

MULTI-STAKEHOLDER DIALOGUE ON THE STATE OF IMPLEMENTATION OF THE ECOWAS ANTI-CORRUPTION PROTOCOL 20 YEARS LATER

FINAL REPORT



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1. INTRODUCTION

On 21 December 2001, the Protocol on the Fight against Corruption¹ of the Economic Community of West African States (ECOWAS) was adopted at the Assembly of Heads of State and Government meeting in Dakar in order to promote the strengthening, harmonization and coordination of anti-corruption measures in the region that remains undermined by this scourge.

While there have been notable achievements where the legal and institutional framework for the fight against corruption in the ECOWAS region is concerned, these risk being undermined by several threats or weaknesses. Thus, 20 years after the adoption of the ECOWAS Protocol on the Fight against Corruption, which has so far been ratified by nine (9) of the fifteen (15) Member States, a review of the implementation of its relevant provisions is necessary. It is in light of the foregoing that National Chapters of Transparency International (TI)² in ten (10) countries³ in collaboration with partner organizations in Burkina Faso and Guinea agreed to conduct a joint review. The review was conducted from October to December 2021 and spearheaded by ANCE-Togo, TI national contact with the support of the TI Secretariat in Berlin.

The study report is intended as a regional advocacy tool for strengthening the protocol and its implementation. To this end, a dialogue of anti-corruption stakeholders in ECOWAS was held virtually on December 20, 2021 to discuss the findings and recommendations from the review and reflect jointly on priority actions to make the implementation of the protocol more effective.

1.1. Overview of the objectives of the workshop

- Present the findings and recommendations from the review of the state of implementation of the ECOWAS Protocol on the Fight against Corruption, carried out by TI national chapters and partner organizations;
- Jointly reflect on priority actions needed to remedy the weaknesses identified in the implementation of the ECOWAS Protocol on the Fight against Corruption
- Discuss next steps in strengthening the ratification and implementation process of the Protocol.

¹ ECOWAS Protocol on the Fight against Corruption:

https://eos.cartercenter.org/uploads/document_file/path/406/ECOWAS_Protocol_on_Corruption.pdf

² Transparency International is the global coalition with the vision of a world in which government, business, civil society and the daily lives of people are free of corruption. Through over 100 national chapters across the world and an international secretariat in Berlin, TI works to translate this vision into reality.

³ Benin, Cote d'Ivoire, Ghana, Liberia, Mali, Niger, Nigeria, Senegal, Sierra Leone, Togo

1.2. Overview of expected outcomes of the meeting

- The findings and recommendations of the study conducted by TI national chapters and partner organizations in West Africa shared;
- A set of priority actions for strengthening the ECOWAS Protocol on the Fight against Corruption and its implementation is adopted by the participants;
- Stakeholders discussed widely the next steps to strengthen the ratification and implementation process of the Protocol.

2. PROCEEDINGS OF THE WORKSHOP

2.1. Opening remarks

The meeting started with moderation by Mr. Michael Boadi, Resource Mobilization Officer at Ghana Integrity Initiative, and included several speeches.

The welcome remarks was given by Mr. Ebeh Kodjo Fabrice, PhD, anti-corruption policy expert and director of ANCE-Togo.

This was followed by an address by Mr. Samuel Kaninda, Africa Regional Advisor at the Transparency International Secretariat, who outlined the background to the study and the context and objectives of the meeting.

The opening remarks were given by Mr. Francis Ben Kaifala, Chairman of the Anti-Corruption Commission of Sierra Leone and Chairman of the Network of National Anti-Corruption Institutions in West Africa (NACIWA).

2.2. Presentation of the findings and recommendations of the study

This part of the meeting consisted of two sessions.

The first session, moderated by Mr. Michael Boadi, allowed for a brief presentation of the findings of the study on the implementation of the ECOWAS Protocol on the fight against corruption by Ebeh Kodjo Fabrice, PhD.

The second session moderated by Mrs. Blanche SONON, Chair of the Board of Directors of Social Watch Benin, allowed the main speaker to share some recommendations on strengthening the implementation of the ECOWAS Protocol on the fight against corruption.

These two presentations were followed by productive discussions on the strengths/weaknesses and recommendations for priority actions.

