

The AFROSAI 2017/18 Coordinated Audit on Corruption as a driver of Illicit Financial Flows



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What are Illicit Financial Flows and how are they linked to corruption?

Illicit Financial Flows (IFFs) are defined as money that is illegally earned, transferred or utilised.

With an estimated amount of about 50 billion USD of IFFs leaving the continent per year, there is a significant shortfall of revenue for African governments. These funds could have supported development initiatives and public service delivery to citizens. The illegal outflows are furthermore estimated to be higher than inflows of Official Development Assistance, implying that Africa would be able to finance its development more autonomously were IFFs effectively stopped. IFFs are driven by three types of activities: 1) commercial activities: corporate revenue generated in Africa but not declared on the continent for the purpose of tax evasion or avoidance; 2) illegal activities that generate substantial revenue such as the proceeds of human and drug trafficking that are then laundered; and 3) corruption.

Why an AFROSAI coordinated audit on Illicit Financial Flows with a focus on corruption?

Given the detrimental effect of IFFs on the continent's public finances, the African Organisation of Supreme Audit Institutions (AFROSAI) assessed the role Supreme Audit Institutions (SAIs) could play in combating IFFs. AFROSAI concluded that it could have maximum impact by focusing on corruption. Whereas corruption is only estimated to make up for 5% of IFFs, it has been identified as a key facilitator of all other drivers of IFF. This is particularly true for criminal and commercial activities which are often facilitated through bribes. Consequently, AFROSAI decided to assess the effectiveness of selected existing mechanisms to address corruption.

What is the role of Supreme Audit Institutions in fighting corruption?

SAls are essential actors in national accountability systems. Through their audits, they hold governments to account for how taxpayers' money was spent. They provide valuable recommendations on how to improve public finance management systems and service delivery to citizens. Thereby, they play an important role in the prevention of corruption. Depending on the country system, some SAls in addition have the mandate to investigate, hence in the detection of corruption. In exercising this oversight role, they need to maintain an effective interface with other institutions, such as parliament and judiciary. By auditing African governments' efforts to address corruption, in 2018, African SAls are thus making a valuable contribution the African Union's Year against Corruption.

How did AFROSAI audit corruption as a driver of IFFs ?

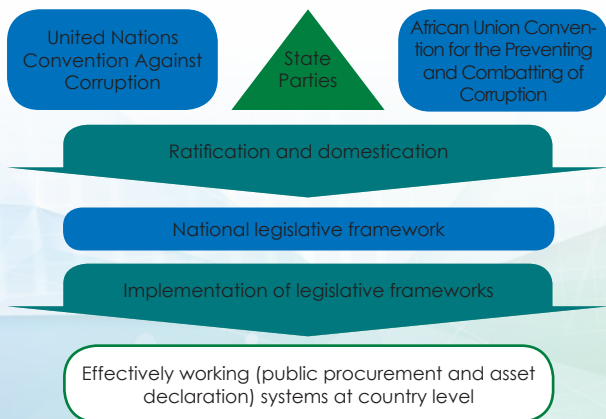
Aware of the fact that IFFs need to be addressed at the national as well as international level, AFROSAI undertook a coordinated compliance and performance audit on corruption as a driver of IFFs. Coordinated audits combine individual parallel audits at country level that follow a common methodology with a regional synthesis report. Twelve SAls from Anglophone and Francophone Africa took part in the joint planning, undertook field work, and concluded the audit in 2018.

The core question of the auditors was to what extent African governments had implemented core anti-corruption instruments that they had ratified, namely the African Union Convention for the Preventing and Combatting of Corruption (AUCP-CC), and the United Nations Convention against Corruption (UNCAC). Two especially important issues regulated by the Conventions were chosen as audit topics by the SAls due to their relevance and impact on public spending and IFFs:



- ▶ Asset declaration systems which are key in preventing and detecting illicit enrichment by public officials, and
- ▶ Public procurement systems, which are particularly vulnerable to corruption, resulting in huge financial losses for the public.

The auditors assessed whether national legislation was in line with the recommendations on asset declaration and public procurement in the conventions, and whether the national systems were working effectively.



The SAs chose either one or both topics after assessing their respective relevance in the context of their country. The SAs of Chad, Côte d'Ivoire, Niger, Senegal, South Africa, Tanzania, Uganda, and Zimbabwe focused on public procurement, while the SAs of Kenya, Liberia, Senegal, Sierra Leone, South Africa, and Togo focused on asset declaration.

