

# ANTI-CORRUPTION HELPDESK

PROVIDING ON-DEMAND RESEARCH TO HELP FIGHT CORRUPTION

## OVERVIEW OF CORRUPTION AND ANTI-CORRUPTION IN MADAGASCAR

### QUERY

Can you provide an overview of corruption and anti-corruption in Madagascar? We would be particularly interested to have information on the sectors of natural renewable resources and of extractive industries.

### CONTENT

1. Overview of corruption in Madagascar
2. Corruption and governance in the renewable resources and extractives sectors
3. Overview of anti-corruption efforts in Madagascar
4. References

////////////////////////////////////

### Author(s)

Sofia Wickberg, [tihelpdesk@transparency.org](mailto:tihelpdesk@transparency.org)

### Reviewer(s)

Marie Chêne, Transparency International,  
[tihelpdesk@transparency.org](mailto:tihelpdesk@transparency.org), Chantal Uwimana,  
Transparency International

### Date

Responded: 19 September 2014

### NOTE

Due to the recent political change in Madagascar, it should be noted that many elements in this document refer to the period preceding the establishment of the new government in 2014. The new government has stated its commitment to many anti-corruption efforts, the implementation of which is yet to be seen.

### SUMMARY

With the elections in late 2013, Madagascar ended a five-year transitional period that was characterised by institutional decay and rampant corruption. International governance indicators echo this trend with significant declines in terms of rule of law and control of corruption since the beginning of the political crisis in 2009.

Madagascar's political system has historically been marked by a strong executive power that undermines the separation of powers and the independence of the judiciary. Political contests concern personal relations and influence rather than actual policy, and clientelism and favouritism are common features. Rent-seeking tendencies have increasingly emerged, fuelled by financial gains linked to the discovery of oil reserves. Bureaucratic corruption is as common as political corruption but the latter is only rarely prosecuted.

The transitional government has failed to stop the illegal trade in rare woods and minerals. High ranking officials are allegedly involved in this trafficking scheme.

The former government, led by Marc Ravalomanana, had taken significant steps to prevent and combat corruption (creating an anti-corruption commission for example), but anti-graft efforts have been declining since the military coup in 2009. Moreover, the country still lacks some fundamental governance safeguards, such as a freedom of information law or whistleblowing protection.

## 1. OVERVIEW OF CORRUPTION IN MADAGASCAR

### Background

From 2001 to 2009, Madagascar experienced both a significant wave of democratic and anti-corruption reforms, and a downswing into autocratic rule after 2009 that seriously undermined anti-corruption efforts. With the 2013 elections, the country seemed to have entered a transition period that still has to translate into concrete democratic change.

Marc Ravalomanana came into power in 2001. Under his leadership, Madagascar experienced a massive wave of positive reforms, which included a reasonably successful fight against corruption and the strengthening of the judiciary (Freedom House 2011). However, popular discontent in 2009 paved the way for the military coup and the transitional regime of Andry Rajoelina, the *Haute autorité de transition* (HAT) (Freedom House 2011). During the transitional regime the country went “from a flawed democracy (...) to an autocracy with rent-seeking tendencies” (Bertelsmann Foundation 2014). In response to the coup, the international community, decided to put an end to the country’s financial support (but continued to provide humanitarian aid), isolating the country internationally.

The political rivalry between Rajoelina and Ravalomanana and the forced exile of the latter have polarised the country’s public scene since the beginning of the political crisis. The 2013 elections, part of the roadmap pushed for by the international community, were made possible by the promise from both rivals not to stand. The proxy politics that replaced the old opposition have not bridged the gaps, and new divides have since been forged partly due to the malleability of political alliances that support personal power rather than a policy platform (Crisis Group 2014).

In 2014, Madagascar is on the verge of ending a five-year long transition period that put the country in a situation of economic despair. The presidential elections that put Hery Rajaonarimampianina in power in late 2013 are an important step towards the return of democracy and international support. However, as Crisis Group (2014) says, the country needs fundamental reforms and more than a “cosmetic makeover”.

The local power vacuums made possible by the weakness of state institutions allowed local criminal groups, the *dahalos*, to gain influence in the south of the country. Hundreds of civilians and dozens of government officials have been killed by these militia-like groups in recent years. In 2013, Madagascar’s security forces launched a special operation to stop the criminal groups, but also engaged in mass killings of civilians and indiscriminately burned villages (Freedom House 2013a).

The political crisis severely impacted the country’s economic and social prospects; in 2012, Madagascar’s per capita GDP put it in 175<sup>th</sup> place out of 182 economies. Madagascar is a relatively poor country that has, however, experienced constant economic growth (between 1995 and 2009) boosted by major mining projects led by QMM Rio Tinto and Sherritt Ambatovy (France Diplomatie 2014). Madagascar has a unique wealth of natural resources that it has not managed to translate into significant economic gains nor into social developments. The country is ranked 155<sup>th</sup> out of 187 countries examined in the [UNDP Human Development Index 2014](#).

### Extent and forms of corruption

Corruption in Madagascar is widespread at all levels of government and society (US Department of State 2013), which is all the more problematic since the country’s institutions do not have a history of transparency and accountability (Crisis Group 2014).

The recent political crisis appears to have worsened the situation, both due to the fact that it significantly hampered the ongoing anti-corruption efforts (Bertelsmann Foundation 2014) and that it isolated the country internationally and deprived it from aid, making elites look for new, and often illicit, sources of income, such as through illegal logging or abuse of natural resources (Crisis Group 2014).