2.2.1. Strengths and Achievements of the Anti-corruption Mechanism in the ECOWAS Region

- 15 out of 15 ECOWAS countries have revised their criminal codes in order to include corruption-related offences;
- 15 out of 15 countries have established anti-corruption institutions which are now functional;
- 15 out of 15 countries have also operationalized regulatory, oversight and procurement bodies;

- 4 out of 15 countries have adopted and implemented a framework act on the prevention of corruption (Benin, Burkina, Côte d'Ivoire, Guinea Conakry, Nigeria);
- 7 out of 15 countries have adopted a national anti-corruption policy/strategy (Benin, Burkina Faso, Ghana, Niger, Nigeria, Sierra Leone, Senegal); the drafting process is ongoing in Côte d'Ivoire and Togo;
- 15 out of 15 countries have adopted modern anti-money laundering and combating the financing of terrorism laws (Directive n° 02/2015/CM/UEMOA) or GIABA assistance in Anglophone countries;
- 8 out of 15 countries have harmonized standards on the transparency of public financial management (Directive n°01/2009/CM/UEMOA); each of the Anglophone countries has similar standards that are not harmonized;
- 8 out of 15 WAEMU francophone countries also have harmonized standards on the transparency of public procurement and services (Directive n°04/2005/CM/WAEMU); each of the Aglophone countries has similar standards that are not harmonized; Liberia also adopted a public finances management act in 2009
- 8 out of 15 countries have a regulation regarding the right of access to information considered as acceptable by The Right To Information Rating (Gambia, Liberia, Sierra Leone, Ghana, Nigeria, Guinea, Burkina Faso and Côte d'Ivoire);
- ECOWAS leaders have operationalized several bodies such as the Intergovernmental Action Group against Money Laundering in West Africa (GIABA); Network of National Anti-Corruption Institutions in West Africa (NACIWA); the West African Network of Central Authorities and Prosecutors (WACAP); and the West African Police Chiefs Committee (WAPCCO).

2.2.2. Weaknesses of the anti-corruption mechanism in the ECOWAS region

2.2.2.1. Weaknesses relating to the Protocol

- Lack of operationalization of the Technical Anti-Corruption Commission (Article 19(1) of the Protocol);
- Lack of an innovative financing mechanism for the Protocol;
- Weakness of a regional and national whistleblowing mechanism;
- Weak harmonization of standards in the absence of EU directives or regulations resulting in a variety of legislation in the countries (assets disclosure, access to information, whistleblower protection, anti-corruption agencies, etc);
- Lack of an effective reporting system.

2.2.2.2. Weaknesses of national systems

2.2.2.2.1. *Legal and Institutional Weaknesses*

- Weak anti-corruption institutional framework ;
- Weak anti-corruption mechanism in the private sector;
- Low public participation in decision-making processes and low access to information by the public;
- Low quality and transparency of public services;
- Low level of digitalization of public finance and procurement; the majority of states use traditional procurement procedures (except Nigeria and Ghana which are at the nascent stage of digital procurement);
- Existence of certain vulnerabilities in the fight against money laundering and terrorist financing and weak asset recovery systems;
- Weak enforcement of standards (laws and codes of conduct);
- Weak suppression and impunity of certain acts of corruption: some cases of corruption reported by whistleblowers are not prosecuted.

2.2.2.2.2. *Weakness of anti-corruption agencies/*

- Low level of independence of anti-corruption agencies;
- Lack of staff code of conduct in some anti-corruption agencies;
- Lack of or poor implementation of the special status in some anti-corruption agencies;
- No or clearly articulated investigative mandate in some agencies;
- Low financial autonomy of most Anti-corruption agencies;
- Low level of autonomy regarding the recruitment of staff for anti-corruption agencies (most of them are staffed by civil servants seconded from the civil service);
- Overlapping responsibilities and conflicts of competences between anti-corruption agencies;
- Lack of /weak specialized debt collection institutions; low capacity of stakeholders; low level of information and poor implementation of collection measures;
- Weak judicial systems (lack of law enforcement and corruption of some officials);
- Inadequate financial support to these bodies and institutions
- Staffing challenges, especially lack of people required with the necessary skills and technical competences.

2.2.2.2.3. *Weaknesses in the anti-corruption system of the private sector and CSOs*

- Weak compliance of legislation to international standards

- Weak adherence of companies to the ISO 37001 standard or corporate anti-corruption management
- Weak voluntary anti-corruption initiatives in private companies
- Weak accounting and auditing standards.
- Weak CSO networking and lack of resources (material, technical and financial).

