

# U4 Expert Answer



## Overview of corruption and anti-corruption in Tajikistan

### Query

*Please provide an overview of the nature and impact of corruption in Tajikistan. What legal and institutional framework is available to address corruption?*

### Purpose

The report is to be used as background documentation to inform our Central Asia anti-corruption strategy.

### Content

1. Overview of corruption in Tajikistan
2. Governance structure and anti-corruption efforts in Tajikistan
3. References

### Caveat

In-depth research and local studies on the impact of corruption in Tajikistan in particular sectors is limited. Given that many anti-corruption initiatives in the country are recent, it is also very early to assess the success or failure of such initiatives in Tajikistan.

### Summary

Most evidence indicates that corruption in Tajikistan is widespread and at all levels of society. Rule of law is weak and most institutions lack transparency and integrity structures. Tajikistan experiences similar issues as other former Soviet states in Central Asia,

with little political renewal and a small elite capturing political and economic life.

Tajikistan performs poorly in all areas assessed by governance indicators. Public administration and services as well as the judiciary are seen as particularly corrupt state institutions.

Dushanbe has taken steps forward to fight corruption but the country lacks some important anti-corruption mechanism and the necessary political will to effectively counter corruption.

## 1 Overview of corruption in Tajikistan

### Background

A former Soviet republic, Tajikistan gained its independence in 1991, after the collapse of the USSR. The confrontation between former Soviet officials, nationalists, liberals and radical religious groups coupled with regional rivalries over resources led to a civil war that lasted from 1992 to 1997. In 1997, a peace agreement was signed between the government of Rahmon and the United Tajik Opposition. Experts

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say that the trauma associated with the violent civil war left the population more apathetic and less inclined to challenge the government (International Crisis Group: 2009).

The Tajik regime is characterized by patronage and cronyism (Freedom House: 2012). The state is used to push and promote the interests and private gain of leaders and their allies; ministries and sectors of direct interest to the political elites are favoured, such as the defence and security or the state-owned aluminium industry, whereas social services and other sectors are severely underfunded (International Crisis Group: 2009). The government, for example, is regularly unable to provide sufficient energy supply in winter, leaving people without heating and electricity (Bertelsmann Foundation: 2012). Opposition parties are co-opted or excluded from the political scene and rivals are threatened, exiled or imprisoned (International Crisis Group: 2009). The government also maintains its monopoly over Tajikistan's political life through election fraud (Bertelsmann Foundation: 2012).

Tajikistan is the poorest and most underdeveloped of the former Soviet states, with a per capita income of USD 746 in 2010. The country is landlocked and, unlike its neighbours, it does not possess hydrocarbon reserves (Bertelsmann Foundation: 2012). Almost half the population lives on less than USD 2 per day (France Diplomatie: 2012) and hunger is widespread (International Crisis Group: 2009). About a million Tajiks have emigrated, mostly to Kazakhstan and Russia, and an increasing number of young workers leave the country. Their remittances exceeded USD 2 billion in 2010, making Tajikistan one of the world's most remittance-dependent countries (Bertelsmann Foundation: 2012).

Tajikistan's location, with a porous 1400 km long border with Afghanistan, makes it vulnerable to religious extremism, drug trafficking and organised crime. The country suffers from increasing narcotic abuse, institutionalized corruption and state capture (Bertelsmann Foundation: 2012). It is also seen by Russia and the West as a buffer zone against terrorism and drug/human trafficking, and has a growing geo-strategic importance due to its role in the delivery of supplies to NATO in Afghanistan (Freedom House: 2012).

## Extent of corruption

Transparency International's 2012 Corruption Perception Index ranks Tajikistan 157<sup>th</sup> out of the 176 countries and territories assessed, with a score of 22 on a scale of 0 - 100, where 0 means that a country is perceived as highly corrupt and 100 means it is perceived as very clean. Tajikistan's score is similar to its neighbours, Kyrgyzstan scoring 24, Uzbekistan and Turkmenistan scoring 17 and Pakistan 27. Afghanistan is perceived as significantly more corrupt, with a score of 8.