#### *Extent of corruption*

As in previous years, Madagascar performed poorly on [Transparency International’s Corruption Perceptions Index](#) (CPI) in 2013, being ranked 127<sup>th</sup> out of the 177 countries assessed, with a score of 28 on a scale of 0 (highly corrupt) to 100 (highly clean). The country experienced a slight decrease compared to the previous year, when it scored 32. The [World](#)

Bank's 2012 Worldwide Governance Indicators, which echoes the results of the CPI, reflect the detrimental effect of the political crisis on the country's governance. Madagascar scores below 14.83 (on a 0 to 100 scale) in terms of government effectiveness (against 30.10 in 2008), 20.38 in terms of rule of law (against 38.46 in 2008) and 31.10 for its control of corruption (against 54.85 in 2008). The same trend is revealed by the 2013 Ibrahim Index of African Governance (IIAG) in which Madagascar experienced a significant drop in terms of rule of law measurement, going from a score of 57.2 in 2007, which is above regional average (50.2), to 12.9 in 2011.

However, Madagascar is quite positively assessed by the 2014 Heritage Foundation's Index of Economic Freedom, making the country the 7<sup>th</sup> out of 46 countries in the sub-Saharan Africa region in terms of economic freedom. This does, however, not prevent the organisation from highlighting the problem that corruption poses to the economy of the country, with "freedom from corruption" being the area in which Madagascar receives its poorest score (27.3 on a scale from 0 to 100). Corruption indeed constitutes a major obstacle to doing business in the country; the firms interviewed for the World Economic Forum's 2013-2014 Global competitiveness report indicate that corruption is the second biggest impediment, after political instability, for doing business. Similarly, almost 43 per cent of the firms surveyed within the framework of the 2009 IFC/World Bank Enterprise Survey say corruption is a major constraint for doing business in Madagascar.

Madagascar's population also point to corruption as an important problem within their society. According to the 2014 Afrobarometer report, the individuals polled perceive corruption as widespread and worsening, particularly within political institutions. Individual's experience of corruption has slightly increased from 15 per cent of users of public administration in 2008 to 22 per cent in 2013.

### *Forms of corruption*

#### **Petty and bureaucratic corruption**

The quality and management of Madagascar's public administration has declined since the beginning of the political turmoil (World Bank 2013), with a serious loss of capacity to administer certain sectors and the

development of new rent-seeking opportunities and predatory behaviour within the civil service (Bertelsmann Foundation 2014).

Corruption is a frequent feature of individuals' interaction with the administration, the police, gendarmerie and judiciary being particularly affected. Individuals polled by Afrobarometer (2014) consider these as the most corrupt institutions of the country; 66 per cent of the respondents think that all or some police officers are corrupt and 57 per cent say the same about magistrates. The US Department of State cites a communiqué from the office of the commander of the gendarmerie indicating that a number of gendarmes had been sanctioned for corruption in 2013, but most corrupt civil servants act with impunity, especially in the higher ranks (US Department of State 2013). Courts often demand bribes from users just to have a case heard (Bertelsmann Foundation 2014) and prosecutors regularly demand bribes from defendants to release them from arbitrary detention (US Department of State 2013).

A majority of individuals surveyed by Transparency International – Initiative Madagascar (TI-IM) through its Advocacy and Legal Advice Centre (ALAC) define corruption as "greed", "nepotism" or "clientelism". Some people explained the persistence of corruption by the low salaries of civil servants and by the inefficiency of the public administration, making corruption a way to "speed things up" (TI-IM 2013).

Companies are also regularly confronted with petty and bureaucratic forms of corruption. Almost 17 per cent of the firms responding to the World Economic Forum's Global Competitiveness Index 2013-2014 indicate that corruption is the most problematic factor for doing business in Madagascar. The country ranks 119<sup>th</sup> out of 148 in terms of the extent of irregular payments and bribes imposed on companies. Echoing public opinion, firms seem to think that the police services are unreliable, putting Madagascar on a rank of 138 out of 148. Before the start of the political crisis, 22 per cent of firms responding to the 2009 IFC/World Bank Enterprise Survey indicated that they expected to give gifts to public officials "to get things done", 19 per cent to obtain an operating contract and 21 per cent to get an electrical connection.

### Electoral and political corruption

Up to the recent elections in December 2013, that were considered credible (Crisis Group 2014), Madagascar was not seen as an electoral democracy (Freedom House 2013). Political and civic rights have been routinely violated. This situation combined with the country's toxic political dynamics were among the factors that brought people to the streets in 2009, paving the way for the military coup (Crisis Group 2014).

Until the end of the transitional regime, Madagascar's political system was based on patron-client relations and informal networks that empower certain selected businesses and "big families" through which executive power is maintained (Bertelsmann Foundation 2014). Crisis Group (2014) notes that Madagascar's political platform relies less on law and principles than on power and influence. Political parties do not feed public debate but rather serve as a tool to maintain influential individuals in power through the use of favours (World Bank 2010). The blurred lines that separate military power from political power have politicised career advancement within the armed forces, which is particularly problematic with regards to the democratic process, given the military's role as a referee of political life in the last decade (Crisis Group 2014).

Firms also acknowledge the issue of widespread favouritism in government decisions (WEF 2014). More dramatically, the US Department of State (2013) reports that high-ranking members of the transitional government abused their power to extort international and domestic companies for the purpose of obtaining personal profits, threatening to deny operating licences and harassing management.

