

## Project to Support Independent Bodies in Tunisia



## Tunisia Anti-Corruption Project

### Inception Report

Title of the action	Project to support independent bodies in Tunisia/Projet d'Appui aux Instances Indépendantes en Tunisie (PAII-T)
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Reporting period	1 January 2019 – 30 April 2019
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## ABBREVIATIONS

AC	Anti-Corruption
AML/CFT	Anti-Money Laundering / Combating Financing of Terrorism
APTBEF	Chambre du Commerce et de l'Industrie et Association Professionnelle Tunisienne des Banques et des établissements Financiers
CoE	Council of Europe
CGSP	Contrôle Général des Services Publics
CTAF	Commission tunisienne des analyses financières (Tunisian FIU)
EU	European Union
GIZ	Deutsche Gesellschaft für Internationale Zusammenarbeit
GRECO	Group of States against Corruption
INLUCC	Instance Nationale de Lutte Contre la Corruption - Tunisian Anti-Corruption Authority
IBOGOLUCC	Instance de la Bonne Gouvernance et de la Lutte Contre la Corruption
KOICA	Korea International Cooperation Agency
MENA-FATF	Middle East and North Africa Financial Action Task Force
MER	Mutual evaluation report
MoJ	Ministry of Justice
NGO	Non-Governmental Organisation
NRA	National risk assessment
OECD	Organisation for Economic Co-operation and Development
ONMP	Observatoire National des Marchés Publics
PAII-T	Projet d'Appui aux Instances Indépendantes en Tunisie/ Project to support independent bodies in Tunisia
SC	Steering Committee
TAC	Tunisia Anti-corruption Project
TP	Technical Paper
UNDP	United Nations Development Programme
UNODC	United Nations Office on Drugs and Crime
WHO	World Health Organisation
AC	Anti-Corruption
AML/CFT	Anti-Money Laundering / Combating Financing of Terrorism
APTBEF	Chambre du Commerce et de l'Industrie et Association Professionnelle Tunisienne des Banques et des établissements Financiers

CoE	Council of Europe
CGSP	Contrôle Général des Services Publics
CTAF	Commission tunisienne des analyses financières (Tunisian FIU)
EU	European Union
GIZ	Deutsche Gesellschaft für Internationale Zusammenarbeit
GRECO	Group of States against Corruption

## **1. DESCRIPTION**

### **1.1 Contact Person**

Ardita Abdiu, Head of Economic Crime and Cooperation Division, Action against Crime Department, Information Society - Action against Crime Directorate, Directorate General I – Human Rights and Rule of Law, Council of Europe.

### **1.2 Name of beneficiaries and affiliated entities in the Action**

*Main Project beneficiary:*

- Instance nationale de lutte contre la corruption (INLUCC)/National Anti-Corruption Authority.

*Other stakeholders :*

- Commission Tunisienne des Analyses Financières (CTAF)/ Tunisian Commission for Financial Analysis (Tunisian FIU) ;
- Service de la gouvernance à la Présidence du Gouvernement/ Directorate General for Government Services of the Presidency of the Government ;
- Ministère de la Justice/Ministry of Justice;
- Bureau du procureur général/Office of the Attorney General;
- Direction des enquêtes douanières/Customs Investigations Directorate ;
- Contrôle Général des Services Publics (CGSP)/ General Control of Public Services;
- Observatoire National des Marchés Publics (ONMP)/ Public Procurement National Observatory;
- Ministère de l'intérieur /Ministry of Interior;
- Ministère de la justice/ Ministry of Justice;
- Ordre national des Avocats de Tunisie (ONAT)/National Bar Association of Tunisia;
- Pôle contre le terrorisme/ Anti-terrorism Pole;
- Pôle judiciaire financier/ Financial Judiciary Pole;
- Chambre du Commerce et de l'Industrie /Chamber of Commerce and Industry;
- Association Professionnelle Tunisienne des Banques et des établissements Financiers (APTBEF)/ Tunisian Professional Association for Banks and Financial Institutions ;
- Civil society and media.

### **1.3 Title of the Action**

Project to support independent bodies in Tunisia/Projet d'Appui aux Instances Indépendantes en Tunisie (PAII-T)

### **1.4 Project Title**

Tunisia Anti-Corruption Project (TAC)

### **1.5 Contract number**

ENI/2018/404-100

### **1.6 Start and End Dates of the Action**

1 January 2019 – 31 December 2021

## 2. EXECUTIVE SUMMARY

The Tunisia Anti-corruption Project (TAC) is implemented in the framework of the joint Council of Europe (CoE) and the European Union (EU) “Project to support independent bodies in Tunisia - PAII-T”. The project implementation period is 1 January 2019 – 31 December 2021, with a total budget of 1 790 814 Euros.

The Inception Phase of the Project (1 January – 30 April 2019) focused on setting up the foundations for effective implementation, including establishing relations with key stakeholders, designing the project workplan and recruiting the field project team. A number of activities were carried out in this period, including start-up activities which took the form of multilateral and bilateral consultations with beneficiary institutions with a view to identify their precise needs and receive their input on the draft project workplan.

The project team also organised a capacity building activity on the protection of whistleblowers during the inception period and laid the groundwork for a number of upcoming activities.

During the inception period the Project completed the procedure for the recruitment of the local project staff, comprising a local senior project officer and a project assistant. The local Project team became operational by the beginning of June 2019.

Overall and so far the TAC Project has seen an excellent level of engagement from all beneficiary institutions involved in start-up activities, both at the expert and managerial level in all key institutions.

