



AUABC

African Union Advisory
Board on Corruption

REPORT OF THE 5th AFRICAN ANTI-CORRUPTION DIALOGUE

THEME: REGIONAL ECONOMIC COMMUNITIES: CRITICAL ACTORS IN THE IMPLEMENTATION OF THE AFRICAN UNION CONVENTION ON PREVENTING AND COMBATING CORRUPTION

HELD VIRTUALLY FROM 9-11 NOVEMBER 2021

1. INTRODUCTION

The African Union Advisory Board on Corruption (AUABC) has in 2021 focused on promoting stronger collaboration and harmonization of efforts among and with the Regional Economic Communities (RECs) through enhanced cooperation and promoting synergies around anti-corruption interventions on the continent. The 2021 African Anti-Corruption Dialogue was thus convened virtually through webinars under the theme: **“Regional Economic Communities: Critical Actors in the Implementation of the African Union Convention on Preventing and Combating Corruption”**.

The three-day Dialogue brought together representatives of Member States, International Organizations, National Anti-Corruption Agencies (NACAs), Civil Society, Academia and other actors. Detailed presentations and reports were submitted and rich discussions among participants held on the status of the fight against corruption at the RECs level, anti-corruption frameworks, policies and laws adopted at the RECs and country levels. NACAs exchanged on best practices in fighting corruption at national level and collaboration across borders at the sub-regional level and Non-State Actors (NSAs) jointly reflected with the Board on how to strengthen their collaboration.

A. OPENING CEREMONY

The Webinar commenced with welcome remarks by Mrs. Charity Nchimunya, the Executive Secretary of the African Union Advisory Board on Corruption (AUABC) who gave an overview of the programme for the 5th edition of the African Anti-Corruption Dialogue.

B. WELCOME REMARKS BY HON. JEAN LOUIS ANDRIAMIFIDY - CHAIRPERSON, AUABC

Hon. Jean-Louis Andriamifidy welcomed participants to the 5th Annual Anti-Corruption Dialogue, noting that the Dialogue was being held online for the second time due to the Covid19 pandemic. He noted that the AU's Agenda 2063 which expresses the aspiration of an integrated, prosperous and peaceful Africa requires coordinated and joint efforts to fight the scourge of corruption which destroys state economies and is a hindrance to sustainable development and to the realisation of values of freedom, equality, justice and dignity.

Hon. Andriamifidy pointed out that through Illicit Financial Flows (IFFs), Africa loses more than 80 billion USD each year. This, he observed, not only robs the continent of much needed resources to finance its development but also fuels conflict. Tackling such problems calls for the elaboration of specific strategies. He further noted that laws, regulations, and standards addressing corruption at the regional and national levels were still not properly aligned and their harmonization was critical as the fight against corruption will only be won if effective coordination across borders, such as within RECs, is prioritised.

Participants were reminded of the symbiotic relationship between regional integration and the fight against corruption and that the former was at risk if corruption is allowed to thrive at the sub-regional level. He concluded by imploring on participants to ensure that 2021 Anti-Corruption Dialogue goes beyond mere conversations and becomes a springboard for concrete actions in waging war against corruption.

2. WEBINAR 1: ENHANCING THE COORDINATION BETWEEN RECS AND NACAS IN THE IMPLEMENTATION OF THE AFRICAN UNION CONVENTION ON PREVENTING AND COMBATING CORRUPTION

The Webinar was moderated by Hon. Seynabou Ndiaye Diakhate. Discussions were preceded by a panel presentation comprising of Ms Martha Munthali from AUABC and John Kivuva, East African Community (EAC).

A. Presentation of the Results of the Research on the Theme of the Year

Ms. Munthali, Senior Policy Officer on Economics and Statistical Matters presented on the research on the theme of the year. In her presentation, she highlighted the research process, the findings, and recommendations from the research.

She informed participants that a questionnaire had been sent out to all NACAs but only 15 responses had been received. The responses received were from: Algeria, Botswana, Burundi, DRC, Ethiopia, Mauritius, Namibia, Nigeria, Senegal, Seychelles, Sierra Leone, Tanzania, South Africa, the Kingdom of Eswatini and Zimbabwe.

