITORING? NO

COMMITMENT 5: “Developing the public finance system to set up an annalistic accounting to ensure transparency, efficiency and credibility by December 2019.”

IS THE COMMITMENT SPECIFIC? NO

This commitment is not precise or specific. It is general to be monitored. The Ministry of Finance used vague terms that can lead to several subcategories and fields of work. For instance,

“developing the public finance system” could consist of many steps and plans that are not mentioned in the commitment. This commitment is only a more general revision of another commitment made by the Ministry of Finance.

IS THE COMMITMENT MEASURABLE? NO

As mentioned above, this commitment is general and non-specific as it has no actions or deliverables to be monitored. Given the lack of specificity in the commitment text and the absence of any intention to illustrate the various measures the Ministry of Finance intends to implement to implement this commitment, we cannot deduce indicators to evaluate the implementation and the development of a more transparent, efficient and credible public finance system.

It is impossible to determine if the Ministry of Finance aims to reform its current legal framework, establish a new one, improve administrative procedures so that it becomes more efficient and effective, or ensure more accountability for its public financial institutions.

HAS THE COMMITMENT BEEN SELECTED FOR MONITORING? NO

COMMITMENT 6: “Proceeding with the streamlining of administrative procedures and to reduce the number of activities requiring prior authorization by December 2019.”

IS THE COMMITMENT SPECIFIC? YES

This commitment is specific as it targets the review of the laws requiring prior authorisation for economic and investment activities and reducing unnecessary administrative procedures in the field of investment.

IS THE COMMITMENT MEASURABLE? YES

This commitment is measurable as the ministry has illustrated the actions to be taken to fulfil this commitment. The clear measurable actions identified consist of a revision of the procedures considered irrational and which should be diminished, as well as rationalising all the procedures in general. Actions that must be taken to achieve the commitment are clear and pre-determined by the ministry in the text of the commitment.

HAS THE COMMITMENT BEEN SELECTED FOR MONITORING? YES

COMMITMENT 7: “Submitting a bill of law for the revision of the penal code, which includes tightening penalties for corruption crimes.”

IS THE COMMITMENT SPECIFIC? YES

This commitment is specific as it deals only with a narrow area of the penal code: that which covers corruption crimes. The Ministry of Justice has a unique and specific interest in this commitment to accentuate the deterrence aspect of the penalties and to ensure better harmony with the international standards in the conventions and treaties signed by Tunisia.

IS THE COMMITMENT MEASURABLE? YES

This commitment is measurable as it is easy to determine whether penalties for corruption crimes contained in the revised penal code are stiffer those before the revision.

HAS THE COMMITMENT BEEN SELECTED FOR MONITORING? YES

COMMITMENT 8: “Developing the legal and institutional system to prevent money laundering in line with FATF recommendations and UN Security Council resolutions by June 2019.”

IS THE COMMITMENT SPECIFIC? NO

This commitment is vague as it does not mention any specific measures to be taken. It is more of a general statement on the Tunisian government’s intention to prevent money laundering. It’s recreating already existing commitments.

IS THE COMMITMENT MEASURABLE? NO

The commitment does not identify any measurable actions that should be taken to prevent money laundering in accordance with the Financial Action Task Force (FATF) recommendations and UN security council resolutions.

HAS THE COMMITMENT BEEN SELECTED FOR MONITORING? NO

COMMITMENT 9: “Implementing the commitments during the world summit against corruption held in London 2016 on the issue of beneficial ownership and renewed its welcome to all international initiatives in this field and express its willingness to exchange information in this regard by December 2019.”

IS THE COMMITMENT SPECIFIC? NO

While this commitment looks at the issue of beneficial ownership, it does not mention what exactly will be addressed and does not go beyond welcoming international initiatives and expressing a willingness to exchange information.

IS THE COMMITMENT MEASURABLE? NO

The commitments on beneficial ownership and other financial issues are not precise enough to be monitored. For instance, the language used in the commitment such as “expressing willingness” is not binding and uncertain.

HAS THE COMMITMENT BEEN SELECTED FOR MONITORING? NO

COMMITMENT 10: “Reviewing the governance of public owned enterprises to support their sustainability and the effectiveness of their interventions by June 2019.”

IS THE COMMITMENT SPECIFIC? YES

The commitment is specific as it precisely mentions the area of work, namely public enterprises governance.

IS THE COMMITMENT MEASURABLE? Yes

Reviewing the governance of publicly owned enterprises can be considered as precise and quantifiable as it has pre-determined key steps to be achieved, such as establishing a body for the governance of public enterprises and adopting new laws.

HAS THE COMMITMENT BEEN SELECTED FOR MONITORING? Yes

COMMITMENT 11: “Complementing decentralization process and supporting local authorities in their efforts to improve their facilities’ capacities and services and to establish good governance in accordance with the constitutional principles and the requirements of local authorities’ code by December 2019.”

IS THE COMMITMENT SPECIFIC? NO

The commitment is a general statement of intent to support to strengthen anti-corruption measures, good governance and decentralisation processes. It also does not identify any specific or concrete area or mechanism.

IS THE COMMITMENT MEASURABLE? NO

The language used in the commitment text is vague and imprecise. Complementing the decentralisation process and supporting local authorities are non-specific and could have countless points of intervention (legal, institutional, and so on). Therefore, the commitment is not measurable. This commitment does not mention any measurables or concrete actions for the ministry to adopt. Even though it mentions the local authorities code, the commitment does not mention specifically what the ministry intends to accomplish.