The World Bank's Worldwide Governance Indicators (WGI) also place Tajikistan in the lowest tenth of the percentile ranks, with a score of 9, on a scale from 0 to 100, in terms of **control of corruption**. Tajikistan's score dropped by half between 2007 (18) and 2009 (9). This could be explained by the instability that ravaged the country during that period combined with the damaging effects of the economic crisis that adversely affected the country. Tajikistan's score on **rule of law** has remained stable and alarmingly low in the last decade, ranging from 11,5 in 2002 to 16,3 in 2005, to go back to 11,3 in 2011.

Consistent with these findings, Tajikistan's **citizens** also perceive corruption as a problem in their country, as reflected by UNDP's 2010 public opinion survey. Almost 80% of respondents considered their country to be corrupt. The World Economic Forum's Global Competitiveness Report 2012-2013 states that **business executives** perceive corruption as the fourth most significant obstacle to doing business in Tajikistan (12,6% of the respondents), just after tax rates, regulations, and access to financing.

## Forms of corruption

### *Petty and bureaucratic corruption*

Public administration in Tajikistan is highly centralised. Tajikistan's bureaucracy is burdensome and ineffective due to a combination of corruption, incompetent staff, inadequate facilities, and a lack of resources (Bertelsmann Foundation: 2012). According to the WEF Global Competitiveness Index, inefficient government bureaucracy has always been in the upper half of the list of obstacles for doing business in the country.

According to the public opinion survey conducted by UNDP and the Centre for Strategic Studies in 2010, almost 70% of respondents admitted having paid a bribe or having wanted to pay a bribe without affording

it. The survey reveals that farmers and entrepreneurs are the two segments of society most exposed to corruption on a daily basis.

Business people perceive bribery to be a major problem in Tajikistan as well. The World Bank/IFC Enterprise Survey 2008 indicates that more than 44% of respondents claimed they were expected to make gifts to civil servants to “get things done” or “grease the wheel”, and more than one third reported having experienced at least one demand for a bribe in that year.

### *Political corruption*

According to Freedom House 2012, Tajikistan is **not an electoral democracy** and most of its latest elections were qualified by international and local observers as fraudulent (Bertelsmann Foundation: 2012). In its Nations in Transit 2012 report, Freedom House refers to Tajikistan’s multi-party system as a “democratic façade”. Patronage networks and family ties are central in Tajikistan’s political life. Global Integrity’s Reporter’s Notebook 2011 stresses that Rakhmon has managed to concentrate the country’s political and economic power in the hands of his kin.

UNDP’s 2006 corruption survey raises the issue of **state capture** in Tajikistan, pointing to the alliances between organised criminal groups, political parties and high-ranking government officials.

Global Integrity (2011) considers the accountability of the legislative and executive branches of government to be “very weak”. The country has adopted laws to make political party financing more transparent but most of them are ineffective and/or not applied (Global Integrity: 2011).

### *Grand corruption*

Corruption is common in the awarding of contracts, as the World Bank/IFC Enterprise Survey 2008 shows. More than one fourth of polled firms said they were expected to offer gifts to secure government contracts, and almost 40% considered corruption a major constraint for doing business.

Tajikistan adopted the *Law on Government Procurement of Goods, Works and Services* in 2006 and the Agency on Public Procurement of Goods, Works and Services was established in 2010. There are systems in place that require the publication of announcements and tenders, as well as asset declarations for public procurement officials, but there is

no monitoring mechanism. The US Department of State 2010 Report on Human Rights Practices in Tajikistan reveals that it is not uncommon for the government to award public contracts without publishing tenders. The report cites the example of the toll posts on the country’s main highway from Dushanbe to the country’s second-largest city, Khujand. The contract was awarded without a public call for tenders to an unknown company named Innovative Road Solutions, based in the British Virgin Islands and run by a member of the president’s family.