The following are highlights from the findings of this research:

- 1) That RECs are indeed relevant actors in the fight against corruption and have provided mechanisms for collective action against corruption, facilitated dialogue and information sharing, developed anti-corruption standards and model laws and provided mechanisms for cross-border collaboration to address corrupt practices.
- 2) There are encouraging examples of strong collaboration between NACAs and RECs such as domestication of regional anti-corruption protocols and specialised trainings for investigators on illicit financial flows (IFFs), asset recovery and money laundering facilitated by REC.
- 3) There are notable challenges to domestication of anti-corruption protocols including limited resources which inhibits full implementation of the protocols and monitoring of the strategic interventions, shortage of expertise particularly on IFFs and asset recovery and lack of harmonisation of anti-corruption policies and legislation.
- 4) There is still need and potential for greater support from RECs in addressing corruption at the national level such as through strengthening capacities of relevant anti-corruption actors, enhancing mutual legal assistance frameworks within Member States and supporting implementation of the Common African Position on Asset Recovery.

B. PRESENTATION BY EAC REPRESENTATIVE

Mr James Kivuva from the EAC Secretariat expressed the EAC's satisfaction with the key outcomes of the AUABC annual research, particularly in relation to asset tracing and recovery, mutual legal assistance and capacity building.

He reiterated the EAC Secretariat's commitment to working closely with the AUABC to promote measures to prevent and combat corruption in the East Africa Region. The EAC Treaty, he noted, provides for adoption of principles of transparency and accountability, which are critical in fighting corruption.

He added that the role of the central banks in monitoring financial systems should be scrutinised more closely for strengthening where there is need to, as well as monitoring mechanisms to prevent the loss of assets on the continent, such as through strengthening intercontinental collaboration.

C. Key Points from Plenary Discussions

- 1) Participants highlighted that corruption in Africa continues to negatively impact on the economy of states and constitutes a major hindrance to socio-economic development and sustainable realization of legitimate aspirations of the continent's populations to promote the values of freedom, equality, justice, and dignity.
- 2) It was noted that the adherence by AU Member States to the AUCPCC and decisions of AU organs is a prerequisite to a successful fight against corruption. Failure to activate the compelling mechanisms within the AU system continues to hamper realisation of the objectives in standards set to address corruption and other ills on the continent.

- 3) Delegates noted the frequent invocation of sovereignty by Member States as a ground for failure to fully implement provisions of the AUCPCC. However, there was consensus that by ratifying the Convention, States by implication limit their sovereignty to the extent that cross-border collaboration and coordination is required to effectively address the corruption scourge.
- 4) The critical role played by financial intelligence units (FIUs) in collaboration with central banks at the national level was lauded. Entities designated as reporting institutions are required to submit information to FIUs which in turn work closely with central banks to address economic crimes and particularly cross-border and inter-continental money laundering.
- 5) The importance of political will in the fight against corruption cannot be gainsaid. It is a necessary precondition to a successful fight against corruption as studies show that there is a strong correlation between political goodwill, good governance and winning the war against corruption.
- 6) Participants were reminded that as part of the implementation of the UN Convention Against Corruption, several African countries were involved in the first and second evaluation. As such, knowledge sharing by African experts involved in the process should be facilitated to enhance monitoring under the AUCPCC.
- 7) The AUABC updated participants on two important developments, namely, that the Board is in the process of setting up an anti-corruption resource centre which will have information on anti-corruption practitioners, researchers and experts. The Board has also developed a RECs Engagement Strategy that will guide the collaboration between the AUABC and the RECs in to aid the implementation of the AUCPCC.
- 8) Participants noted there is still laxity in implementation of the AUCPCC. The AUABC was called upon to probe whether the failure to meaningfully reduce corruption incidences in some States Parties to the AUCPCC is a result of gaps in the Convention and standard setting in general, particularly in the area of IFFs.

D. CLOSING SESSION AND WAY FORWARD

In his closing remarks, Hon. Jean Louis Andriamifidy, Chairperson of the AUABC, delivered the closing remarks for Day 1 of the Dialogue. He expressed gratitude to the 15 countries that responded to the questionnaire sent out by the AUABC.