2015

Governing Boards of AFROSAI and AFROSAI-E discuss the role of SAls regarding IFF

2016

AFROSAI Governing Board decides to undertake a cooperative audit on IFF, coordinated by KSC

Feb/Mar 2017

Interested SAls attend a planning workshop in Nairobi, Kenya
Head of SAls sign MoU and audit teams plan audit on asset declarations and public procurement

Dec 2016

A call for manifestation of interest is sent to all AFROSAI members

Mar-May 2017

Planning matrixes are finalised and panel of mentors is put in place

May 2017

Side meeting of participating SAls at the International Conference on IFFs organised by AFROPAC, AFROSAI, ATAF, and CABRI in Yaounde, Cameroon

Oct 2017

AFROSAI General Assembly:
Side meeting of participating SAls
IFFs audit progress presented to GA

May-Nov 2017

SAls undertake field work and internal quality control

Nov 2017

Review and Communication Workshop with participating SAls in Kampala, Uganda

April 2018

Regional Synthesis Report Writing Workshop in Yaounde, Cameroon

Aug 2018

Presentation of regional report at AFROSAI Governing Board

What did the audit reveal?

Asset Declaration Systems

- **Systems have been put in place** in all but one country, but they differ substantially in terms of which categories of officials have to declare, in terms of content to be declared, as well as in their degree of effective operationalization.
- **There is a need to revisit the regulatory frameworks.** While many of the essential criteria are contained, there are nevertheless omissions in the regimes. It is important to clearly define who is required to declare assets. This specification should ideally be based on regular risk analyses and assure that definitions of assets are broad enough to capture relevant assets (incl. of close family members and assets in foreign countries) and are adapted to country customs. Individuals should be required to update their declarations regularly.
- **The sanction regime needs to be strengthened and fully applied.** There is a need to elaborate appropriate sanctions for various level of non-compliance, for instance non-submis-

sion of declaration forms vs. false information. Sanctions, even if low, need to be predictably applied to act as deterrents.

- **In most countries, the verification of declarations needs to be urgently improved.** Detection of illicit enrichment that can potentially later flow out of the country as IFFs is only possible if declarations are verified regularly and unusual changes in declared assets are investigated. This requires updated registries including appropriate data management. In the verification process, various agencies need to cooperate, for example, tax agencies and banks. In contrast, the audit showed that although the verification function in all countries was given to specific institutions, this was typically not supported by a corresponding allocation of sufficient financial and human resources to fulfill the mandate. Furthermore, the majority of declarations are submitted in paper, rendering the analysis of such declarations cumbersome, as it has to be conducted manually without assistance by IT tools. Verifications are mostly not based on a risk analysis. Especially in those countries where all public officials have to declare, the combination of insufficient resources

and lack of a risk-based approach can result in the non-verification of declarations of high risk public officials.

- **Public accessibility of declarations needs to be reconsidered.** Out of concerns for privacy rights and security of declaring individuals, most countries have decided to not publish the declarations or only publish parts thereof. While these are valid concerns, this means that in most countries not even the information whether an official has complied with his or her duty to submit a complete declaration in time is being published, although this would be in the public interest to know. In those countries with a partly public declaration it was found that even the information required to be disclosed was missing from the public registers.

A final concern raised during the audit is that in some countries SAs have been denied access to the declarations which were only accessible by court order. In combination with the very limited verification by the institutions as described above, there is no effective oversight over a system which is essential for combating IFFs.

Governments should therefore consider to:

- ✓ Revisit categories of declarants and assets declared to ensure the asset declaration systems covers the relevant public officials and their assets,
- ✓ Foster a culture of regular declaration of assets,
- ✓ Introduce risk-based approaches in the determination of declarants as well as in verification processes,
- ✓ Introduce electronic declaration systems (similar to tax filing systems) that protect private data, but allow for effective data management, analysis, and verification,
- ✓ Clarify SAI mandates and reinforcing the SAI's oversight responsibility with regards to asset declarations. In particular, clarify the mandate of SAIs to have access to all necessary information to perform their audits as well as processes of data-protection/anonymization measures to protect privacy rights while doing so,
- ✓ Strengthen inter-agency cooperation to make verification of declarations more effective.

Public Procurement Systems

- **Systems have been put in place in all countries with regulatory frameworks that provide for transparency.** Public procurement systems can be centralized – a system with one central procurement authority- or decentralized – a system in which many government institutions have a procurement unit. Whereas rules and structures therefore differ from country to country, common messages can be found which can guide governments in the design and implementation of their ongoing system reforms. Nearly everywhere, there is a sufficient separation between the actual procurement, and the regulation and supervision of procurement. Regulatory frameworks have strong requirements on transparency. Operationalisation of existing frameworks needs to be strengthened.
- **Public procurement systems need to deliver on competitiveness and efficiency.** All countries have made open procurement the default method of procurement. However, in some countries thresholds for competitive processes have been set at too high a level which undermines competitiveness. In others, even though

thresholds seem adequate, numerous cases have been identified where competition is reduced due to waiving of the procurement rules or false justification of “emergency services”. The introduction and use of e-procurement has the potential to improve transparency, competitiveness, and efficiency of processes.