## Sector-specific corruption overview

### *Public administration and service delivery*

As mentioned above, Tajikistan’s public service and administration is largely ineffective due to corruption, inadequate funding and infrastructure as well as incompetence in the civil service. The Bertelsmann Foundation also underlines the problem of renewal of staff as the Soviet-trained civil servants retire and are replaced by a new generation with insufficient education, making public service more and more ineffective. Patronage networks and nepotism are common practice for the recruitment and promotion of civil servants, even though control over appointments has been tightened recently (Global Integrity: 2011). Government officials sometimes extort money from citizens, and civil servants on the public payroll are the most vulnerable. The US Department of State’s 2010 Human Rights Report on Tajikistan illustrates this with the example of the construction of the Roghun hydroelectric dam, for which teachers, doctors, students etc. were forced to buy shares to be able to keep their position. UNDP’s 2010 public opinion survey reveals that, for respondents, most public administration bodies and public services were the most corrupt institutions, with the police, customs and tax authorities highest on the list, followed by the administration of universities and hospitals.

According to the US Department of State’s 2010 Human Rights Report on Tajikistan, corruption in the **education sector** is widespread, especially in universities and higher education institutions. Students are regularly required to pay significant bribes to enter universities, the amount of the bribes required varying depending on the reputation of the university (from a couple of hundred dollars to 15 000 USD). Bribes also serve the purpose of obtaining better grades. The respondents to UNDP’s public opinion survey 2006 admitted that the gap between rich and poor was

widening and that it was virtually impossible for most students to complete their education.

In Tajikistan, corruption is also widespread in the **health sector**. According to UNDP's 2006 public opinion survey, 41% of respondents consider the health sector to be corrupt and 83% recognize that there are corrupt practices within this sector. Health workers are among those who receive the lowest pay in the country, and gifts and bribes constitute a significant source of their income (Transparency International: 2006). One third of the respondents to UNDP's 2010 public opinion survey often had to pay bribes to get "free" medical care and almost half of the respondents had to bribe health workers to get a place in hospital to treat a serious illness. This situation profoundly challenges universal access to health care; as Transparency International's Global Corruption Report 2006 indicates, a large proportion of the population is unable to seek healthcare.

The government of Tajikistan provides citizens with minimal budget information. The annual budget is published on the Parliament's website and the Ministry of Finance regularly posts Budget Performance Reports, with aggregated numbers, on its website. Interested individuals can submit requests to receive more detailed budget reports but the process is complicated. It is even more difficult to obtain budget information at the local government level (Global Integrity: 2011).

According to Global Integrity, the Parliament has very limited monitoring power on the budget process and on the government's financial management.

Tajikistan has engaged in a World Bank supported project to modernize the country's public financial management. The project was initiated in 2009 and will be finalized in 2014. It will focus on building internal capacity and establishing the basic processes for a transparent and efficient financial management (World Bank: no date).

### *State-owned enterprise*

In Tajikistan, the state controls major sectors of the economy through what is called "natural monopolies" (Bertelsmann Foundation: 2012). The Bertelsmann Foundation uses the example of the Tajikistan Aluminium Company (Talco), a state owned company with poor corporate governance, to show the lack of accountability and transparency of Tajik state-owned companies. According to a document made available

by the London High Court, Talco embezzled USD 1 billion between 2005 and 2008 and transferred the money to an offshore company in the British Virgin Islands. Many of these monopolies have recently undergone privatization in wave of privatization orchestrated by the president with little transparency (Bertelsmann Foundation: 2012).

Global Integrity reports that investigations of state-owned enterprises by the Audit Department are not observed and audit reports are not published. The IMF conducted an independent audit of Talco and found a number of serious problems. The World Bank stated that Tajikistan needed to improve its corporate financial reporting system to promote accountability and transparency in its state-owned enterprises (Global Integrity: 2011).

### *Police*

Police corruption is a serious problem in Tajikistan and the issue is worsened by the prevalence of organised crime and drug production and trafficking in Central Asia.

The police, and especially traffic police, are seen as one of the most corrupt state institutions in Tajikistan. About 90% of polled citizens recognized having experienced corruption when confronted with traffic police and more than half of said that these practices happened often or very often (UNDP: 2010).

The reputation of the Tajik police for serving the interests of the political elites and criminal groups rather than citizens motivated the government to partner with the OSCE in 2008 to reform this institution. However, reforms have consistently failed and law enforcement agencies are becoming increasingly corrupt and still engaging in abusive behaviour (Marat: 2012).

The appointment of senior law enforcement officials is centralized which presents a challenge to the independence of the institution. Law enforcement agencies lack adequate resources and police salaries are low which creates incentives to demand bribes. Political interference in the work of law enforcement agencies make high level officials virtually immune from prosecution and arrest (Global Integrity: 2011).