2.2.3. Recommendations for priority actions

➤ TO THE ECOWAS COMMISSION

2.2.3.1. Enhancing the effectiveness of the Protocol

2.2.3.1.1. Ensuring that the Technical Anti-Corruption Commission is operational

In accordance with Article 19(1) of the Protocol, the Technical Anti-Corruption Commission should be set up and be operational, in order to, among other things, supervise the implementation of the Protocol at both national and regional levels.

2.2.3.1.2. Ensuring that the Periodic Reporting system is operational

In order to ensure effective and efficient implementation of the Protocol, Member States shall agree on a timeline for the periodic evaluation and reporting of measures adopted and challenges faced in its implementation.

2.2.3.1.3. Establishing a Funding Mechanism for the Protocol

ECOWAS Member States should consider a specific funding mechanism for the Protocol to ensure its effectiveness and most importantly to ensure that they can provide the necessary technical assistance to States for the smooth implementation of the Protocol; similar to the operational arrangements of the ECOWAS Mechanism for Conflict Prevention and Management⁴.

2.2.3.1.4. Enhancing the implementation of the Protocol

ECOWAS should enhance the harmonization of systems and the effectiveness of the Protocol by adopting several community legal instruments (directives, decisions, regulations or other implementing measures) to support several provisions, including: whistleblower protection; transparency of lobbying activities; assets disclosure; public participation and access to

⁴ Protocole relatif au Mécanisme de Prévention, de Gestion, de Règlement des Conflits, de Maintien de la Paix et de la Sécurité (Abuja, décembre 1999), <https://www.oecd.org/fr/csao/publications/39466688.pdf>

information; budgetary/public finance transparency; public procurement; codes of ethics and professional conduct, etc.

Strengthen the regional and international cooperation in debt collection.

➤ ***TO THE INTERGOVERNMENTAL ACTION GROUP AGAINST MONEY LAUNDERING IN WEST AFRICA (GIABA)***

2.2.3.2. Strengthen Anti-Money Laundering and Counter Terrorist Financing Measures

- ✓ Strengthen the process of harmonization of Anti-Money Laundering and Counter Financing of Terrorism (AML/CFT) legislation ;
- ✓ Build the capacity of stakeholders on AML/CFT instruments and best practices;
- ✓ Strengthen the compliance monitoring system for reporting entities and cross-border movements of cash and bearer negotiable instruments.

➤ ***TO ECOWAS MEMBER STATES***

2.2.3.3. Strengthen the regional institutional framework and national anti-corruption frameworks

- Create/strengthen and operationalize Higher internal control authorities in countries with legal, administrative and financial autonomy;
- Create and operationalize in each State Party a National Financial Prosecutor's Office (PNF), specialized in the prosecution of acts of corruption;
- Create/strengthen and operationalize in each State Party an Economic and Financial Brigade (BEF) with units specialized in new economic and financial offences and with extended competences to these new forms of economic and financial crime;
- Create/strengthen and operationalize in each State Party an authority for access to public information and documentation ;
- Create/strengthen and operationalize in each State Party the High Court of Justice, empowered to hear cases of corruption of senior State officials ;
- Strengthen the High Council of the Judiciary (CSM) to be more effective in ensuring the integrity of the magistrates;
- Create/strengthen the framework for dialogue between national and regional anti-corruption stakeholders.

2.2.3.4. Enhance public participation and access to information

- Strengthen/adopt and implement processes that enable citizens, especially vulnerable groups, to actively participate in the fight against corruption, in development planning and policymaking (agoras, public consultations, state-civil society consultation frameworks, etc.)⁵ ;
- Strengthen civic education about the culture of reporting acts of corruption;
- Strengthen open government initiatives by joining several institutions working in this field (Open Government Partnership)⁶;
- Strengthen adherence to and implementation of Infrastructure Transparency Initiative (CoST)⁷ ;
- Strengthen adherence to and implementation of the Global Initiative for Fiscal Transparency (GIFT) standards ⁸ ;
- Ensure that bodies responsible for providing access to information as well as appropriate monitoring, sanctions and evaluation mechanisms are effective.

2.2.3.5. Strengthening the fight against corruption in the private sector

- Support the adoption, dissemination and implementation of Codes of Conduct and Covenants of Integrity in Private Companies or the Business Principles of Transparency International for Countering Bribery (August 2004);
- Adopt a law to strengthen internal control in private companies ;
- Support companies to adhere to the 10th Principle of the United Nations Global Compact-2004⁹ ;
- Support private companies to adhere to the ISO37001 or Anti-Corruption Management System certification¹⁰.