The governance structure has been weakened all the more by the lack of capacity of the public institutions that are dominated by the executive power. Even though certain sectors of the administration enjoy some autonomy, it is believed that the public administration has been captured by the country's political and economic elite (World Bank 2010).

### Organised crime and human trafficking

Madagascar is a source country for men, women and children trafficked and subjected to forced labour,

and women and children subjected to sex trafficking. Experts report that, since the coup in 2009, the lack of economic prospects and the general decline of the rule of law have contributed to a worsening of the phenomenon of human trafficking. Lebanon, Kuwait, Saudi Arabia, Jordan, Mauritius and the Seychelles are the most common destinations for women and children being trafficked into forced labour and sex exploitation, whilst men have mostly been sent to forced labour on Chinese-flagged fishing vessels in South Africa's territorial waters (US Department of State 2014). Corruption and complicity on the part of public officials have contributed to making human trafficking possible in the country, and the government has failed to adequately investigate and prosecute these cases. Since the coup, eradicating human trafficking has not been considered a priority, and the government does not fully comply with the minimum standards for the elimination of this crime (US Department of State 2014a).

Madagascar's inadequately monitored coastline makes it vulnerable to all sorts of trafficking and to related money-laundering risks. In addition, there is a significant black market for consumer goods. Trade-based money laundering is the most common form of introducing dirty money into the formal market in this country (US Department of State 2014b).

## 2. CORRUPTION AND GOVERNANCE IN THE RENEWABLE RESOURCES AND EXTRACTIVES SECTORS

Besides human trafficking, Madagascar also experiences smuggling in illegal mining and natural resources, in gemstones and protected flora and fauna, such as trafficking in turtles (US Department of State 2014b).

### Illegal logging and trafficking of precious woods

In Madagascar, the most relevant form of corruption in the renewable natural resources sector is that of illegal logging and trafficking in precious woods.

The institutional weakness, general absence of rule of law, combined with a lack of political will to properly enforce legislation has created a fertile ground for illegal logging and international trafficking in rare woods (US Department of State 2013). The political turmoil that followed the 2009 coup was a

particular trigger for the development of this criminal business (Global Witness 2009).

### *Corruption challenges*

The informal industry of timber extraction and trafficking is a usual suspect in Madagascar's criminal landscape, and experts note that practices and actors have changed little in the past decades (Global Witness 2009). The illegal trade in precious woods, which represents an annual loss of US\$10 billion<sup>1</sup> for timber-producing countries, is mainly organised by the "rosewood mafia" who coordinate a criminal network of exporters, domestic transporters and corrupt officials. The labour-intensive harvest is usually undertaken by local farmers who receive very limited profit (National Geographic 2010). Global Witness, in its 2009 report, publishes a list of the 13 "operators" involved in the harvest and trade of timber in the Sava region, all but four of which have participated in illegal trafficking and one of whom was a member of Madagascar's parliament at the time. In 2014, the Singaporean authorities made the largest-ever international seizure of rosewood logs, which was estimated at more than 3000 tonnes. Experts say that the size of this seizure suggests both that the trafficking has taken on an industrial dimension and that a high-level corruption scheme was in place (Mongabay 2014a).

Cyclones and other natural disasters provide a pretext for the illegal logging of precious woods, under the form of "salvage" activities that are legally allowed as a way to clear the trees that have fallen as a result of the winds. The absence of state capacity to undertake inventories and assess the damage offer an opportunity to traders to also export illegally harvested woods (Global Witness 2009). The outcome of this confusion is that most of the exported precious wood from Madagascar is illegally logged in the country's national parks (National Geographic 2010). In 2009, Global Witness and the Environmental Investigation Agency reported the illicit and uncontrolled harvest of approximately 100 to 200 trees of rosewood daily, with activity centred in three locations in the Masoala National Park and the Mananara Biosphere Reserve.

<sup>1</sup> Note: Transparency International takes "billion" to refer to one thousand million (1,000,000,000).

As in most trafficking schemes, corruption is one of the key drivers and it flourishes at various levels of public administration, from low-level law enforcement officers to high-ranking politicians. The transport of logs in full daylight to the port of Antalaha via roads controlled by the police and the gendarmerie seem to indicate the active collusion of law enforcement agents. Similarly, traffickers themselves have recognised that officials from the Forest Administration are involved in the illegal logging of precious woods by closing their eyes in exchange for kickbacks (Global Witness 2009).

The lack of sanctions and the absence of significant efforts to put an end to this illegal trade also suggest the lack of independence of the judiciary as well as the involvement of high level public officials in this industry worth US\$460,000 a day (Global Witness 2009). Crisis Group's investigative team in Madagascar obtained off-the-record testimonies recognising the involvement of the state and suggesting that the proceeds of the trafficking in rare woods served to finance the elections (Crisis Group 2014).

Observers suggest the capture of state authorities by traffickers. Aggressive intimidation techniques, such as the looting and burning of Forest Administration offices, are used by the traffickers to complete their lobbying efforts aimed to eliminate the bans and limitations put on, for example, rosewood exports (Global Witness 2009).

### *Governance environment*

The legal framework governing Madagascar's forest has changed regularly since the 1990s, with a succession of forest laws. Experts say that these laws have all been applied with disappointing results, but that the recent efforts to decentralise the administration show positive developments with an increased reach of the law in the communes, management transfer contracts and positive experiences of decentralised forest control. They appeal for a true revival of proper forest policy with the new regime in place, but Madagascar's forest management structure still has to cope with numerous weaknesses (Madagascar Conservation & Development 2014).