Pursuant the Communication and Visibility Plan, the project team launched the website: <https://www.coe.int/en/web/corruption/projects/paii-tac>, which contains all relevant information on the project, activities and deliverables.

### 3. DESCRIPTION OF ACTION

The Tunisia Anti-Corruption Project (TAC) is funded by the Council of Europe and European Union and implemented by the Council of Europe. The Project duration is 36 months with a total budget of 1 790 814 Euros.

#### 3.1 Project Objective, Purpose and Expected Results

*Objective:* INLUCC/IBOGOLUCC exercises its statutory powers stemming from the Tunisian Constitution fully and independently with adequate financial, human and logistical resources to exercise their mandate effectively.

*Purpose:*

- i. To provide support to INLUCC/IBOGOLUCC in developing/acquiring the necessary organisational and informatics tools;
- ii. To enable INLUCC/IBOGOLUCC to exercise its statutory mandate effectively.

*Expected Results:*

- i. The internal organisation and effectiveness of INLUCC/IBOGOLUCC are strengthened by the development and implementation of appropriate administrative rules and procedures, as well as by the use of appropriate management tools (ORGANISATION).
- ii. Communication strategies and tools enable INLUCC/IBOGOLUCC to increase its visibility and understanding of its role by media and public throughout the country and the transparency of its action (VISIBILITY).
- iii. Capacities of INLUCC/IBOGOLUCC members and staff are strengthened through general and specialised training and knowledge of peer institutions' methods and approaches allowing it to successfully carry out its mandate (COMPETENCE).
- iv. INLUCC/IBOGOLUCC has consolidated its influence through regular relations with the main national actors – governmental and non-governmental – and with its counterparts, particularly in Europe and the MENA region (INFLUENCE).



## 4. KEY DEVELOPMENTS IN TUNISIA

### 4.1 The current state of play of the sector

Corruption remains a serious challenge for Tunisia. Two-thirds (67%) of Tunisians believe the level of corruption has increased over the past year (2018). Corruption ranks third among the most important problems that the government needs to address after unemployment and management of the economy. According to the National Institute of Statistics, the most affected sectors by corruption are security (52%), customs (64.7%) and health (63%). A majority of Tunisians believe that they risk retaliation if they report incidents of corruption.

The Transparency International's 2018 Corruption Perceptions Index rates Tunisia at 43 (with 100 representing the lowest level of corruption). According to the World Bank's Worldwide Governance Indicators, Tunisia's control of corruption has shown a stagnation level between 2011 to 2015 (average of 56.34%), and has declined at 53.85% in 2017 (100% representing full control of corruption).

Within the overall democratic consolidation process and the implementation of the 2014 Constitution, policy, legal and institutional framework to combat economic crime, including corruption, money laundering and terrorism financing in Tunisia has been undergoing a comprehensive process of reform during the last years.

Efforts made since 2012 resulted in the adoption of the National Strategy on Good Governance and Fight against Corruption 2016-2020 on 9 December 2016. The 6 main objectives of the strategy which are translated into 21 objectives and 51 strategic initiatives are to be implemented through biennial action plans. Most notably, the AC Strategy calls for a number of strategic initiatives regarding the adoption of legal, institutional and organisational framework of the AC Authority, implementation of its regulatory and operational measures as well as the introduction of effective mechanisms related to declaration of assets and interests, whistleblowing and protection of whistleblowers and fighting illicit enrichment. According to the text of the AC Strategy, a commission should be set up to prepare half-year progress reports and should include representatives of public institutions, representatives of INLUCC, the private sector, civil society, the media as well as academic and cultural personalities. There are no available reports on the implementation of the Action Plan.

The Development Plan 2016-2020 which was adopted by the Assembly in April 2017 focuses on priority areas including good governance, administrative reforms and the fight against corruption, especially at the level of public officials.

In March 2017, Tunisia submitted its request to join the Council of Europe Anti-corruption Group (GRECO).

With respect to anti-money laundering and countering of terrorism financing, the most comprehensive and recent source regarding the size and extent of the threat is the 2017 National Risk Assessment (NRA). According to the NRA, major ML/TF risks are corruption, terrorism and terrorist financing, fraud and smuggling of subsidised and taxed products which has increased after 2011. Tunisia is also affected by the trafficking in arms, drugs, trafficking of migrants and human beings and growing cybercrime. The income from these criminal sources is subject to money laundering activities. According to various reports, Tunisia's informal economy accounts for between 39 and more than 50% of its gross domestic product (GDP) thus creating a systemic vulnerability to the ML and TF threats and large circulation of cash. The informal sector is closely linked with smuggling and black

market activities, cross-border counterfeiting and piracy activities especially in the regions bordering Algeria and Libya. The informal economy is concentrated in construction, industry, trade, transportation and agriculture.

The risks of the use of legal persons for criminal purposes involve primarily companies operating in international trade and services, as well as associations whose use to finance terrorism continues to remain a major concern.

Risk levels are assessed relatively high for certain sectors including banks, stock market sector, lawyers and international trade companies and high for jewellery profession and real estate sector.

Although the Government intensified its counter-terrorism efforts in 2016, terrorism remains a serious challenge. According to the authorities, there are currently four types of terrorist threats facing the country: the presence of armed groups in the mountains in the north; the presence of sleeper cells and support for active terrorist groups; trafficking in arms coming from Libya; and the issue of foreign terrorist fighters returning from conflict zones in Iraq, Libya and Syria.