HAS THE COMMITMENT BEEN SELECTED FOR MONITORING? NO

TUNISIAN CONTEXT

Over the last decade, Tunisia has witnessed a geopolitical and economic upheaval, which have affected its growth and increased the likeliness of corruption within the public and private sector. The ousting of authoritarian President Ben Ali in 2011 ended more than five decades of autocratic presidential regimes under the leadership of President Habib Bourguiba (1959–1987) and Ben Ali (1987–2011). After the revolution, the security conditions and the political environment have slightly improved each year, resulting in a better climate for establishing transparency, good governance and anti-corruption system. The National Dialogue, initiated by civil society, produced a road map that paved the way for the installation of a technocratic government and oversaw the adoption of a new constitution in January 2014.⁴ Despite the changes, there is a widely shared sentiment that the economic injustices of the Ben Ali era that motivated the revolution have not yet been tackled.⁵

Since 2012, Tunisia's Corruption Perceptions Index (CPI) score has remained relatively stable. In 2012, Tunisia received a score of 41 out of 100, whereas in 2019 it had a score of 43 and ranked 74 out of 180 countries. In 2019, Transparency International's Global Corruption Barometer (GCB) found that 67 per cent of Tunisians believed that corruption had increased "a lot" or "somewhat" over the past 12 months.⁶ According to the International Crisis Group, despite prosecutions and arrests for corruption related offences,⁷ the overall level of corruption in Tunisia is perceived to have risen since the revolution. In the 2017 Carnegie Endowment for International Peace survey, 76 per cent of respondents believed there as more corruption in Tunisia then than there was under Ben Ali.⁸ The latest (2020) Afrobarometer results similarly indicate that two-thirds (67 per cent) of Tunisians believe corruption has increased "somewhat" or "a lot" over the past year.⁹ In the 2018 Arab Barometer, 90 per cent of Tunisian respondents believed that corruption to a large or medium extent "pervades" government.¹⁰

Most citizens do not believe the government is doing enough to reduce corruption in Tunisia.¹¹ However, it is unclear whether perceptions are slowly improving or further worsening. Bribery has a major contributor when it comes to corruption as 11 per cent of the people who used public clinics and healthcare centres during 2019 paid a bribe to access these services, reduce the waiting time or to avoid the long procedures.

The Control of Corruption percentile rank in the Worldwide Governance Indicators (WGI) was 56/100 in 2018. This indicator targets mainly the perceptions of the extent to which public power is

⁴ Transparency International, *Tunisia: Overview of Corruption and Anti-Corruption*, 31 August 2018, <https://knowledgehub.transparency.org/helpdesk/tunisia-overview-of-corruption-and-anti-corruption>

⁵ Stroetges, F., *In the Triple Threat to Tunisia's Democracy, Corruption is King*, 2018, https://www.ssoar.info/ssoar/bitstream/handle/document/56130/ssoar-2018-stroetges-In_the_Triple_Threat_to.pdf?sequence=1

⁶ Transparency International, *Global Corruption Barometer Middle East & North Africa 2019: Citizens' Views and Experiences of Corruption*, 2019, <https://images.transparencycdn.org/images/2019-GCB-Middle-East-and-Africa-Report.pdf>

⁷ International Crisis Group, *Tunisia: Transitional Justice and the Fight Against Corruption*, 3 May 2016, <https://www.crisisgroup.org/middle-east-north-africa/north-africa/tunisia/tunisia-transitional-justice-and-fight-against-corruption>

⁸ Carnegie Europe, *Corruption, Not Terrorism, Is Tunisia's Biggest Threat*, 8 December 2017, <http://carnegieeurope.eu/strategieurope/74952>

⁹ Afrobarometer, *Tunisia, 2020*, <https://www.afrobarometer.org/countries/tunisia-0>

¹⁰ Arab Barometer, Data Analysis Tool, 2018, <https://www.arabbarometer.org/survey-data/data-analysis-tool/>

¹¹ Transparency International, *Tunisia: Overview of Corruption and Anti-Corruption*, 31 August 2018, <https://knowledgehub.transparency.org/helpdesk/tunisia-overview-of-corruption-and-anti-corruption>

exercised for private gain, and it is a representative and inclusive indicator as it is based on different sources.

Corruption among public officials is likely to happen in Tunisia as it is a fragile country with a newly-established democracy that has suffered years of tyranny and corruption by its leaders in the pre-revolution period.

Despite the country's alarming indexes and ratings regarding transparency and corruption, Tunisian citizens are aware of the extent of corruption in their country, its challenges and their role in the process of insuring good governance, transparency and decreasing corruption. According to the GCB 2019 survey, 59 per cent think ordinary citizens can make a difference to counter corruption. The Afrobarometer also found that the 59 per cent of Tunisians agree that citizens can make a difference. However, this is a decline from 71 per cent in 2015. In addition, 61 per cent of those surveyed believe that people who report incidents of corruption risk retaliation, while 42 per cent believe it is "not very likely" or "not at all likely" that authorities would take action if suspected corruption was reported to them.¹²

According to the latest Afrobarometer results, government officials and members of parliament are perceived to be the most corrupt. Three out of ten Tunisians claim that "all" or "most" government officials (31 per cent) and members of parliament (30 per cent) are corrupt. Judges and traditional leaders are rated the least corrupt, while 16 per cent of respondents say "all" or "most" are corrupt. Perceived corruption in parliament and the presidency has increased by 13 and 7 percentage points, respectively, compared to 2015.¹³

The 2019 GCB found that around almost two in ten (18 per cent) of public service users paid a bribe in the 12 months prior to the survey.¹⁴ These bribery rates, while significant, are much lower than those in other countries in the region, as shown by the GCB results in Morocco, Sudan and Egypt, where bribery rates stand at around 50 per cent, and Yemen where 77 per cent of GCB respondents that had been in contact with a public service reported having paid a bribe.¹⁵ In the same context, the official unemployment rate in Tunisia reached 14.9 per cent in 2019 according to the IMF world economic outlook database, which may lead to a higher rate of bribes related to employment and access to public functions.