The trade in precious woods has been intermittently banned and reauthorised since the 1990s. In

addition, there appears to be an overlap between laws and regulations governing the forestry sector and the trade in timber, creating confusion and fuelling inaction. The laws are too many and lack a clear complaints mechanism, and land and forest regulations are incoherent. Also, the responsible administrations severely lack resources and the Forest Administration in particular sees the management of forests as its privilege and only allows for minimal public participation (Alliance Vohary Gasy 2012).

Moreover, there is a lack of observance of the existing rules on the part of the concerned administrations, and many local governments are not fully aware of the legislative framework. Operators and complicit magistrates exploit people's ignorance of the law and are the ones to benefit from the trade at the expense of local communities (Alliance Vohary Gasy 2012). Combined with poor monitoring and control of harvest, transport and trade, this situation is of particular concern, in the context of a quasi-breakdown of the rule of law (Global Witness 2009).

The judiciary generally does not prosecute grand corruption (see section on the judiciary) and it is reported that officials from the Forest Administration are regularly incarcerated to cover for operators and corrupt high-ranking officials (Alliance Vohary Gasy 2012).

In mid-2013, the World Bank commissioned a "Study to Assess the Options of Disposal of the Illicit Stocks of Rosewood and Ebony", following which a new phenomenon emerged: the rosewood logs that had been inventoried started to regularly be ferreted out of the depots where they were stored to be smuggled out and shipped abroad. Traffickers would pay generously for the silence of local householders. Observers say that the known depots had been completely emptied by the end of 2013 (Madagascar Conservation & Development 2013).

Global Witness (2009) suggests that the illegally logged timber principally feeds the markets in China, the United States and Europe, and that Madagascar's authorities systematically fail to repatriate the proceeds of this trade. The recent seizure highlights the difficulty for Madagascar to repatriate the illegally traded precious woods seized by foreign authorities, given the costs such a shipment entails. Moreover, the poor oversight of the

sector makes it difficult to be certain that the repatriated illegal logs would not be smuggled out again (Mongabay 2014a).

Madagascar's new president recently pledged to "lead the fight" against illegal rosewood logging. He promised to soon take measures to address the issue but did not give any details (Mongabay 2014b).

### Extractive industries

With the discovery of large oil reserves, especially in the Tsimiroro field, the extractive industries have become a significant source of revenue that will only grow in the coming years, and dwarf other income-generating sectors (Bertelsmann Foundation 2014). The methods used to extract oil are largely controversial because of their significant risks to the environment. Observers label Madagascar's oil industry as one of the dirtiest oil sands projects anywhere in the world (Webb 2010).

Since the military coup and withdrawal of aid, the mining permits have proliferated, with loose oversight and little transparency (Bertelsmann Foundation 2014). In its urge to get production going, the government offered oil companies an extremely generous fiscal deal that experts say had previously been unheard of (Webb 2010). The election roadmap suspended the awarding of new contracts in the mining and oil exploration sectors during the transition (Crisis Group 2014).

### Corruption challenges

There has been little trust in the state from investing companies, many of which have publicly complained about strong-arm tactics on the part of public officials (Bertelsmann Foundation 2014). In fact, the transitional government regularly attempted to extort payments from mining companies, casting a shadow over its willingness to respect fiscal commitments (World Bank 2010). It is understood that corruption is widespread in the mining sector and that so-called resources corruption has become engrained in the local political system (Crisis Group 2014).

Madagascar is vulnerable to the resource curse dynamic and good management of the sector is undermined by the rent-seeking tendencies of the elites (World Bank 2010). Corruption in the sector

manifests itself in various forms, including (World Bank 2010):

- political interference in the allocation of mining rights
- revolving doors (senior officials getting jobs at the Sino Union Energy Investment Corp after facilitating the granting of two exploration permits [Grad Iloafo no date])
- extortion (the permit auctions in the Soalala region were diverted into a discretionary process with upfront payments of US\$100 million [World Bank 2010])
- state capture (especially with regards to gold extraction and trade)
- embezzlement of public funds facilitated by the opaque distribution of revenue from the extractive industries
- bribery (Crisis Group [2014], citing US embassy cables, reports that the government requested partial ownership of a copper-nickel project and asked the company “give certain members of the (transitional government) ‘signing bonuses’”).

### *Governance environment*

The accountability and transparency of Madagascar’s extractive industries have historically been weak. In the 1990s, Madagascar opted for a very liberal legislation on mining and oil, facilitating the granting of concessions in order to stimulate the sector. The lack of resources and governance safeguards led to a situation where the dedicated public bodies have little oversight over the activities of the companies. For instance, companies have to pay a percentage of their initial investment to the National Office for the Environment (ONE) which verifies impact assessments and delivers permits, thus funding the public body in charge of ensuring that they respect environmental norms (Les amis de la terre 2012).

According to Bertelsmann Foundation, the country’s extractive industries do not have any form of effective anti-corruption mechanism in place and the Extractive Industries Transparency Initiative (EITI) in the country is said to have been a complete fiasco (Bertelsmann Foundation 2014). Indeed, in 2011, the EITI suspended the country on the grounds that the agreed programme could not be properly implemented under the transitional government (Freedom House 2013).