He further reiterated that corruption in its various manifestations on the continent continues to prejudice economic, social and political stability in Africa with continued haemorrhage of resources out of the Continent. To redress the vice, coordinated action is needed amongst RECs, NACAs and the AUABC so as to realise the different anti-corruption policy objectives and positions such as the Common African Position on Asset Recovery.

He concluded by reassuring participants that the Board had taken note of the various recommendations made and would in particular reflect on the concern that gaps in standard setting, including the AUCPCC, have contributed to an ineffective fight against IFFs.

3. WEBINAR 2: REFLECTIONS ON THE STATE OF ANTI-CORRUPTION IN AFRICA

Day 2 of the Anti-Corruption Dialogue was a closed session with representatives of National Anti-Corruption Agencies (NACAs). The session was moderated by Hon. Francis Ben Kaifala, Commissioner, Anti-Corruption Commission of the Republic of Sierra Leone and AUABC Board Member. The webinar presented an opportunity for representatives of NACAs to reflect on the general state of anti-corruption efforts in Africa. The webinar had three panellists namely representative of AUABC, representatives from National Anticorruption Authorities of Algeria, and Mozambique

A. Progress Report and Update from the AUABC

Mr Selemani Kinyunyu, Senior Policy Officer on Political and Legal Matters at AUABC, gave an update on what the Board has done and achieved since the 4th Annual Dialogue held in October 2020 and notably the following were highlighted.

- 1) A recollection of the key recommendations from the 4th edition of the African Anti-Corruption Dialogue that focused on enhancing the effectiveness and efficiency of judicial systems in the fight against corruption (the report and recommendations available with the AUABC).
- 2) That the Board had in the period between the last Anti-Corruption Dialogue to date observed increased corruption in the electoral processes on the continent. This is particularly with respect to corruption aimed at compromising election officials, government agencies and institutions.
- 3) That the Board also noted the continuing challenges of state capture, grand corruption and high level patronage that continue to erode confidence in governance systems in the continent.
- 4) The AUABC is poised to release two studies focusing on corruption during the Covid19 pandemic and the role of RECs in fighting corruption. He pointed out that the RECs could play a key role in the domestication of anti-corruption norms at the national level but their capacities in this regard remains largely untapped.
- 5) That the AUABC has witnessed varying application of anti-corruption norms in the development of regional treaties as well as the establishment of regional anti-corruption networks and the Board commits to continue supporting harmonisation efforts and stronger networks.
- 6) The African Union adopted the Common African Position on Asset Recovery, adopted by the Policy Organs of the AU in 2020. This document is key in assisting Member States

to negotiate return of stolen assets and also identify, recover, and manage stolen assets in the broader context of prevention of IFFs.

- 7) That the AUABC is concerned with the resurgence of unconstitutional changes of government on the continent which have in part been fuelled by corruption. Populations, particularly the youth, are dissatisfied with the poor management and unequal distribution national resources both of which are influenced by corrupt practices.
- 8) Lastly, the AUABC lauded the recent ratifications of the AUCPCC by Tunisia and Cameroon being the 44th and 45th countries respectively to ratify the Convention. The Board continues to call upon Central African Republic, Cape-Verde, Djibouti, Democratic Republic of Congo, Eritrea, Mauritania, Morocco, Somalia, South Sudan and Eswatini to follow suit.

B. Presentation by Mr. Kour Tarek from Algeria

- 1) Mr Tarek observed that Government of Algeria has shown genuine political will in the fight against corruption as exemplified by the constitutional amendments that have been enacted to establish an independent supervisory anti-corruption organ – the High Authority for Transparency, Prevention and Fight Against Corruption.
- 2) He further informed participants about the efforts by Algeria to combat corruption through institutional and strategy reforms. The country has drafted a National Strategy for Transparency, Prevention and Fight Against Corruption, and worked to promote the role of CSOs in the fight against corruption.
- 3) Algeria recommended further strengthening of the monitoring mechanisms under the AUCPCC and for the AUABC to clarify its monitoring approach to States Parties. He called for further clarification of the modalities, procedures, objectives and evaluation criteria in the context of monitoring implementation of the AUCPCC.
- 4) He expressed Algeria's readiness to collaborate with the AUABC in its supervisory role under the AUCPCC and to support any measures that will enhance the Board's effectiveness in that respect.