Between 2011 and 2016, an estimated 7,000 to 9,000 civil servants were prosecuted and 600 imprisoned, the majority for corruption related offences.¹⁶ The judiciary is also reportedly affected by corruption. While media reports on corruption prompt government action, and cases from the Ben Ali era have been well documented, this has so far largely failed to translate into rigorous prosecutions. In addition, although the 2014 constitution provides for judicial independence, in practice the government continues to assert influence over court cases.¹⁷ In 2012, 81 judges were arrested on

¹² Afrobarometer, *Losing the War On Graft? Tunisians Dissatisfied with Government's Anti-Corruption Performance*, 29 October 2019,

http://afrobarometer.org/sites/default/files/publications/Dispatches/ab_r7_dispatchno247_perceptions_of_corruption_in_tunisia.pdf

¹³ Ibid.

¹⁴ Transparency International, *Global Corruption Barometer Middle East & North Africa 2019: Citizens' Views and Experiences of Corruption*, 2019, <https://images.transparencycdn.org/images/2019-GCB-Middle-East-and-Africa-Report.pdf>

¹⁵ Transparency International, *Tunisia: Overview of Corruption and Anti-Corruption*, 31 August 2018, <https://knowledgehub.transparency.org/helpdesk/tunisia-overview-of-corruption-and-anti-corruption>

¹⁶ International Crisis Group, *Tunisia: Transitional Justice and the Fight Against Corruption*, 3 May 2016, <https://www.crisisgroup.org/middle-east-north-africa/north-africa/tunisia/tunisia-transitional-justice-and-fight-against-corruption> and Carnegie Endowment for International Peace, *Tunisia's Corruption Contagion: A Transition at Risk*, 25 October 2017,

<https://carnegieendowment.org/2017/10/25/tunisia-s-corruption-contagion-transition-at-risk-pub-73522>

¹⁷ Risk and Compliance Portal, *Tunisia Corruption Report*, July 2020,

<https://www.business-anti-corruption.com/country-profiles/tunisia/>

accusations of corruption.¹⁸ In 2018, the World Economic Forum ranked Tunisia's judicial independence as 70 out of 137 countries. Its value increased from 3.6 in 2015¹⁹ to 3.8 in 2018,²⁰ with higher values indicating a more desirable outcome.

Some sectors are more likely to be exposed to the risk and dangers of corruption: investment, international cooperation, commerce, public transactions and any economic sector or field that has activities requiring prior permits, authorisations and/or permissions. According to the president of the Authority for Good Governance and the Fight against Corruption, INLUCC, corruption and mismanagement cost Tunisia 2 billion Tunisian dinars (over US\$800 million) in the area of public procurement alone, a sum equivalent to four percentage points of GDP growth.²¹

The 2014 constitution enshrines principles and institutions that guarantee a level of open government and integrity. Article 10 of the constitution states that the Tunisian state should have mechanisms in place to counter corruption. Article 15 states that the public administration should be submitted to the rules of transparency and integrity, while Article 32 guarantees the right of access to information for all Tunisian citizens. Article 130 constitutionalises the National Authority for the Fight against Corruption, which represents significant progress in reducing the potential vulnerability of institutions working on transparency and anti-corruption. Tunisia ratified the United Nations Convention against Corruption (UNCAC) in 2008. It is also a signatory to the African Union Convention on Preventing and Combating Corruption. The government joined the international Open Government Partnership in 2014 with a promise to increase transparency. In 2016, a national anti-corruption strategy was adopted. Several official and non-official bodies have been created since 2011 to both address past transgressions and prevent future ones. However, the primary anti-corruption bodies lack the financial and human resources to effectively carry out their mandates.²² There has also been progress on legal frameworks, including the introduction of a new law that protects whistleblowers. Civil society advocacy is widely attributed to significantly contributing to this progress.²³

Earlier in 2020, head of Tunisian government, Ilyes fakhfekh, submitted his resignation to the head of state, and in June 14, he acknowledged in a televised interview that the rumours circulating about his involvement in a possible conflict of interest were well-founded.²⁴ In this context, the I WATCH organisation launched "the meters",²⁵ a tool to monitor the level of progress in the commitments made by the head of governments in the parliamentary confidence-giving sessions and presidents in their electoral programme.

Overall, the commitments made by the Tunisian government are aligned with its national strategy to fight against corruption. Different stakeholders involving National anti-corruption authority INLUCC, ministries and NGO's deployed efforts to support the government fulfilling its

¹⁸ Carnegie Endowment for International Peace, *Tunisia's Corruption Contagion: A Transition at Risk*, 25 October 2017, <https://carnegieendowment.org/2017/10/25/tunisia-s-corruption-contagion-transition-at-risk-pub-73522>

¹⁹ World Economic Forum, *The Global Competitiveness Report 2014–2015*, 2014, http://www3.weforum.org/docs/WEF_GlobalCompetitivenessReport_2014-15.pdf

²⁰ World Economic Forum, *The Global Competitiveness Report 2017–2018*, 2017, <http://www3.weforum.org/docs/GCR2017-2018/05FullReport/TheGlobalCompetitivenessReport2017%E2%80%932018.pdf>

²¹ Stroetges, F., *In the Triple Threat to Tunisia's Democracy, Corruption is King*, 2018, https://www.ssoar.info/ssoar/bitstream/handle/document/56130/ssoar-2018-stroetges-In_the_Triple_Threat_to.pdf?sequence=1

²² Carnegie Endowment for International Peace, *Tunisia's Corruption Contagion: A Transition at Risk*, 25 October 2017, <https://carnegieendowment.org/2017/10/25/tunisia-s-corruption-contagion-transition-at-risk-pub-73522>

²³ Stroetges, F., *In the Triple Threat to Tunisia's Democracy, Corruption is King*, 2018, https://www.ssoar.info/ssoar/bitstream/handle/document/56130/ssoar-2018-stroetges-In_the_Triple_Threat_to.pdf?sequence=1

²⁴ OrinetXXI, *Tunisie. La lutte contre la corruption résistera-t-elle à la chute du gouvernement ?*, 17 July 2020, <https://orientxxi.info/magazine/tunisie-la-lutte-contre-la-corruption-resistera-t-elle-a-la-chute-du.4031>

²⁵ I WATCH, *ميتير هي محاولة لرصد مدى تحقيق رئيس الحكومة الفخفاخ لوعده التي التزم بها في خطاب منح الثقة أمام البرلمان*, no date, <https://meter.iwatch.tn/fakhfakh>

commitments. Nevertheless, the political standstills and the lack of political willingness impeded a full implementation of these commitments.