Madagascar was, however, reintegrated into the EITI process in 2014 by the international board, recognising the steps taken to re-establish democracy as well as the efforts to comply with the standards. The 2013 EITI report for Madagascar covers 96 per cent of the significant payments received by the state from extractive industries. In 2014, Madagascar also developed an ambitious work plan for transparency and accountability in the sector that covers the issuance of concession permits, the use by the government of the fiscal revenues from the extractive industries through participatory budget processes and a sustainable development programme (EITI 2014).

## **3. OVERVIEW OF ANTI-CORRUPTION EFFORTS IN MADAGASCAR**

### **Overview**

Madagascar made significant efforts and advancements with regards to the fight against corruption in the early 2000s with new legislation and institutions (Bertelsmann Foundation 2014).

This anti-graft struggle experienced a significant slowdown with the establishment of the transitional regime who failed to enforce anti-corruption laws and fuelled a sentiment of full impunity (US Department of State 2013).

The recently elected president declared, in his introductory speech, that he wanted to make the fight against corruption one of the priorities of his mandate. Recent news reports suggest that the country’s anti-corruption commission has re-gained some space to manoeuvre since the new government came into place (RFI 2014). However, the cases being brought to justice all concern officials from the former government; it is therefore all the more important that the anti-corruption framework does not become a political tool.

Despite some notable flaws, such as the absence of a freedom of information law or whistleblower protection, Madagascar has a rather strong legislative framework against corruption and largely complies with the international conventions of which it is party.

The implementation of the legal framework is however more problematic. Madagascar does not

have a clear anti-corruption policy to coordinate the efforts of the various institutions. In 2011, the anti-corruption institutions decided to create an exchange and coordination platform to try to bridge this gap but the results have not been satisfactory (UNDP, Ministry of Justice 2014).

Moreover, all the anti-corruption bodies are under the supervision of the executive in one way or another, which undermines their independence. The general feeling regarding the country's anti-corruption framework seems to be that it lacks adequate resources and the political will to be truly independent (UNDP, Ministry of Justice 2014).

## Legal Framework

Madagascar adopted its anti-corruption law in 2004, [Law No. 2004 – 030](#). This law criminalises active and passive bribery, abuse of power, embezzlement of public funds, trading in influence, and favouritism, among others. The law details the sanctions applicable for violating its provisions. Experts indicate that they do not consider the sanctions to be sufficient and dissuasive (UNDP, Ministry of Justice 2014).

Madagascar's anti-corruption law also contains provisions on the receipt of gifts and against conflicts of interest and illicit enrichment. It demands that public officials of a certain rank regularly publish their declaration of personal wealth that should be sent to the independent anti-corruption office, BIANCO (*Bureau indépendant anti-corruption*). The US Department of State (2013) notes that only a minority of officials declare their wealth and conform to the law. Moreover, BIANCO does not publish any information regarding the declarations or regarding those who failed to declare. BIANCO can inform the prosecutor's office in cases of noncompliance, but reports indicate that authorities do not apply sanctions for noncompliance (US Department of State 2013). Experts have expressed regret that the asset declaration forms are too limited and do not require officials to provide information regarding activities that could lead to a conflict of interest. Moreover, the full potential of these declarations is not used as the BIANCO does not have the mandate to verify their accuracy (UNDP, Ministry of Justice 2014).

Another law adopted in 2004 criminalises money-laundering: the *Loi sur le blanchiment, le dépistage, la confiscation et la coopération internationale en matière de produits du crime*. There are, however, reports that highlight difficulties for law enforcement agencies and the judiciary to properly implement and enforce these provisions (US Department of State 2014b).

The 2011 law on political parties prohibits corporate donations to political parties but not anonymous donations. It obliges political parties to regularly report on their finances, but no specific controlling institution is singled out nor are there any sanctions in case of non-compliance. The Electoral Code states that "no public enterprise should provide direct or indirect funds to support the electoral campaign of any party, organisation, candidate or list of candidates" and prohibits vote buying (IDEA 2012).

According to the US Department of State (2013), there is no specific law providing for the protection of public and private whistleblowers. However, the 2004 anti-corruption law provides for the identity of whistleblowers to be protected during investigations and declares reprimanding whistleblowers illegal. Whistleblowers involved in a corruption case can be exempted from sanctions if they report the facts prior to prosecution. Similarly, the suspects that facilitate the arrest of others involved in corruption can have their sentence halved. The US Department of State (2013) does not report to what extent these measures are implemented.

In Madagascar, the law does not provide for public access to government information (US Department of State 2013).

In terms of its international commitments, Madagascar is party to the UN Convention against Corruption since 2004 and to the UN Convention against Transnational Organised Crime since 2005. The country ratified the African Union Convention on Preventing and Combating Corruption in 2004.

## Institutional framework

### Judiciary

While the law guarantees the separation of powers, Madagascar's semi-presidential regime is largely



dominated by the executive branch of government (Bertelsmann Foundation 2014). As a consequence, the judiciary has historically sided with the executive, and officials who commit abuses are rarely prosecuted, making impunity quasi-systematic (US Department of State 2013). Political interference in the affairs of the judiciary remains common and many judicial decisions were tainted by frequent intimidation (Freedom House 2013).

The Malagasy judiciary lacks adequate resources and personnel; the Bertelsmann Foundation (2014) even qualifies the country's courts as "chronically underfunded and understaffed". The country's judicial personnel is not properly trained, all of which hampers judicial effectiveness. Reports note that the delays and case backlogs are phenomenally large (Freedom House 2013).