With respect to anti-money laundering/combating terrorism financing, there is not yet a formal national strategy in place. Since November 2016, a National Strategy for Combatting Extremism and Terrorism for 5-year term has been adopted. It includes 59 objectives articulated around four fundamental pillars such as prevention, protection, prosecution and response. The strategy is implemented through ministerial action plans. In July 2018, most of plans were finalised. With regard to financing of terrorism, the strategy includes objectives aiming inter alia at - intensifying international cooperation in order to deprive violent terrorist and extremist groups of any direct or indirect financial or other support, - strengthening legislation on the transfer of funds, including the physical transportation of funds in the framework of combatting the financing of terrorism, - controlling the financing of associations and non-profit organisations by respecting the freedom of association and the guarantee of transparency of financial transactions, - adopt mechanisms to impede the financing of individual terrorists or entities.

Except for rather general figures, there are no publicly available statistical data covering last years and allowing the evaluation of the number and characteristics of money laundering crimes investigated, prosecuted and adjudicated in courts. Available fragmented information show limited number of prosecutions and, in particular, criminal convictions for money laundering while there is complete lack of convictions for terrorist financing. Also, there are few freezing and seizure decisions already made while criminal confiscation remains extremely rare. In this regard, there are recent discussions among authorities to introduce a global system of statistics related to judgments on confiscation of illegal proceeds originating from ML and TF offences.

In April 2016, MENA/FATF (Middle East and North Africa Financial Action Task Force) adopted the mutual evaluation report (MER) on Tunisia's compliance with international AML/CFT standards which was prepared by the World Bank and was based on 2012 FATF Standards and its 2013 evaluation Methodology. As a result of such process, in November 2017 Tunisia was placed under the enhanced follow-up due to its deficiencies in the fight against money laundering and terrorist financing. It was also added to Delegated Regulation (EU) 2018/212 of the EU listing of high-risk third countries with strategic deficiencies in this respect. Tunisia has since made progress in implementing its agreed action plan with the FATF, but significant efforts are still needed.

Tunisian authorities were urged to implement certain priority recommendations including inter alia the finalisation of a national risk assessment (NRA) and the adoption of a national strategy; development of risk-based approach in the financial sector and in the DNFBPs; tackle FT by establishing mechanisms including freezing, needed mechanisms and resources for law enforcement and judicial authorities as well as supervisors of associations and mechanisms for identification and designation in application of the UNSCR 1373; improve the effectiveness of criminal investigations and prosecutions through a set of legal, policy, human and capacity building measures; increase the resources of CTAF; enhance the effectiveness of preventive measures in particular with regard to beneficial owners, PEPs, enforcement of CDD measures to NBFIs and different measures to DNFBPs (CDD and STRs) and strengthening of supervision mechanisms.

In the FATF statement of February 2019 in relation to high risk and other monitored jurisdictions, it is emphasised that “Tunisia should continue to work on implementing its action plan to address its strategic deficiencies, including by: (1) fully integrating the DNFBPs, particularly lawyers, accountants and notaries, into its AML/CFT regime; (2) maintaining comprehensive and updated commercial registries and ensuring the effective collection of accurate and up-to-date beneficial ownership information is available for law enforcement; (3) demonstrating that its terrorism-related TFS regime is fully functional, especially amongst the DNFBPs, and that it is appropriately monitoring the association sector; and (4) ensuring an adequate proliferation finance-related targeted financial sanctions regime and its implementation.”

## 4.2 Legal framework and sectorial policies

### *Anti-corruption*

The preamble of the Tunisian Constitution and some of its provisions (i.e. Articles 10, 11, 12, 15 and 137) oblige the State to pursue policies that are based on the principles of good governance and fight against corruption. In particular, Article 130 of the Constitution establishes an independent authority responsible for good governance and anti-corruption matters with legal personality and administrative and financial autonomy.

In recent years important legislation and amendments have been passed in Tunisia, that introduced several necessary provisions, and could therefore be a useful tool for the fight against economic crime, including:

- Organic Law on the Judicial Economic and Financial Unit (Law No. 2016-77 of 6 December 2016);
- Organic Law on the Supreme Judicial Council (Law No. 2016-34 of 28 April 2016), modified and completed by the Organic Law No. 2017-19 of 18 April 2017;
- Organic Law on Denunciation of Corruption and Protection of Whistleblowers (Law No. 2017-10 of 7 March 2017);
- Organic Law on Common Provisions for Independent Constitutional Bodies (Law No. 2018-47 of 7 August 2018);
- Organic Law on Good Governance and Anti-corruption Authority (Law No. 2017-59 of 24 August 2017);
- Law on Declaration of Assets and Interests, Fight against Illicit Enrichment and Conflict of Interest (No. 2018-46 of 1 August 2018);

- Organic Law on Reconciliation in the Administrative Field (Law No. 2017-62 of 24 October 2017);
- Organic Law on the Right of Access to Information (Law No. 2016-22 of 24 March 2016).

It remains to be assessed however, whether the legal framework for anti-corruption and its implementation meet international and European standards. The effectiveness of certain significant laws has to be tested in particular regarding IBOGOLUCC, protection of whistleblowers, asset declaration, illicit enrichment and conflict of interest as well as access to information.