### *Judiciary*

An effective judiciary plays a key role in the overall integrity system of a country and judicial corruption undermines the rule of law. Analysts report that even though Tajikistan's justice system is de jure

independent, it is under the executive power's control in practice (Bertelsmann Foundation: 2012).

The government has continuously tightened its control over the judiciary. Tajikistan's constitution gives the president prerogative to nominate and dismiss judges and prosecutors (Bertelsmann Foundation: 2012). There is no formal and transparent procedure for recruiting judges, which makes the institution vulnerable to political influence (Global Integrity: 2011). This is echoed by citizens' lack of trust in the skills and capacities of the judges in their country (UNDP: 2010). In 2010, Tajikistan adopted a new criminal code, replacing the Soviet Code of 1961, transferring many powers from the office of the prosecutor to the courts. However, courts are often dominated by rulings from the office of the prosecutor who has more political leverage. The presidential office often instructs judges in highly sensitive cases (Bertelsmann Foundation: 2012).

The judiciary in Tajikistan is subject to widespread corruption and many activities such as settling a court case require illegal payments (Freedom House: 2012). In a 2010 public opinion survey, UNDP reports that 60% of respondents affirm that citizens do not want to go to court because the informal costs are too high. 55% also say cases are won by those who pay the highest bribe. Freedom House reveals, in its Nations in Transit 2012 report, that all the prisoners offered amnesty by the president in 2010 had to pay bribes to be released.

Analysts stress that the justice system in Tajikistan lacks resources. Courts are understaffed and overloaded, making the system slow and inefficient. There are almost no safeguards against conflicts of interest.

### *Organized crime and money-laundering*

Tajikistan is not a significant drug producer but its border to Afghanistan and weak border control makes it a favourite trafficking route (EAG: 2008). Reports indicate that most of the proceeds of crime are transferred and laundered in the Middle East. Close to no efforts are made in Tajikistan to identify illegal money and organised criminal groups hold a strong grip on the banking system, providing an additional level of safety for criminals (UNODC: 2007).

## 2 Governance structure and anti-corruption efforts in Tajikistan

### *Overview of anti-corruption reforms in Tajikistan*

Tajikistan has taken steps forward in the fight against corruption, adopting the United Nations Convention against Corruption and an anti-corruption law. But the country still lacks many important anti-corruption mechanisms such as an independent audit agency and effective access to information.

Where laws are in place, their implementation remains weak and the lack of political will to fight corruption contributes to the country's high levels of corruption (Freedom House: 2012).

The lack of actual freedom of expression and of the press, and limited space for civil society coupled with citizen reluctance to challenge the government, significantly limits control and oversight of government actions.

### Legal framework

#### *International conventions*

Tajikistan became a party to the United Nations Convention against Corruption (**UNCAC**) in 2006 through accession. According to the constitution, international legal instruments recognized by Tajikistan are an integral part of the legal system of the country. Tajikistan will be reviewed, in the framework of the UNCAC implementation peer-review mechanism, in 2013-2014.

#### *National legislation*

Tajikistan has adopted a rather strong and comprehensive anti-corruption law. The first legal instrument aiming at addressing the issue of corruption was the presidential decree of 1999. Although it combined preventive and repressive measures, it failed to address some key issues. The fight against corruption in Tajikistan is now governed by the *Law of the Republic of Tajikistan on Fighting Corruption* adopted in 2008. This law, combined with the Criminal Code **criminalize corruption**, extortion, passive and active bribery, as well as **bribery** of foreign officials (Global Integrity: 2011).

Regulations for conflicts of interest are very limited and their application is poor. Codes of conduct are completely absent from the Tajikistan government landscape. By law, members of the executive, legislative and judicial branches of government as well as high level civil servants are required to **disclose their assets**, but none of these declarations are audited. The acceptance of **gifts and hospitality** is guided by law for all branches of government and for the civil service, but these rules are effectively implemented only for the members of parliament. None of the above need submit to any limitation regarding **post-employment** activities, making the system vulnerable to the “**revolving door**” phenomenon (Global Integrity: 2011).