To address the challenges faced by the judiciary, in 2004, the *Conseil Supérieur pour la Lutte Contre la Corruption* (CSLCC) created a structure grouping magistrates and judicial police officers specialised in issues related to economic crime and corruption, the *Chaîne Pénale Economique Anti-Corruption* (CPEAC). The CPEAC deals with the cases it receives from the BIANCO (the anti-corruption commission) and the SAMIFIN (the country's financial intelligence unit – see below). The CPEAC receives the same criticism of inefficiency as the rest of the judiciary and is seen as prosecuting only the "small fish". This situation is partly explained by the fact that the service lacks sufficient resources, material and permanent offices. Moreover, CPEAC officials complain about the poor quality of the cases they receive from the BIANCO, which prevents them for undertaking proper investigations and prosecutions. They also mention a 2009 directive regarding "sensitive cases" for which they need to ask the Ministry of Justice for instructions (UNDP, Ministry of Justice 2014).

Madagascar's inadequate and overburdened judiciary is particularly vulnerable to corruption. Bribery is a tool frequently used to accelerate processes, to prioritise cases or just to have one's case heard (Bertelsmann Foundation 2014). Rule of law has been systematically undermined since the military coup and, in 2013, Madagascar was ranked 48<sup>th</sup> out of 52 African countries assessed in terms of respect of the rule of law (Mo Ibrahim Foundation 2013). Public trust in the judiciary is quite low, not

even half of the individuals surveyed in the 2013 Afrobarometer say they trust the country's courts. This is partly due to the high levels of perceived judicial corruption, almost 60 per cent of the respondents indicated that they believe the judiciary is corrupt (Afrobarometer 2013).

### *Bureau indépendant de lutte anti-corruption (BIANCO)*

The BIANCO was created by the anti-corruption law of 2004. It is in charge of the prevention of corruption and the implementation of the anti-corruption law, as well as popular education regarding the issue of corruption.

Madagascar's anti-corruption commission is independent and operationally autonomous on paper, the law guarantees staff tenure and sufficient resources. Until 2009, BIANCO has, also in practice, been a relatively effective entity with high-calibre civil servants in key positions. The bureau is nominated by the president, which undermines its complete independence, and the institution has not managed to maintain accountability at ministerial level or above (Bertelsmann Foundation 2014). Indeed, BIANCO is seen as efficient to combat and reduce low-level corruption, but it has been largely toothless with regards to political and grand corruption (World Bank 2010). In addition, the BIANCO does not have the mandate to start investigations on its own initiative.

BIANCO lacks adequate resources to properly fulfil its mission and its resources have been systematically reduced since 2009, both due to the withdrawal of donor funding and to the lack of political will of the transitional government to combat corruption (Bertelsmann Foundation 2014). It is regularly criticised by the population for being inefficient and lacking concrete results against the corrupt (UNDP, Ministry of Justice 2014).

### *Comité de sauvegarde de l'intégrité (CSI)*

Madagascar's Integrity Safeguard Committee was known as the *Conseil Supérieur pour la Lutte Contre la Corruption* (CSLCC) from its creation in 2002 until 2006. Its initial mission was to develop Madagascar's anti-corruption system and since its renaming its mission has been to watch over the country's integrity system and particularly the judiciary and the judicial police. It is in charge of the promotion of

human rights, of the rule of law and of the fight against corruption. The committee is composed of seven members and its president is nominated by the President of the Republic.

The CSI manages various integrity programmes targeted to specific public institutions, such as a programme on local governance, a programme on governance of security forces, a programme of natural resources and another one on electoral governance. There is only limited information regarding the actual operations and efficiency of this committee.

### *Service des Renseignements Financiers (SAMIFIN)*

SAMIFIN is Madagascar's financial intelligence unit. It was created in 2007 and is in charge of the reception and analyses of reports of suspicious transactions, and to transfer relevant cases to the judicial authorities.

The director of the SAMIFIN is nominated by the government after propositions submitted by the CSI. The rest of the board is nominated by the CSI in collaboration with the director.

The SAMIFIN has to face a number of obstacles in its operation. Firstly, the country has not adopted a national policy against money laundering within which its activities could fit, leaving it without guidance. In addition, the institution lacks adequate resources to function and, in 2014, did not even have a permanent office. As with all the anti-corruption institutions of Madagascar, the SAMIFIN suffers from a lack of coordination between the various entities, which means that it lacks the necessary information to properly address the laundering of the proceeds of crime (UNDP, Ministry of Justice 2014).

### *Direction générale de l'audit interne*

As one of Madagascar's audit institutions, the [General internal audit directorate](#), under the supervision of the Ministry of Finance, is expected to play a role in the fight against corruption via its control of the quality of public service, of the use of public finances and its audit missions.

Observers note that budget planning and execution has become opaque since the coup, despite

significant improvement in transparency and accountability during the Ravalomanana era. The administration is considered to be understaffed and audits are rarely conducted (Bertelsmann Foundation 2014).

### *Cour des comptes de la Cour suprême*

The [Supreme Court's Chamber of Accounts](#) is in charge of the control of the government's accounts, of the supervision of the execution of the finance laws, of the oversight of state-owned companies and public organs.

The competences of the Malagasy financial jurisdictions can be classified in three categories: judicial competences (regarding the accounts of public entities), management review (including performance audits of public entities) and budgetary competences (regarding the execution of finance laws and of the budget at national and local level).

There is an information asymmetry between the state and its citizens with regards to the management of public finances and experts highlight that the structure is in need of reform (Midi Madagasikara 2014).