C. Presentation by Mr. Miguel Candido from Mozambique

Mr. Miguel Candido provided context on the work of Mozambique's Central Office for Combating Corruption (GCCC) and presented the various activities being implemented in Mozambique to fight and prevent corruption. He highlighted the efforts of his government in the fight against corruption as outlined below.

- 1) Having realized that the state was losing a lot of money, the Mozambican government saw the need to include central banks in the dialogue about the fight against corruption. Joint efforts with the central banks and foreign currency exchange bureaus are key because these entities often serve as spaces for money laundering.
- 2) A new Penal Code has been introduced which reinforces the criminalization of corruption in the private sector, ensures that corruption cases are tried faster and prohibits sentences on corruption from being converted to fines.

- 3) Mozambique has adopted a national anti-corruption strategy that now incorporates sectoral approaches in the fight against corruption. Under this strategy, there are now strategic plans for sectors such as education, security, among others and these plans are developed in consultation with stakeholders in the respective sector.
- 4) The Country has also developed virtual platforms for online payments for public services. Reduced cash transactions has significantly decreased corruption incidences and money laundering in particular.
- 5) Mozambique has approved new instruments to promote international judicial cooperation including adoption of new regulations that now expedite extradition and other foreign judicial requests.
- 6) The GCCC has signed MOUs with public institutions including ministries and the national revenue authority and private institutions under the umbrella of Mozambique's Chamber of Commerce.
- 7) The GCCC has also facilitated the training of trainers within state institutions to enable institutions to combat corruption using internal expertise. So far, 776 trainers have been trained and are able to disseminate anti-corruption messages within institutions, a move that has seen significant savings on training costs.

D. COUNTRY UPDATES

During the plenary session, the opportunity was given to representatives of National Anti-Corruption Agencies (NACAs) to share with participants the various initiatives embarked upon within their respective countries in the fight against corruption. Representatives from Mali, Senegal, Togo, Côte d'Ivoire, Madagascar, Seychelles, and Botswana presented the initiatives and progress recorded in their various countries in the fight against corruption. Below is the summary of trends, practise and updates presented by representatives of the national anti-corruption authorities

- i. States Parties to the AUCPCC had shown commendable commitment in addressing corruption through a variety of legal reforms including constitutional amendments to guarantee independence of NACAs as well as legislation on access to information and freedom of expression to supplement existing anti-corruption legislation.
- ii. Several States Parties have adopted national strategies and strategic plans to guide their approaches in the fight against corruption and these have enabled targeted responses to corruption such as through sector-based initiatives and harmonized messaging by the different anti-corruption actors.
- iii. Some countries have impressively leveraged on technological innovations to address corruption such as through developing virtual platforms for online payments for public services. Reduced cash transactions has significantly decreased corruption incidences and money laundering in particular.
- iv. Improvements have been made on prosecution and punishment of corruption offences in some States Parties, including through amending relevant laws to fast-track adjudication of corruption

cases, expediting extradition requests and custodial sentences (instead of fines) for those found guilty.

- v. There is a commendable increase in the number of countries that have adopted legislation to regulate asset recovery and importantly, effective management of recovered assets. Additionally, regulations on wealth declaration have been adopted in some of the represented States and this has dissuaded public officers from corruption.
- vi. It is evident from the country reports that most NACAs have adopted a two-pronged approach in fighting corruption, namely, prevention and protection/enforcement. Prevention measures have involved civil society organisations as important partners in anti-corruption awareness creation.
- vii. Some NACAs are addressing the root causes of the culture of corruption in their countries by reviewing education curricula for primary, secondary and tertiary levels of education. They have also innovated user-friendly modes of communication such as through animated TV series to reach younger audiences.
- viii. There are encouraging models of collaboration on anti-corruption measures at the sub-regional level such as agreements for collaboration and cooperation among NACAs from Mali, Senegal and Côte d'Ivoire.
- ix. Various NACAs have shown great courage, commitment and independence by prosecuting high profile corruption cases, including those involving officers in high office such as in the presidency. Efforts should be made to make such high profile prosecutions the norm rather than the exception.
- x. Experiences shared indicate that there is greater success in fighting corruption if there is effective inter-agency collaboration within each country. Some of the best practices shared were information sharing among the police, customs officials, forestry staff, the judiciary and other relevant actors for coherent and strategic anti-corruption interventions.
- xi. As part of preventive measures, a number of NACAs noted the importance of corruption risk assessments as a tool for not only creating awareness on corruption but also informing responses on appropriate measures to prevent corruption.