The Constitutional Law on Elections of 2004 place limits on individual and corporate **donations to political parties and individual candidates**. This law also limits political parties’ and individual candidates’ expenditures and requires the disclosure of donations, although their accounts are not audited. The Central Commission for Elections and Referendum of the Republic of Tajikistan is in charge of monitoring the financing of political parties and candidates. Global Integrity, in its Integrity Scorecard 2011, indicates that these measures are ineffective in practice.

The 2008 *Law of the Republic of Tajikistan on Fighting Corruption* provides the “guarantee of the personal security of citizens who assist in combating corruption-related offences” which covers both the public and private sectors. Tajikistan has set up mechanisms to allow **whistleblowers** to report cases of corruption to the Agency for Financial Control and Fight Against Corruption through a hotline which operates 24 hours a day. Following the phone call, whistleblowers must submit a written form. Global Integrity suggests that the above-mentioned agency has sufficient resources and acts on reported cases within a reasonable time period (one or two weeks). The most significant problem observed is the lack of confidentiality.

Tajikistan enacted its **Right to Access to Information Law** in 2008 giving citizens the right to request government information and records, and creating the National Information Agency of Tajikistan. Tajikistan is thus one of the 93 countries that have an access to information law. Access Info Europe and the Centre for Law and Democracy nevertheless deem Tajikistan’s legal framework for guaranteeing the right to information as insufficient, ranking the country 90<sup>th</sup> from 93 with regard to the strength of the legal framework. In

practice, government agencies often publish information with significant delays. Moreover, a decree that entered into force in 2010 allows government institutions to charge citizens and media representatives for requested information (Global Integrity: 2011).

## Institutional framework

### *Anti-Corruption Commission*

Tajikistan established its *Agency for State Financial Control and Fight Against Corruption* in 2008, with the mandate to investigate corruption-related offences. Global Integrity reports that Tajikistan’s anti-corruption agency receives adequate funding from the government but remains understaffed, which makes procedures slower. By law, the agency is independent from the government but a recent public opinion survey conducted by the Centre for Strategic Studies and UNDP reveals that citizens perceive the *Agency for State Financial Control and Fight Against Corruption* as one of the country’s most corrupt institutions. Recruitment at higher positions is often based on political connections (Global Integrity: 2011). In recent years, an increasing number of officials have been arrested on charges relating to corruption, however, as Bertelsmann Foundation indicates, most prosecutions of corruption happen at the lower levels of the administration, more specifically in the health, education and agriculture sectors (Bertelsmann Foundation: 2012).

### *Supreme Audit Institution*

The *Agency for State Financial Control and Fight Against Corruption* also serves as the supreme audit institution of Tajikistan. There is no law requiring the agency to give citizens access to the audit reports but in practice they are meant to be publicly available and online. However, the website of the agency does not function properly (Global Integrity: 2011). As mentioned above, the *Agency for State Financial Control and Fight Against Corruption* is understaffed which is all the more problematic in a context where it is supposed to serve these two essential functions.

The *Agency for State Financial Control and Fight Against Corruption* received equipment from the OSCE as well as educational material and training for its staff, on Anti-Corruption Day 2012. The OSCE will continue its support to the agency in 2013.

### *Office of the Ombudsman*

The Office of the Human Rights Ombudsman was created in 2008. It receives complaints from citizens, provides legal advice, monitors cases and can forward them to relevant agencies. Global Integrity reports that the government and judiciary give very little attention to these complaints submitted to the Ombudsman. The Ombudsman is independent by law but not in practice since he is nominated by the president and his office is funded by the government. Global Integrity reveals that the ombudsman sometime did not act on government actions that violated human rights. This office receives regular funding but in insufficient amounts and is understaffed (Global Integrity: 2011).

### *Election Commission*

The Constitutional law on Elections of Tajikistan of 2004 provides for the establishment of the *Central Commission for Election and Referenda*. The commission is independent by law but is subordinate to the government in practice. President Rahmon decided to reshuffle the electoral commission in 2011. Observers suspect that the government wished to reward senior members of the People's Democratic Party (PDPT) for their loyalty (Tajikistan Monitor: 2011). International and local election observers have described all recent elections as fraudulent (Bertelsmann Foundation: 2012), indicating the electoral commission's lack of effectiveness.