### *Médiature de la république Malagasy*

Madagascar's ombudsman, the [Médiature](#), was created in 1992 as an independent public body in charge of the reception and processing of citizens' complaints regarding public administrations and local governments. The ombudsman is a member of the Integrity Safeguard Committee.

There is no information available regarding the ombudsman's operations or efficiency.

### *Autorité de régulation des marchés publics (ARMP)*

Madagascar's [public procurement authority](#) was created in 2006 as an independent control entity to operationalise the reforms of the country's public procurement system. This authority was set out to uphold the principle of free access to public contracts, equal treatment of candidates and transparency of procurement processes.

The ARMP is in charge of the setting the applicable norms with regards to public procurement and of their implementation. It also adopts measures to prevent and fight corruption in this domain and undertakes or commissions independent audits of the execution of public contracts and launches investigations in cases of noncompliance.

There is only limited information available concerning the operations and efficiency of the Malagasy public procurement authority, but media reports suggest that, due to a structural lack of resources, the institution has not controlled the conduct of public procurement since 2010 and that only a few public organs located in the capital city were inspected (Newsmada 2014).

## Other stakeholders

### Media

Freedom of the press and freedom of speech are constitutionally guaranteed in Madagascar, but in practice these rights have been systematically violated, especially since the military coup. The Malagasy press has routinely been used as a political weapon and there has been an increase of polarisation, harassment and self-censorship (Bertelsmann Foundation 2014). Madagascar is ranked 81<sup>st</sup> out of 180 countries assessed in the [2014 Reporters Without Borders press freedom index](#). Similarly, Freedom House estimates that the press in Madagascar is “not free” (Freedom House 2013b).

The abuse of defamation offenses and libel charges is common practice in Madagascar. For example, Reporters Without Borders reports that two journalists, Jean-Luc Rahaga and Didier Ramanoelina, were jailed in July 2014 on defamation charges for publishing a reader’s letter in *Madagascar Matin* accusing members of the government of involvement in the trafficking of rare woods. The organisation also cites the president declaring that there were “limits to press freedom” and warning journalists to “be on their guard” (Reporters Without Borders 2014).

There are several hundred media outlets operating in Madagascar. The government retains a monopoly on nationwide broadcasting and regularly suspends radio and television channels as well as newspapers.

Combined with the high levels of corruption in all state institutions, the harassment of the media has led observers to consider that in the last years, the government has been able to rule without any form of checks and balances (Freedom House 2013b).

A majority of Malagasy citizens (72 per cent of people surveyed by Afrobarometer 2013) consider that the media has an important role to play in the fight against corruption, but not even a third of them think that the press is currently efficient in denouncing corruption and informing citizens about governance abuses (Afrobarometer 2013). The media is generally seen as too unstructured to be able to play a strong role in the fight against corruption in Madagascar (UNDP, Ministry of Justice 2014).

### Civil society

The freedoms of assembly and association are guaranteed by the constitution but in practice the landscape is more complex. Popular demonstrations have historically played an important role in Madagascar’s politics. The political crisis and the subsequent decline of state capacity seem to have strengthened social capital and voluntarism through the need for increased mutual support and horizontal/community trust (Bertelsmann Foundation 2014). Observers, however, highlight that citizens’ participation in public affairs is limited in Madagascar.

During the transitional regime, civil society organisations referred to an unofficial standing order from state authorities to systematically deny the authorisation of political demonstrations or strikes and to intimidate groups that apply for such permits (US Department of State 2013). There have been reports of state authorities forcibly repressing public gatherings (Freedom House 2013).

Freedom of association is more respected and hundreds of nongovernmental organisations, including human rights and anti-corruption groups, operate in Madagascar. Four of the country’s main antigraft organisations, Transparency International – Initiative Madagascar, Tolotsoa, Ravintsara and CAFED/FAFED recently signed an agreement with UNDP to reinforce the fight against corruption at the civil society level (UNDP 2014).

Civil society organisations do however receive the same criticism as the media regarding its lack of capacity to play a significant role in the public scene and in the fight against corruption. They are seen as politicised and lacking the ability to take the initiatives that would allow them to get fully involved in the fight against corruption (UNDP, Ministry of Justice 2014).

#### 4. REFERENCES

Afrobarometer. 2014. *Gouvernance, corruption et confiance à l'égard des institutions à Madagascar : Experience, perception et attentes de la population*

Alliance Vohary Gasy. 2012. *Etat des lieux de la gouvernance forestière à Madagascar*. <http://www.profor.info/sites/profor.info/files/docs/ETAT%20DE%20LA%20GOUVERNANCE%20FORESTIERE%202012.pdf>

Bertelsmann Foundation. 2014. *Madagascar Country Profile*. <http://www.bti-project.org/reports/country-reports/esa/mdg/index.nc>

Crisis Group. 2014. *A Cosmetic End to Madagascar's Crisis?* <http://www.crisisgroup.org/en/regions/africa/southern-africa/madagascar/218-a-cosmetic-end-to-madagascar-s-crisis.aspx>

EITI. 2014. *Levée de la suspension de Madagascar à l'EITI*. <http://eiti-madagascar.org/news/levee-de-la-suspension-de-madagascar-a-leiti/>

France Diplomatie. 2014. *Présentation de Madagascar*. <http://www.diplomatie.gouv.fr/fr/dossiers-pays/madagascar/presentation-de-madagascar/>

Freedom House. 2013a. *Freedom in the World*. <http://www.freedomhouse.org/report/freedom-world/2013/madagascar#.VAAbNwGMgup0>