One of the identified ways of how corruption is fighting back is through numerous interlocutory applications and other procedural technicalities in adjudication of corruption cases aimed at delaying trial of suspects. The judiciary thus has a pivotal role to play to prevent abuse of court procedures by accused persons.

E. CLOSING SESSION AND WAY FORWARD BY AUABC

In closing the webinar, the Chairperson of the Board Hon Jean-Louis Andriamifidy called upon NACAs to strengthen engagement with the AUABC in order to build networks for the implementation of the AUCPCC and the Common African Position on Asset Recovery, the latter being a key instrument for AU Member States to identify, recover and manage returned assets for the benefits of citizens.

The Board lauded Member States for the great efforts made to implement the AUCPCC and related anti-corruption instruments. Best practices by NACAs in the different countries are inspiring and provide a wealth of material for cross-learning among NACAs in the continent.

The AUABC committed to finalise and share the report of the Dialogue with participants, which will also inform recommendations of the AUABC to the Executive Council of the AU in January 2022.

4. WEBINAR 3: NON-STATE ACTORS FORUM

Session Objective

The session discussed and availed an opportunity for joint reflection between Non-State Actors and the Board. The first part of the session was moderated by Hon. Agnes Kayobo Ngandu, AUABC Board Member. Prior to plenary discussions, Mr. Selemani Kinyunyu, AUABC, made a presentation on the status of collaboration between the AUABC and NSA. A second presentation was made by Mr. Don Deya, Chief Executive Officer (CEO) of the Pan African Lawyers Union (PALU) on the possible models of collaboration between the Board and NSAs. The second part of the session consisted of discussions on how collaboration with the Board should be structured as well as country updates on how Member States have involved CSOs in the fight against corruption.

A. Status of collaboration between AUABC and NSAs - Mr. Selemani Kinyunyu, Senior Policy Officer for Political and Legal Matters at AUABC

- 1) The AUCPCC recognizes the key role of the private sector, civil society and media in combating corruption and requires the AUABC to build partnerships with NSAs to facilitate dialogue in the fights against corruption.
- 2) Presently the collaboration between NSAs and the Board has been sporadic, geographically limited and fragmented. It is characterized by periods of intense activity followed by a lull in engagement.
- 3) In 2019 at the 3rd Annual Anti-Corruption Dialogue held in Kigali Rwanda a forum of civil society organisations (CSOs) was held and the CSOs present developed proposals on how to engage with the Board in a structured manner. Most of these proposals are yet to actualize after the disruption caused by the Covid19 pandemic.
- 4) There is potential to strengthen the Board's collaboration with NSAs in the areas of monitoring implementation of the AUCPCC through State Reports, research and documentation, advocacy and outreach and supporting creation of an enabling environment for CSOs.
- 5) There have been some successful efforts in the Board and NSAs collaboration including a long-standing partnership with the Multi-Sectoral Working Group on Combating Corruption in Africa, partnering with Transparency International (TI) on research and TI-Kenya on transparency during the Covid19 pandemic and partnership with One Campaign on the Accountability Music Awards.