PROGRESS ON COMMITMENT IMPLEMENTATION

COMMITMENT NAME: “Proceeding with the streamlining of administrative procedures and to reduce the number of activities requiring prior authorization.”

THEMATIC AREA: legislative and institutional framework

COMMITMENT TIMEFRAME: December 2019

COMMITMENT SOURCE: national anti-corruption plan

Current level of progress in commitment implementation

Fulfilled

Partially fulfilled

X

Not fulfilled/dropped

This commitment is a continuation of previous efforts and reforms – such as Act No. 69 of 2007 of 27 December 2007 on stimulating Economic Initiative and Act N° 2016-71²⁶ of 30 September 2016 related to investment law – initiated by the Ministry of Investment and International Cooperation and other institutions to reduce the number of activities requiring prior authorisation and to simplify administrative procedures.

This commitment was made in 2018, in the same year of the government’s decree 417-11 May 2018,²⁷ related to the issuance of an exclusive list of economic activities requiring one or several authorisations and the identification and simplification of its procedures. Before the promulgation of this decree, 100 economic activities were subject to prior authorisation. However, in 2018, there were significant reductions in authorisations, requirements and revisions of specifications (cahier des charges). For example, 46 authorisations from the Higher Investment Commission, related to investments by foreigners, and 20 other authorisations from the old investment code were removed.²⁸

The ministry created the Tunisia Investment Authority in 2017 as an application of legislative Act 71 of the 30 of September 2016.²⁹ This commission is the only focal point for both local and foreign investors. It positions itself as the facilitator for the realisation of investment projects through simple procedures, with a minimum number of authorisations for each investor.

Recommendations

²⁶ Journal Officiel de la République Tunisienne, *Loi n° 2016-71 du 30 septembre 2016, portant loi de l’investissement*, 7 October 2016, <http://www.mdci.gov.tn/wp-content/uploads/2017/06/Nouvelleloi2016.pdf>

²⁷ Ministère du Développement, de l’Investissement et de Coopération Internationale, Governmental Decree No. 417 of 2018, 11 May 2018, http://www.legislation.tn/fr/detailtexte/D%C3%A9cret%20Gouvernemental-num-2018-417-du-11-05-2018-jort-2018-038_20180380041732#tabs_EN

²⁸ This information was provided by a representative of the Ministry of Development and International Cooperation in an interview.

²⁹ As an act of enforcement of the law, the government promulgated decree number 388 in March 2017.

- Digitalize investment processes so that all required information and authorisation documents are available online for the investor to decrease the likelihood of corruption within the investment administration or related public service agents.
- Set up a common digital platform among the various stakeholders to ensure transparency,
- Guarantee equality and to give investors the opportunity to follow the application process.³⁰
Continue the simplification of investment authorisation processes and review the conditions and procedures to reduce unnecessary delays.
Improve coordination and communication with intervening administrative structures to centralise information.
- Accelerate the simplification of procedures and authorisations required process and promulgate related legal texts in coordination with the administrative structure to have a clear, simple corruption-preventing system for investors.

COMMITMENT NAME: “Adopting a legal framework for open data and to submit a draft law on the reuse of public data.”

THEMATIC AREA: legislative and institutional framework

COMMITMENT TIMEFRAME: June 2019

COMMITMENT SOURCE: OGP action plan

Current level of progress in commitment implementation

Fulfilled

Partially fulfilled

X

Not fulfilled/dropped

The 2016 access to information law is the baseline from which the Tunisian government started working on open data. The law was implemented as a result of the efforts^{31,32} and advocacy civil society in Tunisia.

The e-administration unit of the presidency has begun the process of drawing up an open data decree, which is a specific legal framework to harmonise the actions and approaches of the administration as a whole.

To do this, five-day workshops were organised in collaboration with the World Bank from 28 May to 1 June 2018 to study and discuss the content, form and level of details of this decree.³³

³⁰ Invest in Tunisia, *Législation incitative*, https://www.cmf.tn/sites/default/files/pdfs/reglementation/textes-reference/loi2016_71_fr.pdf
http://www.investintunisia.tn/Fr/legislation-incitative_11_24

³¹ Shems FM, ‘I Watch’ préoccupée face au retrait du gouvernement du projet de loi sur le droit d’accès à l’information 14 July 2015, https://www.shemsfm.net/amp/fr/actualites_tunisie-news_news-nationales/115015/i-watch-preoccupee-face-au-retrait-du-gouvernement-du-projet-de-loi-sur-le-droit-d-acces-a-l-information-115015

³² Nawaat, *Projet de loi relatif au droit d’accès à l’information : avancées et réserves*, 16 May 2015, <https://nawaat.org/2015/05/16/projet-de-loi-relatif-au-droit-d-acces-a-l-information-des-avancees-et-des-reserves/>

³³ OGP Tunisia, *Ateliers de préparation du projet de décret Open Data*, 9 October 2018, <http://www.ogptunisie.gov.tn/fr/index.php/2018/10/09/organisation-des-ateliers-pour-preparer-le-projet-de-decret-de-donnees-ouvertes/>

The different stages of the implementation of the regulatory text organising the opening of public data were as follows:

- submission of the draft to some ministries and public structures for consultation and, following their comments, to the Access to information Authority
- release of the draft open data decree for public consultation from 7 to 27 March 2019
- final draft submitted December 2019

The e-administration unit continued its public data inventory by organising meetings with relevant ministries, such as the Ministry of Equipment and Housing and the Ministry of Defense.