⁵Protocol on the Mechanism for Conflict Prevention, Management, Resolution, Peacekeeping and Security (Abuja, December 1999),

https://www.un.org/africarenewal/sites/www.un.org.africarenewal/files/Rapport_sur_la_gouvernance_en_Afrique%20IV.pdf

⁶ Open Government Partnership, <https://www.opengovpartnership.org/policy-areas/>

⁷ Infrastructure Transparency Initiative (CoST), https://infrastructuretransparency.org/wp-content/uploads/2018/06/14_Cost_Summary_French_Proof_2.pdf

⁸ Global Initiative for Fiscal Transparency <https://www.fiscaltransparency.net/public-participation-principles-and-guide/>

⁹ UN Global Compact (2004), <https://www.unglobalcompact.org/what-is-gc/mission/principles/principle-10>

¹⁰ ISO37001 or Anti-Bribery Management System Standard, <https://www.bsigroup.com/fr-FR/ISO-37001--Systeme-de-Management-Anti-Corruption/#:~:text=L%E2%80%99ISO37001%20est%20la%20nouvelle%20norme%20internationale%20con%C3%A7ue%20pour,la%20corruption.%20Voir%20toutes%20nos%20formations%20ISO37001%20%3E>

2.2.3.6. *Enhancing the transparency of public services and finance through digitalization*

- ✓ Strengthen digital solutions (GovTech) in public finance management, including both (i) strengthening the digitalization of public revenues and grants and (ii) strengthening the digitalization of public expenditure management;
- ✓ Strengthen the governance of public companies through digitalization;
- ✓ Strengthen the governance of the civil service through digitization;
- ✓ strengthen the governance of the judicial sector through digitization.

2.2.3.7. *Enhancing transparency in public procurement*

- Strengthen the digitization of public procurement/electronic procurement;
- Strengthen open contracting measures: publish and update all contracts and subcontracts; make payment information public;
- Strengthen the capacity of public procurement practitioners, especially the weak capacity of procurement bodies at sectoral, deconcentrated and decentralized levels as well as at service providers' level;
- Strengthen the legal and institutional framework for public procurement: shorten procurement timeframes, incorporate explicit provisions on conflict of interest, corruption and fraud into public procurement legislation and contracts.

2.2.3.8. *Strengthening anti-money laundering measures*

- ✓ Strengthen the implementation of regulations on cash transactions in the ECOWAS region;
- ✓ Strengthen the control of cross-border movements of cash and bearer negotiable instruments within the region;
- ✓ Strengthen the regulation and control of Illicit Financial Flows (IFF);
- ✓ Strengthen the control of currency movements in the region;
- ✓ Establish and maintain beneficial ownership registers.

2.2.3.9. *Strengthening asset recovery systems*

- ✓ Create/strengthen and ensure that asset recovery agencies comply with international standards (they should have legal, administrative and financial autonomy and not be subordinated to any ministry);
- ✓ Increase the level of information provided to stakeholders on the challenges of transnational corruption;
- ✓ Provide collection institutions with technical, human and financial resources;
- ✓ Strengthen regional and international cooperation on asset recovery.

2.2.3.10. Strengthen law enforcement

- Strengthen the enforcement of sanctions against cases of corruption;
- Strengthen fairness and justice in the treatment of citizens' cases;
- Increase the prosecution of corruption.

2.2.4. Summary of exchanges

Questions and comments from participants covered: how to strengthen the application of sanctions; why the technical anti-corruption committee has not been set up; the weak capacity of anti-corruption bodies; the weakness of the protocol which could need to be amended; the weak involvement of civil society organizations; the methodology of the Transparency International's Corruption Perception Index (CPI); the follow-up of the workshop recommendations, etc.

The speakers successively gave satisfactory answers to all these sets of relevant questions.

2.2.5. The next steps

- The adoption and dissemination of a declaration by Transparency International national chapters and partner organizations in West Africa through social networks on December 21, 2021;
- Continued dissemination of the declaration at the national level by Transparency International national chapters and partner organizations to various national institutions (Ministry of Foreign Affairs, anti-corruption institutions, ECOWAS embassies);
- Submission of the declaration to ECOWAS by the TI national chapter in Abuja;
- Finalization and sharing of workshop documents;
- Follow-up and advocacy by TI members with ECOWAS leaders for the implementation of recommendations.