## Other actors

### *Media*

The Constitution of Tajikistan guarantees freedom of expression, freedom of speech, and freedom of the press. In reality, however, freedom of expression is restricted and Tajikistan has seen a decline in basic civil freedom in the past few years (Bertelsmann Foundation: 2012). The country ranks 122<sup>nd</sup> from 179 in Reporter Without Borders' Press Freedom Index and the CSO qualifies Tajikistan as being in a "difficult situation", like most of its neighbouring countries.

The government owns the majority of broadcasting outlets leaving limited space for independent channels on television and radio. Global Integrity indicates that 90% of the requests for a broadcasting media license are denied and that the procedure is far from transparent. Print media is considered by experts to be a more unbiased source of information. Global Integrity reports that it is much easier for citizens to set up a print media outlet than a broadcasting channel. The law

does not require news outlets to disclose their ownership.

In recent years, journalists have been under increasing pressure from the government. According to Reporters Without Borders, the authorities brandish civil war and the issue of radical Islamism to silence the media. In 2009, public officials brought defamation lawsuits against four major newspapers in the run-up to the parliamentary elections of February 2010. According to Global Integrity, it is not safe for journalists in Tajikistan to report on corruption. They are regularly imprisoned, tortured and receive death threats. An example is Dodojon Atovulloev, a journalist who severely criticized the regime and was forced to flee the country because of death threats he received. He was recently killed while in exile in Moscow (Reporters Without Borders: 2012).

The government systematically controls the internet and regularly blocks news-related, political and religious websites. Asia Plus, the independent news site has been blocked frequently in 2012, as have RIA-Novosti, Youtube and others. (Reporters Without Borders: 2012).

### *Civil society*

The right to assembly and form associations is guaranteed by the constitution but these rights are often limited in practice. Organisations critical of the government, among which are anti-corruption NGOs, are systematically harassed by the authorities, especially at the district level (Bertelsmann Foundation: 2012). Anti-corruption organisations often face funding problems and are financed from abroad. The government monitors these organisations strictly (Global Integrity: 2011).

### *International community*

A scandal at the National Bank of Tajikistan revealed in 2007, which showed that the government was misusing USD 310 million of aid, significantly undermined Rakhmon's credibility with donors (International Crisis Group: 2009). Donors, despite their frustration, continue to support Tajikistan to reduce poverty, develop infrastructure and improve the country's governance.

The Anti-Corruption Network for Eastern Europe and Central Asia (ACN) was set up in 1998 by the OECD Working Group on Bribery, in collaboration with the EU, multilateral development banks, CSOs and business associations, to support anti-corruption efforts and create a regional forum for best practices targeting

countries in Central, Eastern and South Eastern Europe, the Caucasus and Central Asia. The ACN operates through meetings and conferences, sub-regional initiatives and thematic projects. In 2003, the ACN launched the Istanbul Action Plan for Armenia, Azerbaijan, Georgia, the Kyrgyz Republic, Kazakhstan, Tajikistan, Ukraine and Uzbekistan. The Action Plan involves country reviews and monitoring of the implementation of recommendations.

The OSCE is present in Tajikistan through its local office. A Good Governance Unit was established in the Tajikistan Office in 2012, demonstrating the political will of the organisation to deal with national corruption issues. This organisation works closely with the government to identify gaps in the legal framework and try to address them. It also manages various awareness-raising projects. The OSCE is one of the leading organisations of the Donor Anti-Corruption Forum in Tajikistan which offers a venue for international organisations and embassies to work jointly on corruption-related issues.

Good governance is one of the focal areas of the European Commission's partnership with Tajikistan. In its country strategy for Tajikistan 2011-2013, the European Commission highlights the need for improving public financial management and public administration through a "transparent, accountable public resource management system, based on international best practices for budget preparation, monitoring and execution". The European Commission has allocated € 128 million to this 2011-2013 strategy for Tajikistan.

The World Bank chose Tajikistan as one of the four countries in the European Central Asia region in which to pilot its Country Governance and Anti-Corruption process. Within this framework, the World Bank will support the government in tackling three main governance areas: (a) strengthening transparency and accountability; (b) developing capacity; and (c) fostering demand for good governance.



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