The unit then organised capacity building sessions dedicated to open data focal points, open data publishing, data management and analysis, leadership and open data for high-level officials, the legal framework of open data and the management of Comprehensive Knowledge Archive Network (CKAN) platform.³⁴

A national hackathon on the reuse of open public data was held in January 2020³⁵ and was a national competition launched by the e-administration unit to implement the 3 OGP action plan and, specifically, its commitment to strengthening the open data ecosystem in Tunisia.

The government had an open government guide for local government as part of their action plan 2016-2018.³⁶

Onshor a Tunisian NGO that encourages transparency in government projects assisted the government through the OGP process through sharing their knowledge and expertise in open data, and financing servers and technical resources for open data³⁷ mainly in four projects in Baladiti, the open data portal for Tunisian municipalities. Baladiti provides access to a variety of open data related to municipal activities, such as the budget, public procurement and municipal council meeting minutes. Other open data initiatives include Datatransport, for the transport sector,³⁸ Cabrane,³⁹ to follow up on public construction, and Agri data,⁴⁰ an official open data portal developed in partnership with the Ministry of Agriculture and Onshor.

A local open government guide was developed under the Francophone Open Government Support Program (PAGOF).⁴¹ This guide will improve the transparency and openness of local authorities.

Despite all these efforts from the e-administration unit, workshops involving all stakeholders to draft the law, data collecting efforts and capacity building for various ministries and departments, the decree has not been delivered.

Challenges to effective commitment implementation

³⁴ CKAN platform <https://www.data4tunisia.org/fr/posts/ckan-et-les-portails-open-data-tunisiens/>

³⁵ OGP Tunisia, *Hackathon Open Data "Onshor Hack"*, 7 December 2018, <http://www.ogptunisie.gov.tn/fr/index.php/2018/12/07/hackathon-open-data-onshor-hack/>

³⁶ OGP Tunisia, *Engagement 2 : Instaurer le cadre juridique et organisationnel facilitant l'ouverture des données publiques*, 13 March 2019, <http://www.ogptunisie.gov.tn/fr/index.php/2019/03/13/engagement-2-instaurer-le-cadre-juridique-et-organisationnel-facilitant-louverture-des-donnees-publiques/>

³⁷ Onshor projects, <http://onshor.org/projets-2/>

³⁸ Datatransport homepage, <http://data.transport.tn/>

³⁹ Cabrane open data project, <http://onshor.org/projets/cabrane/>

⁴⁰ AgriData homepage, <http://www.agridata.tn/>

⁴¹ OGP Tunisia, *Mettre En Place Les Principes Du Gouvernement Ouvert*, 2018, <http://www.ogptunisie.gov.tn/wp-content/uploads/2019/03/Guide-pratique-Mettre-en-place-les-principes-du-gouvernement-ouvert-au-niveau-local-en-Tunisie.pdf>

There is no existing legal framework to regulate the opening up of public data processes within public institutions or identify the shared technical frameworks that can be adopted.⁴²

The political aspect is also challenging as the Tunisian access to information authority and the national personal data protection organisations have concerns that public data could be misused and affect personal data use, as mentioned by Onshor in an interview.

The Tunisian administration face problems in the inventory of documents and data that can be published as open data in accordance with the law of access to the information.

Opportunities to accelerate commitment implementation

This commitment was presented in the national action plan 2018-2020 under the supervision of OGP, and has been a national priority since its launch in 2016.⁴³ It is included found in the Tunisian statement from the UK anti-corruption summit 2016: “We commit to reinforcing the recently adopted Right To Information law and in that purpose to promote effective accountability and to provide open data on public contracting activities without impairing technological and commercial bidding companies’ interests”.⁴⁴ As this commitment crosses between the open government action plan, the UK summit commitment and IACC commitments, this might increase its chances of being implemented.

At an international level, the Tunisian government has been working on the recommendations of the steering committee under the presidency of Georgia and France, and two civil society representatives, World Resource Institute and Open Democracy Advice Center.

Recommendations

To accelerate the adoption of a legal framework for open data and the submission of the draft of law on the reuse of public data, Tunisia should review the initial draft of the decree and share it with stakeholders to guarantee its efficiency and its accordance with the current technological situation.

The access to information law should be updated to cover open data in all its aspects.

The presidency of the government should focus on accelerating the inventory of administrative documents so that their digitalisation process becomes easier and practical.

⁴² OGP Tunisia, *Engagement 2 : Instaurer le cadre juridique et organisationnel facilitant l'ouverture des données publiques*, 13 March 2019, <http://www.ogptunisie.gov.tn/fr/index.php/2019/03/13/engagement-2-instaurer-le-cadre-juridique-et-organisationnel-facilitant-louverture-des-donnees-publiques/>

⁴³ OGP Tunisia, <http://www.ogptunisie.gov.tn/fr/>

⁴⁴ Anti-Corruption Summit: London 2016, *Tunisia Statement of Commitments*, 2016, https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/522734/Tunisia.pdf

COMMITMENT NAME: “Adopting a clean construction system (CCS).”

THEMATIC AREA: public integrity.

COMMITMENT TIMEFRAME: December 2019

COMMITMENT SOURCE: not applicable

Current level of progress in commitment implementation

Fulfilled

Partially fulfilled

Not fulfilled/dropped

X

The clean construction system (CCS) gives citizens access to information laws and includes proactive information dissemination, innovation and improving efficiency of construction governance and practicing a clean construction administration.

There has been no progress on this new commitment and, when making the commitment, there was no proof of any reforms to implement a clean construction system within the Ministry of Housing and Equipment.

Nonetheless, the ministry made a few steps to improve its governance and transparency. They consist mainly of capacity building sessions and training courses for the several administrative officials of the ministry on: national governance reference, governance integrity mechanisms, corruption prevention, good governance of the state’s public property, such as roads, public institutions, public procurement and financial and administrative control.⁴⁵

On 9 December 2017, the ministry signed a partnership agreement with the national anti-corruption authority^{46,47} as part of the ministry’s involvement in national and governmental efforts to counter corruption. It also aims to make the ministry a model of good practices of good governance and to work in accordance with the principles of transparency and integrity.