B. Possible models of collaboration between AUABC and NSAs – Mr. Donald Deya, C.E.O, Pan African Lawyers’ Union (PALU)

- 1) NSAs have engaged the AUABC in efforts to implement the Convention in various ways including popularization of the AUCPCC, mobilization citizens, awareness-raising and building a community of practice around the Convention, research and documentation and knowledge around the manifestation of corruption in the regions and state reporting.
- 2) CSOs engagement with the AUABC has continued to be ad hoc, and there is need to reflection on how to ensure sustainability and consistency in this engagement.
- 3) The model of NSAs engagement adopted by the African Commission on Human and Peoples’ Rights was suggested as a possible example that the Board and NSAs can replicate. The African Commission’s NGOs Forum is possibly the most developed continental platform for NSAs engagement and in existence for over 25 years. It is hosted by one NGO member – African Centre for Democracy and Human Rights Studies and holds side events alongside the Commission’s activities.
- 4) Replication of the above model would mean a member organization is tasked with convening NSAs every year to actively participate in the Board’s anti-corruption activities and interventions.
- 5) The Coalition for An Effective African Court on Human and Peoples’ Rights and its engagement with the African Court was proposed as another model that the Board and NSAs can consider adopting.
- 6) If accepted, the above model would mean establishing a specific membership organization that NSAs would subscribe to for purposes of engaging the Board.
- 7) Whichever model that the Board and NSAs choose to adopt, it was emphasized that consistency and sustainability were critical factors to bear in mind. It is particularly critical to design an engagement framework that can be sustained even when donor support fluctuates.

Various countries also weighed on how at national level have worked with Non State actors. Experiences were shared from Togo, Tanzania, Senegal, Mali, Mauritius and Botswana. The following were notable strategies and collaboration between State parties and Non State actors;

- Adoption of charter which defines the framework of collaboration between the anti-corruption authority and NSAs. This enables the NSAs and state agencies to work jointly on a nationwide anti-corruption campaigns.
- Instituting of committees that includes representatives of CSOs is in the process of developing a national anti-corruption strategy.

- Specific engagements with CSOs and NGO, where they work on a specific sector i.e health in addressing corruption
- NACAs engagement with NSAs involved has involved traditional/formally-organised civil society organisations but also non-organised/informal platforms, groups and active citizens.
- The national anti-corruption body has incorporated religious institutions as part of its strategies to combat corruption and anti-corruption messages are included in sermons. Various anti-corruption platforms have been established for different constituencies and these include: trade unions, civil society organisations, youth and women organisations and the private sector.
- MoUs with different CSOs to collaborate in anti-corruption initiatives and training of CSOs on shadow reporting under UNCAC.
- Working closely with the media and facilitated trainings of investigative journalists on corruption investigations and reporting.

C. RECOMMENDATIONS

- 1) The participants resolved to reinvigorate collaboration between the Board and NSAs after the disruption caused by the Covid19 pandemic and to capitalise on online platforms that now exist as opportunities to expand the number of NSAs engaging with the Board.
- 2) Both the AUABC and NSAs require time after this Dialogue to consult and agree on the most appropriate framework to adopt for consistent and vibrant collaboration. Both sides would aim to have consensus on this well before the next Annual Anti-Corruption Dialogue.
- 3) The AUABC committed to sustaining existing MoUs with CSOs and pursuing new ones with organisations that have not previously partnered with the Board.
- 4) The AUABC will explore ways of strengthening and expanding membership of the Multi-Sectoral Working Group on Combating Corruption in Africa. Deliberate efforts would be made for greater participation of trade unions, youth and women organisations and the media.
- 5) Delegates urged the AUABC to consider facilitating continued dialogue amongst NSAs to exchange on experiences, good practices and for inspiration.
- 6) Representatives of NSAs implored on development partners to support the enhancing of CSOs capacities to monitor implementation of the AUCPCC and for the Board to provide technical support to CSOs in developing proposals to development partners.

D. CLOSING REMARKS

Closing remarks for the three-day Dialogue were delivered by Hon. Jean Louis Andriamifidy - Chairperson, AUABC who thanked all participants for their rich contributions to the discussions. He reiterated that the Board would not relent in the quest to have structured engagement with NSAs and would continue to reach out to and support CSOs, including through the Working Group on Partnerships and Resource Mobilization. He urged CSOs to remain vigilant and united, especially in the face of harassment and repression in response to their anti-corruption work. The Board would continue to support efforts to enact whistleblower protection laws in various Member States and which laws are critical to ensuring safety of NSAs as they contribute to the fight against corruption. Hon. Andriamifidy concluded by applauding the courage shown by CSOs in combating corruption, even at the risk of their personal safety.