The Tunisian Criminal Code incriminates acts of passive corruption (Article 83, 84, 85, 88, 89 and 90), trading in influence (Article 87), favouritism in public procurement (Article 87 bis), active corruption (Article 91 and 92), extortion (Article 95 and 96, the latter is closer to breach of trust/abus de confiance), unlawful receipt or acceptance of an interest (Article 97 and 97 bis), exercise by an official of remunerated private activity related to his functions and revolving doors (Article 97 ter), misappropriation and embezzlement (Article 99 and 100), abuse of authority and different breaches of public duty (Articles 101 to 115). However, as identified by the Anti-Corruption Assessment Report reveals several shortcomings with regards to corruption related offences:

- Article 91 which regulates active bribery excludes the act of offering and third party elements from the scope of the offence;
- Similarly Article 83 on passive bribery fails to criminalise the acceptance of offer;
- Both active and passive bribery offences do not fully cover all acts committed in the exercise of public functions;
- There are no specific provisions with regards to offences committed within a criminal organisation or group, including organised offences of corruption;
- The Code does not criminalise active and passive bribery in the private sector as well as the bribery of foreign public officials and MPs, international civil servants and MPS and judges and agents of international courts;
- The provision concerning trading in influence (Article 87) is not in line with international standards;
- The Code does not criminalise active and passive bribery of national and foreign arbitrators and foreign jurors;
- The code requires double criminality for the prosecution of corruption and trading in influence offences committed abroad by Tunisian citizens and the relevant provisions might lead to a conflict of jurisdiction in such cases;
- The special defence mechanism provided in Article 93 is not in line with international standards;
- There is no liability of legal persons for corruption and trading in influence offences (such liability is applicable to ML only as provided by Article 66 of the AML/CFT Law);
- “In rem” and third party confiscation are excluded from the scope of the Code.

Law on Reconciliation in the Administrative Field , which had been subject of discussion, aims at an amnesty for the actions committed by public officials as part of their function

before the revolution (between July 1955 and January 2011) provided they have not benefited for themselves or did not commit corruption or misappropriation of funds.

A number of key legislative initiatives have not yet been finalised as of the date of this report. A new draft of the Criminal Procedure Code (CPC) of 1968 was presented to the Prime Minister on 11 April 2019. The Prime Minister emphasised the necessity to balance the state's criminal policy in the fight against the corruption against the protection of human rights and freedoms;

### *Anti-money laundering and combating the financing of terrorism (AML/CFT)*

With regard to legislation, the system has been based on a law of 2003 (Law No. 2003/75. A recent AML/CTF law has been passed by the Assembly on 7 August 2015 (Organic law No. 2015-26 on the fight against terrorism and the repression of money laundering). It has been amended and supplemented by the Organic Law No. 2019-9 of 23 January 2019. Amendments and supplements aim at addressing shortcomings identified by the last AML/CFT MER and include inter alia the following: definitions (funds, freezing, confiscation, legal person, beneficial ownership, legal arrangements, supervisors, bearer negotiable instruments, politically exposed persons and ML offence), amendments regarding terrorism-related provisions (Articles 5, 10, 13, 15, 25, 28, 29, 36, 40, 54, 57, 58, 61, 64, 67 and 68 as well as Articles 103 to 105 regarding freezing mechanism in the framework of targeted financial sanctions), amendments concerning ML provisions, including measures applicable to legal persons, list of reporting entities (by adding exchange bureaus, other legal professions, real estate agents), customer due diligence measures, cross-border disclosure of cash, supervisors, CTAF (added membership, freezing mechanism) and sanctions.

Recent important legislative developments include the adoption of the following laws and other regulatory acts:

- Law determining the status of the Central Bank of Tunisia; Law No. 2016-35 of 25 April 2016;
- Law on banks and financial institutions which includes a range of important regulatory provisions relevant to the AML/CFT framework; Law No. 2016-48 of 11 July 2016;
- Legislative Decree on the Organisation of Associations; Legislative Decree No. 2011-88 of 24 September 2011;
- Law on the National Register of Companies; Law No. 2018-52 of 29 October 2018;
- Government Decree establishing the administrative and financial organisation of the national register of enterprises; Government Decree No. 2019-52 of 21 January 2019;
- Legislative Decree on Casinos Games. Law No. 74-97 of 11 December 1974 ratifying the Legislative Decree No. 74-21 of 24 October 1974;
- Government Decree 2019-54 on Terms and Criteria for Determining the Beneficial Owner (21 January 2019);
- Government Decree 2019-72 on Implementation Procedures of UN Resolutions against the Financing of Terrorism and Proliferation of Weapons of Mass Destruction (4 February 2019);
- Order of the Minister of Finance of 1 March 2016 fixing the amounts provided for in Articles 100, 107, 108, 114 and 140 of Organic Law No. 2015-26 (AML/CFT Law);

- Order of the Minister of Finance of 19 January 2017 (modified on 6 March 2018) endorsing the Financial Market Board Regulation on practical measures for the suppression of money laundering, the fight against the financing of terrorism and the proliferation of arms;
- Instruction of the BCT No. 2017-08 as modified by the Instruction No. 2018-09 fixing rules of internal control for the management of the risk of money laundering and financing of the terrorism;
- Instruction to banks and financial institutions No. 2017-06 of 31 July 2017 on accounting, prudential and statistical reporting to the Central Bank of Tunisia;
- Several ministerial orders are issued on applicable rules related to detection of suspicious operations and transactions and their reporting, namely covering the following reporting entities:
  - Microfinance institutions (Order of Minister of Finance of 26 July 2017);
  - Real estate agents (Order of Minister of Trade of 19 April 2018);
  - Notaries (Order of Minister of Justice of 19 April 2018);
  - Casinos (Joint Order of ministers of interior, finance and tourism and craft of 19 April 2018);
  - Jewellers (Joint Order of ministers of interior, finance and tourism and craft of 19 April 2018);
- During 2017-2018 CTAF has issued Guiding Principles on reporting of suspicious operations and transactions for reporting entities including financial professions, lawyers, notaries, auditors, real estate agents, jewellers, casinos and NGOs. CTAF has also issued decisions 2017-03 and 2018-10 on Beneficial Owners.