- **Conflicts of interest in public procurement need to be better managed.** Conflicts of interests are to be avoided or managed in order to prevent wasteful procurement. The awareness of the relevance of this process needs to be strengthened. In many countries, there is only a limited number of officials that are declaring a conflict of interest, and they often do not systematically include those that have a significant influence over the process. In some countries, officials sign compliance with a code of ethics that includes a generic statement regarding freedom of conflict of interest, leading to a situation where officials are not declaring their specific interest in each procurement process they are involved in. In countries where the legislative framework seems adequate, implementation gaps have been found with conflict of interest declarations lacking in some

procurement processes or absence of conflicts being falsely declared. This had led to contracts being awarded to companies in which officials or their close family members have interests in. Only a limited number of countries, some only recently, have prohibited their officials from doing business with the state. The monitoring of conflicts of interests becomes thus even more relevant.

- **Inclusion of procurement officials in asset declaration regimes is essential.** Procurement officials are not always included asset declaration regimes even though they are managing an important part of public expenditure. It is crucial that these officials are considered in asset declaration systems.
- **Corruption reporting mechanisms need to be made fully operational.** Corruption reporting mechanisms are not fully functional in most countries as protection of whistleblower from retaliation or at least anonymity is not guaranteed or not fully trusted, with the effect of corruption going undetected.

- **Oversight over procurement, including follow up and sanctions, must be strengthened.** Even though oversight/regulatory bodies undertake audits (or have private firms undertake audits for them), the follow-up of the recommendations of these audits needs to be improved in some countries. Supreme Audit Institutions also have an important role to play, as they undertake procurement audits and make specific recommendations. These need to be better taken into consideration by oversight bodies in order to strengthen the procurement system and its related internal controls. Sanctions do not act as deterrent in the abuse of procurement laws and regulations: either because in some countries their effect is minimal compared to the transgression or because they are determined by various legal texts which are outdated or unclear leading to an inconsistent application. This makes the system vulnerable to manipulation and biased interpretation.
- **Capacity for implementation of procurement laws and regulations is weak.** Procurement rules often change and especially the introduction of e-procurement will need capable

officials that are knowledgeable in the laws and regulation to adequately undertake procurement. Not all countries have competency frameworks or corresponding job profiles for procurement officials, while they do have them for accountants, which is often the default profile for most positions in the public sector. Procurement officials require on the job training to keep up to date (especially in decentralized systems) and should also receive specific anti-corruption sensitizations. Audit recommendations by SAIs and regulatory/oversight bodies should be more systematically used as basis for needs assessment for capacity-building, as already done in some countries.

Governments should therefore consider to:

- ✓ Ensure that the laws and regulations maximize the competitiveness, efficiency, effectiveness and transparency in the procurement process,
- ✓ Strengthen transparency and oversight by introducing and effectively operationalise e-procurement,
- ✓ Ensure conflicts of interests are managed through adequate declarations of interest,

- ✓ Ensure that asset declaration systems sufficiently cover public procurement officials,
- ✓ Promote existing corruption reporting frameworks and introduce/strengthen whistleblower protection,
- ✓ Strengthen regulatory/oversight bodies and provide for a framework for them to cooperate with SAls and other agencies,
- ✓ Revisit the applicable sanctions to ensure that sanctions can act as a deterrent,
- ✓ Providing adequate training and sensitization on procurement and emerging risks,
- ✓ Strengthen audit and investigation functions linked to public procurement, e.g. audit by procurement oversight bodies and SAls, control of correctness of declaration of conflict of interest, etc.

Overall Conclusion

- ▶ The Governments audited have made substantial progress in putting the asset declaration and procurement systems required by AUCPCC and UNCAC in place. It is now imperative to improve their operations.
- ▶ As an overarching finding, it is imperative to strengthen the controls of these systems, whether it is the verification of asset declarations, the procurement audits by oversight bodies or the control of declarations of conflict of interest in procurement. These controls combined with adequate sanction regimes must be put in place to prevent impunity.
- ▶ Supreme Audit Institutions are essential actors in providing recommendations for improving these and other public finance systems. Their role in national governance systems should therefore be strengthened.

A first step could be the recognition of the importance of their independence to fulfill this role at African Union level.

Other AFROSAI Initiatives on IFFs

Besides the coordinated audit, AFROSAI has also joined forces with other key African Good Financial Governance players to combat IFFs. Together with the African Organisation of Public Accounts Committees (AFROPAC), the African Tax Administration Forum (ATAF), and the Collaborative Africa Budget Reform Initiative (CABRI), AFROSAI organised an international conference in 2017 to discuss ways that IFFs can be addressed through better public finance management and good financial governance. The Yaounde Declaration against Illicit Financial Flows signed by all networks can be found here:

http://www.afrosai.org/sites/default/files/ContentNonpaginer/yaounde_iff_declaration_finalen.pdf

Addressing IFFs demands a whole-of-government approach. In order to improve systems, SAsI need to also continue developing their communication

tools to deliver relevant information to auditees, parliament, and government. AFROSAI's English-speaking linguistic sub-group has therefore developed a new Public Financial Management Reporting Framework that is currently being piloted. More information can be found here:

<https://www.intosaicbc.org/a-framework-for-reporting-on-public-finance-management/>

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