The ministry has not adopted any clean construction system officially; it keeps its archaic procedures despite the fact that adopting CCS would minimise the difficulties in law enforcement and enhance transparency.

Challenges to effective commitment implementation

The Ministry of Equipment and Housing has not started a clean construction system due to the lack of political will to initiate reforms in the sector.

Given the political instability and the change of governments in the country, the adoption of such a system was not a priority despite highly corrupt public transactions and, administrative officials, and legal abuses.

⁴⁵ Ministry of housing and equipment

http://equipement.tn/fileadmin/user_upload/Statistics/ProgrammeFormationMinEquipement2018.pdf

⁴⁶ Ministry of housing and equipment, *Cooperation Convention with anti-corruption authority*, 9 November 2017 <https://bit.ly/3fdPEc2>

⁴⁷ Ministry of housing and equipment, 12 November 2017 <https://bit.ly/3iiXtNC>

In some cases, fraud, bribery and favouritism are used to win publicly funded deals and offers. For example, the Yakedh Advocacy and legal advising Center (I WATCH organisation) YALAC⁴⁸ investigated suspected corruption in Jendouba's regional hospital. Falsified application files were alleged to have been used to win a public procurement contract for construction, but due to impunity, no one was convicted.⁴⁹

To adopt a clean construction system, a national action plan or strategy needs to be implemented by government. There have to be reforms and guarantees that legislation will be applied.

Opportunities to accelerate commitment implementation

Not applicable

Recommendations

The Tunisian government should reform its existing law regulating public transactions when it comes to publicly funded construction in order to enhance transparency. A system of monitoring, evaluation and accountability mechanisms should be set up in accordance with international measures and requirements: proactive publishing of public information, open data adoption and adopting transparent measures for public transactions.

The government should enhance the implementation of open data within the ministry with its different administrations, ensure better cooperation with the various stakeholders, including NGOs and the private sector, and apply a participatory approach with NGOs and construction companies working within their remits, which should be outlined in the laws on a clean construction system.

COMMITMENT NAME: “Establish a new legal framework for public service that will enshrine the principles of fairness and merit and includes specific requirements for high-level posts and sensitive public functions to prevent from the dangers of corruption.”

THEMATIC AREA: legislative and institutional framework

COMMITMENT TIMEFRAME: December 2019

COMMITMENT SOURCE: national anti-corruption plan⁵⁰

Current level of progress in commitment implementation

Fulfilled

Partially fulfilled

X

Not fulfilled/dropped

⁴⁸ Yakedh Advocacy and legal advising Center, <https://billkamcha.yalac.tn/>

⁴⁹ I WATCH, إوالي جندوبية يأذن بترميم الفساد في صفقة عمومية, September 2018, <https://www.iwatch.tn/ar/article/612>

and I WATCH, بجنودية التحليل والمحاسبة طرقاً معيّنة للصفقات العمومية, July 2018, <https://www.iwatch.tn/ar/article/520>

⁵⁰ République Tunisienne, *Plan d'action 2019-2020 de la Stratégie Nationale de Bonne Gouvernance et de la Lutte Contre la Corruption*, no date

The establishment of a legal framework for public service that will enshrine the principles of fairness and merit and focus on high-level posts and sensitive public functions is a continuation of existing and ongoing work.

This commitment was made in 2018 while Law no. 2018-46, declaring property and interests, and measures to counter illicit enrichment and conflicts of interest in the public sector was ratified on 1 August 2018.

This law was followed by an explanatory, application text, governmental order n°818 of 2018, which mentions in its first article that “the aim of this law is to promote transparency and to consolidate principles of integrity, neutrality, accountability combatting illicit enrichment and protecting public money”.

Covering the declaration of assets, it included a list of high-level posts within national institutions and heads of administrations, such as the president, ministers and members of independent constitutional institutions.⁵¹ The national anti-corruption authority has published an explanatory list for the posts that are asked to declare their gains by law⁵². The national anti-corruption authority has also published a list of public sector employees and high-level posts that declared their interests, gains and properties and classified them in types, first type the president, his cabinet director and his advisors ,type two The head of parliament, its members and advisers of the House of Representatives and the list goes on to 29 type mentioned in the national anti-corruption authority's website.⁵³

The implementation of legal texts on the declaration of property was prioritised in the national anti-corruption action plan of 2019-2020, strengthening the legal framework on property and interests declarations for public officials was also prioritised in the national action plan of 2017-2018.

However, this commitment is only partially completed as Law n°46 lacks legislative texts to explain its application, and it needs to be strengthened by other texts to guarantee its efficiency and facilitate and improve its application.

Challenges to effective commitment implementation

There was some progress on this commitment but was not fully implemented due to several factors, the main one being the absence of political will to ensure change and improvement in good governance and measures to counter corruption. Other factors to be considered are: the lack of monitoring and effectiveness of disciplinary and judicial prosecution when it comes to high-level posts; the lack of communication between the various stakeholders, such as INLUCC, civil society and the relevant ministries; the complexity of the administrative procedures as it is difficult to identify and map which administrative procedures are exposed to corruption.

Opportunities to accelerate commitment implementation

⁵¹ GNet News, *Tunisie : Qui sont les personnes concernées par la déclaration de patrimoine ?*, 20 August 2018, <https://news.gnet.tn/archives/temps-fort/tunisie-qui-sont-les-personnes-concernees-par-la-declaration-de-patrimoine/id-menu-325.html>

⁵² INLUCC, <http://www.inlucc.tn/www.inlucc.tn/fileadmin/pdf/liste.pdf>

⁵³ <https://fiiphtml5.com/bookcase/kerdi>

This commitment contributes to the national anti-corruption strategy of 2019-2020 it also contributes to the commitment made during the UK anti-corruption summit in 2016, which stated “We commit to establish effective strategies and policies to prevent and fight against corruption”.⁵⁴

The implementation of the national anti-corruption action plan of 2019-2020 that covered the commitment field will definitely accelerate its implementation.