Freedom House. 2013b. *Freedom of the Press*. <http://www.freedomhouse.org/report/freedom-press/2013/madagascar#.VBL0GOetq3g>

Freedom House. 2011. *Country at the Crossroads*. <http://www.freedomhouse.org/report/countries-crossroads/2011/madagascar#.VA1ndGMgup0>

Global Witness. 2009. *Investigation into the Illegal Felling, Transport and Export of Precious Wood in Sava region Madagascar*. <http://www.globalwitness.org/library/field-investigation-illegal-logging-madagascar>

Grad Iloafo. No date. *Investissements chinois a Madagascar: les revelations de Wikileaks*. <http://gradiloafo.org/actualites/840-investissements-chinois-a-madagascar-les-revelations-de-wikileaks.html>

IDEA. 2012. *Political Finance Data for Madagascar*. <http://www.idea.int/political-finance/country.cfm?id=142>

Les amis de la terre. 2012. *Madagascar: The New Eldorado for Mining and Oil Companies*. [www.amisdelaterre.org/rapportmadagascar](http://www.amisdelaterre.org/rapportmadagascar)

Madagascar Conservation & Development. 2014. *Madagascar, politique forestière : Bilan 1990 – 2013 et propositions*. <http://journalmcd.com/index.php/mcd/article/view/mcd.v9i1.4/376>

Madagascar Conservation & Development. 2013. *Madagascar Rich and Intransparent*. <http://journalmcd.com/index.php/mcd/article/view/mcd.v8i2.1/357>

Midi Madagasikara. 2014. *Madagascar: Gestion des Finances publiques - « La Cour des Comptes a un rôle à jouer » selon le Professeur Robert Hertzog*. <http://fr.allafrica.com/stories/201404110858.html>

Mo Ibrahim Foundation. 2013. *2013 Ibrahim Index of African Governance (IIAG)*. <http://www.moibrahimfoundation.org/interact/>

Mongabay. 2014a. *Singapore Intercepts Massive Illegal Shipment of Madagascar Rosewood*. <http://www.illegal-logging.info/content/singapore-intercepts-massive-illegal-shipment-madagascar-rosewood>

Mongabay. 2014b. *Madagascar's New President Pledges to Fight Illegal Logging*. <http://www.illegal-logging.info/content/madagascars-new-president-pledges-fight-illegal-logging>

National Geographic. 2010. *Madagascar's Logging Crisis: Separating Myth from Fact*. [http://newswatch.nationalgeographic.com/2010/05/20/madagascar\\_logging\\_crisis/](http://newswatch.nationalgeographic.com/2010/05/20/madagascar_logging_crisis/)

Newsmada. 2014. *Contrôles des marchés publics : l'ARMP présentera son rapport*. <http://www.newsmada.com/index.php/economie/39435-controles-des-marches-publics--larmp-presentera-son-rapport#.VA2ZPBb812E>

Reporters Without Borders. 2014. *A Return to Previous Levels of Censorship Feared*. <http://en.rsf.org/madagascar-a-return-to-previous-levels-of-22-07-2014,46681.html>

RFI. 2014. *Lutte contre la corruption à Madagascar: d'anciens ministres épinglés.*

<http://www.rfi.fr/afrique/20140904-lutte-contre-corruption-madagascar-anciens-ministres-epingles/>

Smith David. 2009. *Madagascar's Lemurs in Danger from Political Turmoil and 'Timber Mafia'*. The Guardian.

<http://www.theguardian.com/environment/2009/nov/17/madagascar-lemurs-conservation-forests-extinction>

TI-IM. 2013. *L'engagement citoyen dans la lutte contre la corruption.*

<http://www.transparency-madagasikara.org/textes/RAPPORT%20ENGAGEMENT%20VERSION%202.pdf>

UNDP, Ministry of Justice. 2014. *Evaluation de l'état de la lutte contre la corruption à Madagascar.* Forthcoming

UNDP. 2014. *La société civile s'implique dans la lutte contre la corruption.*

<http://www.mg.undp.org/content/madagascar/fr/home/press-center/pressreleases/2014/08/25/la-soci-t-civile-s-implique-dans-la-lutte-contre-la-corruption/>

US Department of State. 2013. *Country Report on Human Rights Practices – Madagascar.*

<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper>

US Department of State. 2014a. *Trafficking in Persons Report 2014.*

<http://www.state.gov/j/tip/rls/tiprpt/2014/index.htm>

US Department of State. 2014b. *2014 International Narcotics Control Strategy Report (INCSR).*

<http://www.state.gov/j/inl/rls/nrcrpt/2014/supplemental/227924.htm>

Webb Tim. 2010. *Madagascar Oil Brings Tar Sands Project to London Market.* The Guardian.

<http://www.theguardian.com/business/2010/nov/29/oil-oilandgascompanies>

World Bank. 2013. *Country and Policy Institutional Assessment.*

<http://datatopics.worldbank.org/cpia/country/madagascar>

World Bank. 2010. *Revue de la gouvernance et de l'efficacité du développement ; Analyse d'économie politique de la gouvernance à Madagascar.*

[http://siteresources.worldbank.org/INTMADAGASCARINFRENCH/Resources/ESW\\_Gouvernance.pdf](http://siteresources.worldbank.org/INTMADAGASCARINFRENCH/Resources/ESW_Gouvernance.pdf)

World Economic Forum, *2013-2014 Global competitiveness report,*

<http://reports.weforum.org/the-global-competitiveness-report-2013-2014/#section=countryeconomy-profiles-madagascar>