AML/CFT and PF regulations are issued and are in place for the Financial Market Board (orders of the Minister of Finance of 19 January 2017 and 6 March 2018). Self-Regulatory Bodies have also issued professional standards for auditors (April 2018) and Regulation for Insurance sector (March and April 2018).

On April 2018 the Financial Market Council has issued an AML/CFT and PF Guide for intermediaries in the stock exchange and for companies managing securities on behalf of third parties.

### **4.3 Institutional framework**

#### *Anti-corruption*

The National Anti-corruption Authority (INLUCC) is the main anti-corruption policy and oversight public body. According to Article 12 of the Framework Legislative Decree No. 2011-120, INLUCC is an independent public body with legal personality and administrative and financial autonomy. It is entrusted to have an important role to prevent corruption through monitoring of strategic policies, issuing of general guidelines and legal opinions, undertaking researches and studies, collecting data, information and statistics, promoting interaction and raising awareness in public and private sectors through outreach, publications and trainings.

Moreover, INLUCC also receives complaints and denunciations and investigates on corruption allegations. It is authorised to conduct searches and to seize documents and personal property at any location. Furthermore, Article 33 of the Legislative Decree 2011-120 allows it to have recourse to any competent authority (CTAF or judicial authorities) to request the freezing of assets. INLUCC forwards its results or criminal reports to the competent authorities.

On the basis of recent specific laws, the authority is also in charge of asset declaration from public officials, conflict of interest, illicit enrichment and protection of whistleblowers.

After a period of quasi-stagnation due to lack of human and financial resources, as of 2016 INLUCC started in a new dynamic by restructuring its activities and strengthening its operations both in terms of human resources, logistics and activities to fulfil its mission. With a new President, INLUCC focused its efforts in enhancing staff capacities (from 15 staff at the end of 2015 to 85 at the end of 2016 and 185 at the beginning of 2019), organising the institution (communication and media, budget, IT, international cooperation, civil society relations, strategy and institutional follow-up, public relations and last but not least investigation units), ensuring logistics and administration modalities, working on capacity building and information, communication and awareness, starting to establish regional offices and seeking to further strengthen human, material and financial resources. From TND 312,000 (approximately EUR 141,000) in late 2016 INLUCC was allocated a budget of TND 1,832,000 (around EUR 750,000) which amounted at TND 5.81 million (EUR 1.57 million) in 2018.

Pursuant to Article 130 of the Constitution, the Organic Law establishes the Good Governance and Anti-corruption Authority (IBOGOLUCC) which will replace INLUCC. Until this law starts to be implemented, INLUCC is continuing to operate under its preceding legal framework of 2011. To date, INLUCC established progressively 10 regional offices (there are 24 governorates) and received around 1,200 cases from seven of them.

Out of 9,027 complaints received in 2016, 9,189 in 2017, INLUCC has transmitted to judicial authorities 94 cases in 2016, 245 in 2017. Even though the total number of complaints received by INLUCC in 2018 is not available at the moment, it has been reported that 205 cases have been transmitted to justice in 2018. However, out of the total number of 544 cases transmitted during last three years, 84% of the cases are still under investigation.

Length of investigations and judicial procedures, lack of resources for law enforcement authorities and deficiencies in the legal regime in terms of special investigative techniques seem to be obstacles to rapid and efficient prosecutions.

In November 2018, INLUCC launched an electronic platform ([tasrih.tn](http://tasrih.tn)) for the reception of declaration forms from subjects of the Law. Around 119,000 persons have declared their assets and interests out of 350,000.

In 2016 the Government decided to establish governance units at different levels of public entities. They are responsible to oversee the implementation of governance and corruption prevention including design of policy and strategic documents, whistleblowing, transparency, integrity and codes of conduct, training, and partnership with civil society as well as follow-up and reporting on these issues and areas.

As regards law enforcement and prosecution, the institutional framework has been strengthened through the establishment of a judicial and financial unit (Pôle Judiciaire Financier) at Tunis Court of First Instance which has the power to prosecute and investigate complex and multiple-branched cases of corruption. Initially established as an *ad hoc* unit in

September 2012, since 2016 the Judicial, Economic and Financial Unit (JEFP) is regulated by an organic law and operates at the Appellate Court of Tunis. It investigates, prosecutes and adjudicates at first instance and on appeal complex economic and financial offences and related offences (including corruption and money laundering). This includes areas such as public money, private money made available to a public official or equivalent by reason of his function, customs, taxation and foreign exchange, financial market, banks and financial institutions, financing of political parties, associations and elections, commercial and economic activities.

The JEFP consists of representatives of the public prosecutor's office, investigating judges, judges of the indictment chambers, and judges of criminal chambers of courts of first instance and appeal. The JEFP was confronted to diverse difficulties and needs more human and financial resources (staff, offices, technical assistants including financial analysts, and police officers), capacity building and further specialisation of its members. Local media referring to JEFP state that 1,060 cases of administrative and financial crimes were submitted to the JEFP between September 2017 and May 2018 (339 being submitted to courts, 91 cases being adjudicated and 40 sentences issued). Moreover, 38 individuals are reported to be under home arrest. Some ARP members are also suspected of financial crimes. With regard to money laundering, there are ongoing cases involving foreign offshore companies and implying considerable amounts of illegal proceeds.