Recommendations

Coordinate with the assembly of people’s representatives to implement the conventions related to measures to counter corruption, such as the African Union Convention on Preventing and Combatting Corruption.

The national anti-corruption authority, with the support of various stakeholders, should continue international advocacy efforts to seek technical and financial support to accelerate the establishment of laws and guarantee their enforcement.

Establish a mode of recruitment in the public sector that ensures transparency, fairness and efficiency, and which promotes the employment of qualified people through strengthening transparency in recruitment procedures to prevent corruption. This should lead to a fair and merit-based public service system and help in corruption prevention efforts in public sector.

Establish codes of conduct and ethics charters that ensure good public resource use and contribute to guaranteeing the highest level of professionalism and integrity of public officials.

Update the national referencing of jobs and skills by developing a repository for good governance and curbing corruption

COMMITMENT NAME: “Submitting a bill of law for the revision of the penal code, which includes tightening penalties for corruption crimes.”

THEMATIC AREA: legislative and institutional framework

COMMITMENT TIMEFRAME: December 2019

COMMITMENT SOURCE: not applicable

Current level of progress in commitment implementation

Fulfilled

Partially fulfilled

Not fulfilled/dropped

X

The national anti-corruption legal framework has provisions in several laws, including the penal code 113, penal procedures code 114 and the Organic Law No. 2015-26 of 7 August 2015 on measures

⁵⁴ Anti-Corruption Summit: London 2016, *Tunisia Statement of Commitments*, 2016, https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/522734/Tunisia.pdf

to counter terrorism and money laundering.⁵⁵ Despite legal reforms after the revolution and the introduction of several relevant provisions regarding corruption penalties, there are still inconsistencies and inadequacies in the areas of criminal and procedural law. Tunisian legislation has adopted sentences for corruption offences ranging from one to twenty years in prison, in addition to financial sanctions. In the same context, 20-year imprisonment is given to public employees' corruption offences as outlined by Article 84 of the penal code; and the passive corruption of the judges as detailed in Article 88 of the penal code.

No revision was made to the penal code to tighten corruption penalties despite the fact that a commission was formed to reform the penal procedures code⁵⁶ and worked for five years on these reforms.

The proposals for reforms in the draft penal procedures code was officially delivered on 13 November 2019 to the justice ministry by the chair of the commission Mr Bechir Mannoubi Ferchichi.⁵⁷

Challenges to effective commitment implementation

There has been no progress on this commitment as all the legislative and advocacy efforts were oriented to other laws: interests and gains declaration, protection of whistleblowers, access to information.

The existing penal code covered many corruption related crimes, hence the need to submit new reforms did not seem so urgent.

Successive governments have put the principles of good governance and countering corruption at the heart of their political agendas, but without any real work on penal code reforms.

Opportunities to accelerate commitment implementation

Not applicable

Recommendations

The review of the institutional and legislative anti-corruption framework will make it possible to provide targeted and adequate solutions.

Clarify and improve the terminology used in some articles, such as in Article 91 paragraph 1 of the penal code, which does not specify the constituent elements of corruption offences but provides only the penalty as well as the introduction of new relevant items to repair defects or deficiencies in the legislative texts regulating corruption offences, such as the lack of provisions on acts of corruption committed by corporations and enterprises.

⁵⁵ Journal Officiel de la République Tunisienne, *Loi organique n° 2015-26 du 7 août 2015, relative à la lutte contre le terrorisme et la répression du blanchiment d'argent*, 7 August 2015, https://menarights.org/sites/default/files/2017-02/TUN_LoiOrganiqueLuttecontreTerrorisme_2015-26_FR.pdf

⁵⁶ GNet News, *Justice : Remise des propositions pour la réforme du Code de procédure pénale*, 6 December 2019, <https://news.gnet.tn/justice-remise-des-propositions-pour-la-reforme-du-code-de-procedure-penale/>

⁵⁷ Ibid.

COMMITMENT NAME: “Reviewing the governance of public owned enterprises to support their sustainability and the effectiveness of their interventions.”

THEMATIC AREA: public integrity

COMMITMENT TIMEFRAME: December 2019

COMMITMENT SOURCE: not applicable

Current level of progress in commitment implementation

Fulfilled

Partially fulfilled

X

Not fulfilled dropped

This commitment was made in 2018, when the only law that regulated contributions and public institutions was the Law no. 9 of 1st February 1989 concerning contributions in public enterprises.⁵⁸ There was lack of harmony between this law and the current situation of public institutions and enterprises and the absence of any provisions related to accountability, governance, transparency and sustainable development.⁵⁹

The process of public enterprise reforms started in 2015, and it was a challenging process based on a complete reform strategy of the public enterprises’ legal framework. In December 2019, the draft law was submitted. The parliamentary commission (for administration organisation and armed forces affairs) reviewed it in February 2020 and organised a hearing session with Elbawsala, a national NGO to follow up on the progress of this law amendment via its parliamentary observers. The updates are regularly published on the commission’s website.⁶⁰ Unfortunately, the new government withdrew the draft law.

Taoufik Rajhi, the major reforms minister, declared that “this new law will revolutionise the governance of public enterprises by providing them with good governance practices aligned with international standards. This will make it difficult for the government to change the business and economic models of enterprises”.⁶¹

In the same context, the High Committee on Administrative and Financial Control (HCCAF) published the Guide to Good Practices for a Better Governance of the Institutions and Public Enterprises.⁶² This guide aims to provide managers of companies and public institutions with an innovative tool that suggests solutions to problems experienced within their functions.