2.2.6. Closing of the workshop

The closing remarks were made by two speakers, Mr. Ebeh Kodjo Fabrice, Director of ANCE-Togo (host organization) and Ms. Linda Ofori-Kwafo, member of the Board of Directors of Transparency International. Both congratulated all participants for the quality of the debates and resolutions and called for the continuous commitment of all stakeholders to ensure the implementation of the workshop's recommendations.

3. CONCLUSION

Anti-corruption initiatives in the fifteen ECOWAS countries have had mitigated outcomes, due to the several weaknesses and threats that may undermine anti-corruption efforts.

4. ANNEXES



ANCE TOGO
ANALYSE NATIONALE DE CORRUPTION ET D'INTÉGRITÉ

RINLCAO NACIWA
Réseau Inter-Afrique des Institutions Nationales de Lutte contre la Corruption et pour l'Intégrité

TRANSPARENCY INTERNATIONAL
The global coalition against corruption

21 DECEMBER 2001 - 21 DECEMBER 2021, 20TH ANNIVERSARY

**THE ECOWAS PROTOCOL ON THE FIGHT AGAINST CORRUPTION,
20 YEARS LATER, WHERE ARE WE ?**

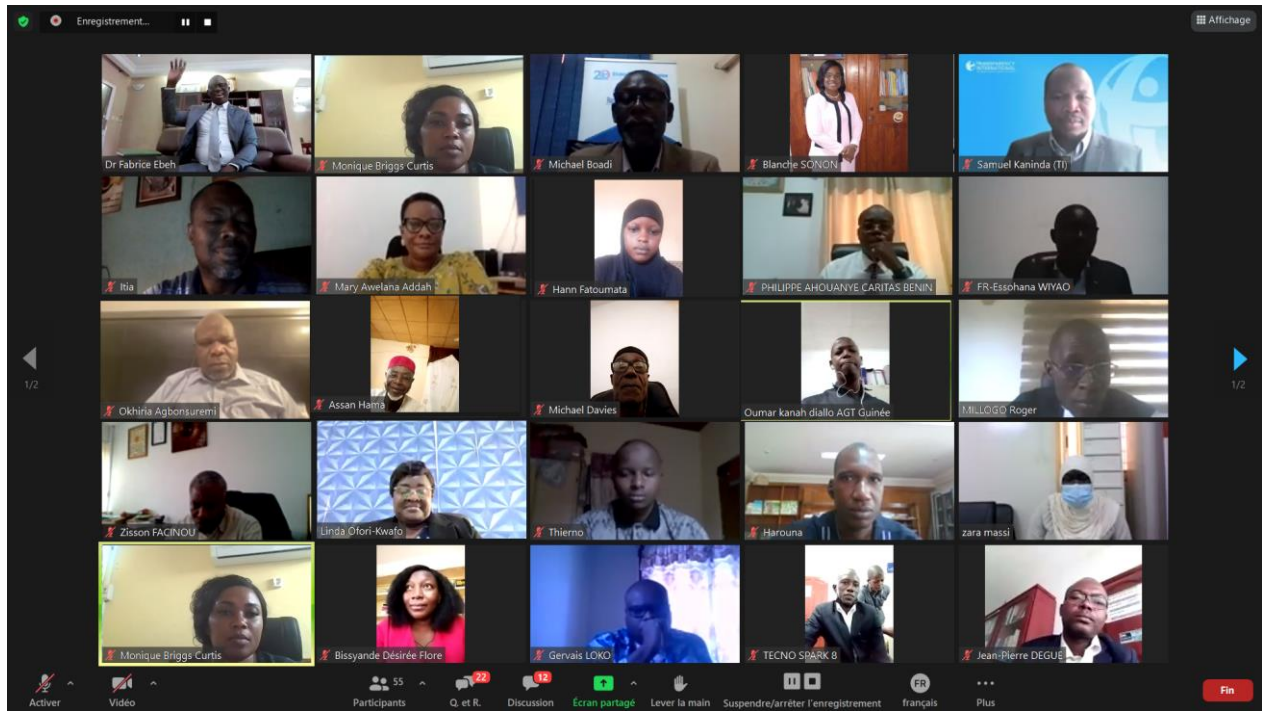
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Some participants in the December 20 multi-stakeholder dialogue

**MULTI-STAKEHOLDER DIALOGUE ON THE STATE OF
IMPLEMENTATION OF THE ECOWAS ANTI-CORRUPTION PROTOCOL
20 YEARS LATER (Dec. 21,2001- dec. 21, 2021)**

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