#### *Anti-money laundering and combating the financing of terrorism (AML/CFT)*

The Tunisian Financial Analysis Commission (CTAF, the Tunisian Financial Intelligence Unit) is the competent authority to collect, analyse and disseminate financial intelligence information in order to prevent money laundering and related predicate offences, as well as terrorist financing. Being established in 2003 and having its seat at the Tunisian Central Bank, CTAF is regulated by Article 118 of the AML/CFT Law and the Government Decree No. 2016-1098 of 15 August 2016 on establishing the organisation and operating procedures of CTAF. It formulates directives to reporting entities in detecting suspicious operations and transactions, collects and process reports on suspicious operations and transactions and notifies the action taken on them, cooperates and takes part in studies, researches, trainings, national and international activities and facilitates coordination among stakeholders involved in AML/CFT matters.

CTAF consists of a Steering Committee, an operational unit, and the General Secretariat (Art. 119 of the AML/CFT Law and Article 2 of the Decree). The Steering Committee is chaired by the BCT Governor and consists of 9 members, including a senior magistrate, representatives of Ministry of Interior, Ministry of Finance, representatives of Financial Market Board (CMF) and General Insurance Committee, an expert specialised in measures to combat financial offences, representatives of Professional Association of Banks and Financial Institutions and representatives of the anti-corruption authority. The Central Bank provides its secretariat. Decisions are taken by a two-thirds majority of members present with a quorum of 6 members. CTAF members are appointed by Government Decree for a 6-year term and are required to fulfil their duty with integrity, objectivity and independence from their institution of origin. The Governor of the Central Bank appoints the Secretary General of CTAF from among executives of the Central Bank (Art. 11 of the Decree).

CTAF keeps databases of all cash transaction reports and suspicious activity reports and of all data and information gathered whilst performing an analysis of such reports. However,



CTAF's effectiveness is hampered by the insufficient number of analysts and the lack of a comprehensive analysis of the risks, weaknesses and vulnerabilities of the system.

Furthermore, CTAF disseminates intelligence data and information to relevant national counterparts (Ministry of Interior, Criminal Investigation Department, Ministry of Justice, General Directorate of Customs, supervisors etc.) and to foreign FIUs.

Since 2012 CTAF is member of Egmont Group which includes a total of 159 members (Financial Intelligence Units). Tunisia is a member of the MENAFATF.

The National Counterterrorism Committee (CNLCT) which was established in March 2016 operates under the Presidency of the Government which ensures its secretariat (articles 66-70 of the AML/CFT Law). Consisting of 19 members, it includes its Chair (representative of the Prime Minister) and vice-chair (MoJ) exercising full-time functions, as well as members from ministries, a specialised investigative judge, members of the intelligence service, telecommunication agency and CTAF. The CNLCT organisation and its operating procedures are regulated by Government decree.

Within the police, the Criminal Investigation Directorate is organised into five sub-directorates: (1) Economic and Financial Investigations to investigate economic and financial crimes, (2) Narcotics Operations, (3) Social Protection, (4) Criminal Affairs, and (5) Research and Monitoring. Each sub-directorate has a research and monitoring unit. The Brigade for Combating Economic and Financial Crimes, including corruption, has national jurisdiction. However, it is up to the General Prosecutor to decide who will handle a particular case. The police may also carry out special investigative measures or provisional measures, such as phone interception or seizure of funds, but only under the direction of the public prosecutor or the investigating judge. Apart from the lack of resources, there is a pressing need for specialisation and training. Capacity in intelligence-led investigations, proactive investigations and covert operations seem to remain limited.

A central directorate for investigation of terrorist crimes operates within the Ministry of the Interior since 2013 with a specialised unit within the Directorate General of the National Guard. The Ministry of the Interior is constantly engaged in intelligence activity in the area of terrorism and terrorist financing. It closely monitors associations and their financing, and is especially vigilant in uncovering misappropriation of funds in that sector.

Customs' officials have the status of criminal investigation officers for the identification of customs' offences, involving precious metals, AML/CFT offences, drug trafficking, contraband and smuggling of products (Article 10 of the Code of Criminal Procedure). In that context, they are subject to the oversight of the Public Prosecutors. The Central Bank of Tunisia (BCT) is the supervisory and regulatory body of banks and financial institutions in Tunisia. The banking sector represents more than 70% of financial assets followed by the financial market (13.9%), collective investment schemes (5.6%) and the insurance sector (3.1%). 7 banks are public, 10 are banks with foreign owned capital, 3 with domestic private capital and 3 Islamic banks. The Tunisian Stock Exchange which is under supervision of the Financial Market Board is still limited and does not represent high risk. The insurance sector which is supervised by the General Insurance Committee remains small.

Seized property is administered in accordance with the provisions of Articles 97 to 100 of the Criminal Procedure Code, while confiscated property is allocated to the State (Article 28 of the Criminal Code). Tunisia does not have a management system for frozen, seized and confiscated property and execution of judicial decisions requesting confiscation.

Tunisia has no legislation, arrangements or agreements that govern joint investigations.