⁵⁸ Law No. 89-9 of 1st February 1989 on public participation and public enterprises (Articles 18 to 22)

<http://www.marchespublics.gov.tn/onmp/documents/document.php?id=50&lang=fr>

⁵⁹ La Presse, *Entreprises publiques en difficulté*, 26 February 2020,

<https://lapresse.tn/50115/entreprises-publiques-en-difficulte-projet-de-loi-relatif-a-la-gouvernance-des-contributions-etablissements-et-entreprises-publics-letat-ne-compte-pas-privatiser-les-etablissements/>

⁶⁰ Marsad Majles, *Projet de loi n°81/2019 relatif à la gouvernance des contributions et des entreprises et établissements publics*, 30 January 2020, <https://majles.marsad.tn/2019/fr/lois/5e2491994f24d00a3322e954>

⁶¹ La Presse, *Entreprises publiques en difficulté*, 26 February 2020,

<https://lapresse.tn/50115/entreprises-publiques-en-difficulte-projet-de-loi-relatif-a-la-gouvernance-des-contributions-etablissements-et-entreprises-publics-letat-ne-compte-pas-privatiser-les-etablissements/>

⁶² HCCAF, *Guide Des bonnes Pratiques pour Une Meilleure gouvernance des Etablissements et Des Entreprises Publics*, January 2019,

<https://www.uni-med.net/wp-content/uploads/2019/07/Guide-des-bonnes-pratique-pour-une-meilleure-gouvernance.pdf>

Challenges to effective commitment implementation

The draft of law is on hold, waiting for parliamentary approval since February 2020. This delay is due to the political division on the privatisation of publicly owned companies,⁶³ such as Tunisair, SONEDE, STEG, among others. The long procedures and debates for parliamentary approval and the focus on security and defence matters within the committee are the reasons for the delay in implementing this commitment.

Due to political instability, the draft law has been delayed.

Opportunities to accelerate commitment implementation

This commitment arose at the UK anti-corruption summit, and the Tunisian statement cited “that we commit to enhance legislations regarding companies’ governance based on disclosure, transparency and international accounting standards”. It is also part of the Administrative and Modernization Support Program for public enterprises in support of the 2016-2020 development plan funded by the EU.⁶⁴

The EU allocated a budget of €73,500,000 for the support programme for the modernisation of public administration and public enterprises in Tunisia in 2019-2020.

Recommendations

Accelerate the process for the creation of a body for the governance of public companies and institutions.

Engage with civil society and the private sector on the reforms needed to implement good governance practices and to guarantee the efficiency of the work of publicly owned enterprises.

Enforce the adoption of the guide to human resources management in public sector in accordance with the standards of the public sector code of conduct.

⁶³ WebManagerCenter, *Restructuration des entreprises publiques : Transformation ou privatisation ?*, 21 February 2020, <https://www.webmanagercenter.com/2020/02/21/445062/restructuration-des-entreprises-publiques-transformation-ou-privatisation/>

⁶⁴ European Union, *La décision d'exécution de la Commission relative au programme d'action annuel 2016 partie I en faveur de la Tunisie*, https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/c_2016_7803_tunisie_annex_1.pdf

RECOMMENDATIONS

Several commitments have common areas, We would like to call attention to the fact that several commitments are related to the same field or reform possibilities. Thus, same recommendations can be applied to them.

Overall, the Tunisian parliament should accelerate the adoption of a comprehensive and integrated anti-corruption legal framework, such as new legislation for public services to prevent corruption, ensure transparency within public services through the adoption of codes of conduct and creation of a merit-based recruitment system, in addition to a legal framework related to open data and.

The various stakeholders, including public institutions (INLUCC, ministries, and so on), civil society and the private sector, should all collaborate for effective interventions for legal reforms, advocacy, and adopting and ratifying international conventions. We encourage the relevant stakeholders involved in the fight against corruption to organize joint actions and collaborate together to ensure citizens' support to reforms and guarantee positive interventions of the legislator

The review of the institutional and legislative anti-corruption framework in Tunisia is a must as it will guarantee more transparency in public services and diminish the likelihood of corruption. The national anti-corruption agency needs to be strengthened by giving it more competences, power, support and financial resources. We encourage the Tunisian legislator to review the legal framework related to anti-corruption and ensure harmony between the different texts

Legislative and institutional initiatives undertaken so far to support reforms are certainly encouraging, but they should be consolidated and sustained over time. It is a long-term commitment that requires the involvement of all stakeholders.

The Tunisian government should have included in its IACC 2018 commitments grand corruption cases, more specifically with effective collaboration with international authorities and asset recovery agencies, and the support of its judicial system against all attempts of corruption. The establishment of the constitutional court is of a paramount importance to guarantee the respect of the values and principles enshrined in the constitution.

The energy and natural resources sector should have been included in the commitments due to the high levels of corruption in the sector. Some civil society efforts need to be highlighted in this regard. For example, I WATCH, Avocats Sans Frontières and the natural resources governance institute have developed a platform⁶⁵ that gathers legal, administrative and media resources on the extractive sector in Tunisia.

The youth need to be engaged in measures to counter corruption as they have the power and responsibility to change the culture and reduce the corruption rate. They should be involved in drafting national anti-corruption strategies, organising youth-oriented events and creating opportunities related to anti-corruption. Citizen engagement matters in the fight against corruption. The involvement of youth particularly leads to high level of social trust and sustainability as they

⁶⁵ Resources homepage, <http://resources.tn/fr>

have the power to drive change. Designing youth-oriented programs and events can ensure the participation of youth in the battle against corruption.

We encourage the Tunisian government to harmonize its legal framework related to anti-corruption, reforming the judiciary branch and ensuring the application of laws.

ANNEX 1: LIST OF INTERVIEWEES

Persons interviewed during the commitment monitoring – Tunis

	Position	Organisation
1	Project coordinator	Bawssala
2	President	Onshor
3	Chief of staff	Ministry of development and international cooperation
4	Legal department	Central Bank
5	Minister's counsellor	Ministry of local affairs
6	Director and Public Services Advisor	Presidency of the government (e-administration unit)
7	i Public Services Advisor	Presidency of the government (e-administration unit)

ANNEX 2: STAKEHOLDERS CONSULTED

Persons engaged during consultation on monitoring findings –

	Position	Organisation
1	Project coordinator	El Bawsala
2	President	Onshor

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