At present, Tunisia has ratified the following relevant international instruments:

- The United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (1988, Vienna Convention) - Law No. 90/67 of 24 July 1990;
- The 1999 United Nations Convention on the Financing of Terrorism - Decree No. 2003-441 of 24 February 2003;
- The United Nations Convention against Transnational Organised Crime (2000, Palermo Convention) and its Protocols - Law No. 2002/63 of 23 July 2002;
- The United Nations Convention against Corruption (2003, Merida Convention) - Law No. 2008-16 of 25 February 2008;
- The Arab Anti-Corruption Convention - Law No. 2016-73 of 15 November 2016;
- The Arab Anti-Terrorism Convention - Law No. 99-10 of 15 February 1999;
- The Convention of the Organisation of African Unity on Preventing and Combating Terrorism and its Additional Protocol - Law No. 2001-85 of 1 August 2001 and Law No. 2007-56 of 31 October 2007;
- The Convention of the Organisation of the Islamic Conference on Combating International Terrorism - Law No. 2002-36 of 1 April 2002; and
- The OECD Convention on Mutual Assistance in Tax Matters (on 31 October 2013).

Having regard to the absence of an administrative freezing mechanism that is fully consistent with the provisions set forth in UNSCRs 1267 and 1373 (general prohibition and immediate freezing), as well as provisions aiming at preventing the financing of proliferation of weapons of mass destruction, recently the Government introduced rules and procedures to address targeted financial sanctions through the Government Decree 2019-72 on Implementation Procedures of UN Resolutions against the Financing of Terrorism and Proliferation of Weapons of Mass Destruction.

## **5. INCEPTION PERIOD ACTIVITIES**

The Inception Phase of the Project (1 January – 30 April 2019) focused on setting up the foundations for its effective implementation, including establishing relations with key stakeholders, designing the project workplan and recruiting the field project team. A number of activities were carried out in this period, including a start-up activity which took the form of bilateral consultations with beneficiary institutions with a view to identify their precise needs and receive their input on the draft project workplan. The project team also organised a training workshop on the protection of whistleblowers and laid the groundwork for a number of upcoming activities. Even though the weeks leading up to the month of Ramadan caused the slowdown of the implementation of Project activities to a certain degree, preparations for future Project activities continued in the inception phase.

### **5.1 Preparatory meetings for the launching of the Project PAII-TAC (29 January - 2 February 2019)**

On 29 January- 2 February 2019, the Project team held an on-site mission to Tunis with a view to conduct bilateral meetings main stakeholders, including various departments of INLUCC and other institutions involved in the fight against economic crime representing both governmental and non-governmental sectors. These meetings were attended by the representatives of INLUCC, the Financial Intelligence Unit (CTAF), the General Control of Public Services (CGSP), the Financial Judiciary Pole (PJEF), the Presidency of the Government, the National Observatory of Public Procurement as well as the non-governmental sector.

These meetings enabled the Project team to discuss the draft workplan with all participants. All institutions provided their comments and specific needs. Apart from requests for adjustment in terms of timing, the draft work plan proposed by the Project was well received.

This activity paved the way to the finalisation of the draft workplan which will be introduced and approved during the First Steering Committee Meeting.

### **5.2 Training workshop for Tunisian authorities on the protection of whistleblowers (2 April – 3 April 2019)**

Even though at the relevant time the TAC Project was still in its Inception Phase, the workshop marked the start of the implementation of Project activities ahead of schedule.

At the request of INLUCC, the Project delivered a training on whistleblower protection in order to support INLUCC's Whistleblower Protection Unit in the implementation of Tunisia's new legislation for reporting corruption and protecting whistleblowers (Organic Law No. 2017-10), which confers new powers to INLUCC in this area; however, falls short of providing technical and financial resources. The training covered the introduction to the concepts, legal principles and mechanisms regarding denunciation and provided an overview of international standards, mechanisms, developments and good practices on the subject matter. Presentation of the case law of the European Court of Human Rights (ECHR) on the protection of whistleblowers and practical exercises enabled the participants to gain a practical understanding of denunciation mechanisms.

### **5.3 Follow-up meetings with beneficiary institutions (4 April 2019)**

On 4 April 2019 a series of multilateral and bilateral meetings were held with the relevant units of INLUCC and the Tunisian Ministry of Justice in order to finalise the preparation of the draft Project workplan in advance of the TAC Steering Committee and PAII-T High-Level Launching Conference, which will both take place on 20 June 2019.

### **5.4 Recruitment of the Project team in Tunis**

The procedure for the recruitment of the local project staff was also carried out in the inception period. The local Project team, comprising a local senior project officer and a project assistant, were selected through a competitive hiring process and became operational by the beginning of June 2019.

The local Senior Project Officer will be in charge of supporting project implementation in all its aspects, both content-wise and administratively in the field, and will be responsible for communicating with beneficiary institutions. The Local Project Assistant is responsible for dealing with administrative processes for the implementation of the activities, through handling the logistical organisation of events and trips during both the recruitment and procurement phases and the closing procedures.

## **6. MANAGEMENT AND ORGANIZATION**

### **6.1 Management**

TAC Project activities carried out so far were based on the approvals of Project beneficiaries and future activities will be carried in accordance with the final Project workplan finalised and approved at the Steering Committee Meeting expected to take place on 20 June 2019.

In addition to the project team based in in the headquarters and field, the Project also engaged a long-term international consultant to provide substantive input to Project activities and to further customise the action to fit the Tunisian context.

### **6.2 Steering Committees**

The First Steering Committee of the Project will take place on 20 June 2019 in Tunis, following the High-Level Launching Conference of PAII-T. The following stakeholders will be invited to participate at the SC Meeting:

- Instance Nationale de Lutte Contre la Corruption (INLUCC);
- Central Bank of Tunisia / Commission Tunisienne des Analyses Financières (CTAF) ;
- Presidency of the Government, Good Governance or Ministry of Public Administration, Modernisation of the Administration and Public Policies;
- Ministry of Justice ;
- Office of the Attorney General ;
- Customs Investigations Directorate ;
- General Control of Public Services (CGSP) ;
- Public Procurement National Observatory (ONMP).

The Steering Committee meetings will involve other relevant authorities related to the project results and activities on ad-hoc basis. The role of the steering Committee will entail monitoring of implementation of the project and discussing its achievements, approving the project work plan including the Calendar of Activities and possible modifications, assessing emerging issues, advising on project implementation strategies and jointly discuss critical points, risks and bottleneck to propose remedies.

## 7. COOPERATION WITH STAKEHOLDERS

The cooperation with the main Project beneficiary INLUCC has proved to be regular, comprehensive and successful so far. The INLUCC demonstrated a high-level of interest in the Project activities targeting them as an institution and provided support in the organisation and coordination of activities involving other stakeholders. During the inception period, the Project also enjoyed a certain level of cooperation with the Tunisian FIU CTAF.

## 8. MODIFICATIONS, ASSUMPTIONS, RISKS, SUSTAINABILITY AND GENDER MAINSTREAMING

With regard to risks, a number of issues are expected to arise in the implementation of the TAC Project, which might have significant impacts on implementation.

- *Lack of sustainable impact in non-member states*

Unlike engagement with member-states, CoE cooperation with non-members has certain disadvantages. As such countries do not belong to the CoE aquis, the leverage of CoE to influence policies in these countries is limited, and CoE is looked upon mainly as an expert body.

- *Political instability*

The Tunisian parliamentary election is scheduled to take place during October 2019 which may lead to fluctuations in strategic priorities of the government in anti-corruption sector. The results of the election may also trigger changes in management and staffing structures of the INLUCC.

- *Poor inter-institutional coordination*

Even though inter-institutional dynamics in the Tunisian AC and AML/CFT sectors haven't revealed any serious tensions, the lack of strong coordination mechanisms has been noted by the Project team. To address this issue, the TAC Project planned specific actions aiming to enhance the cooperation between all the institutions involved in the fight against economic crime.

## 9. VISIBILITY

The Project paid special attention to the visibility of its actions and it ensured the visibility of EU contribution in its activities. The Council of Europe took all appropriate measures to publicise the fact that the Project funding has been provided by the Council of Europe and the European Union. The Joint Programme logo was appropriately displayed in the materials distributed in the activities. A disclaimer was placed in all Project related documents.

On the Council of Europe Economic Crime and Cooperation Division website ([www.coe.int/corruption](http://www.coe.int/corruption)) there is a section exclusively dedicated to the TAC Project:

## CONCLUSIONS

It can be concluded overall that the TAC Project started off its implementation on the right foot, enjoying with strong interest and cooperation on the part of its main beneficiary. It also obtained the support of other key institutions involved in anti-corruption and fight against economic crime. Even though the Project acknowledges that certain risks might arise in the upcoming 36 months of implementation, it will take necessary precautions to mitigate their impacts.



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Date: 05. 06. 2013

## ANNEXES

1. Project Workplan
2. Logical framework

## VISIBILITY MATERIALS

A snapshot of the website is appended below:



**COUNCIL OF EUROPE**  
Action against economic crime and corruption

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You are here: Action against economic crime and corruption > Ongoing projects

# Project to Support Independent Bodies in Tunisia (PAII-TAC)

The Anti-corruption project (TAC) is implemented in the framework of the Joint CoE/EU programme "Project to support independent bodies in Tunisia - PAII-T". The project, which started on 1 January 2019 and ends on 31 December 2021, will support the authorities engaged in the fight against corruption and in the implementation of anti-corruption reforms in Tunisia.

The Project's General Objective is to assist the independent authority for good governance and fight against corruption in Tunisia (INLUCC/IBOGOLUCC), to carry out its mandate and to exercise its statutory powers fully and independently. The current anti-corruption agency (Instance Nationale de Lutte Contre la Corruption, INLUCC), which was set up in 2011, will be replaced by an independent anti-corruption authority, the Instance de la Bonne Gouvernance et de la Lutte Contre la Corruption (IBOGOLUCC), in accordance with the Constitution. The Tunisian parliament has adopted the legal basis establishing IBOGOLUCC on 27 August 2018; however, the law hasn't been implemented yet.

The project will focus on 4 main priorities:

- ▶ The internal organisation and effectiveness of INLUCC/IBOGOLUCC are strengthened by the development and implementation of appropriate administrative rules and procedures, as well as by the use of appropriate management tools (ORGANISATION).
- ▶ Communication strategies and tools enable INLUCC/IBOGOLUCC to increase its visibility and understanding of its role by media and public throughout the country and the transparency of its action (VISIBILITY).
- ▶ Capacities of INLUCC/IBOGOLUCC members and staff are strengthened through general and specialised training and knowledge of peer institutions' methods and approaches allowing it to successfully carry out its mandate (COMPETENCE).
- ▶ INLUCC/IBOGOLUCC has consolidated its influence through regular relations with the main national actors – governmental and non-governmental – and with its counterparts, particularly in Europe and the MENA region (INFLUENCE).

[www.coe.int/corruption](http://www.coe.int/corruption)  
[www.coe.int/econcrime](http://www.coe.int/econcrime)

Key documentation and information

- ▶ Technical papers and expert opinions
- ▶ Publications
- ▶ Legal standards
- ▶ Web resources

Website address: <https://www.coe.int/en/web/corruption/projects/paii-tac>