

Tunisia

Tunisia Corruption Report

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Snapshot

Moderate risks of corruption are an obstacle for businesses investing in Tunisia. The country suffers from a culture of [nepotism](#) and [cronyism](#), which are found throughout the government. These practices spurred popular upheavals in 2010, leading to the fall of the government in early 2011.



Despite the uprisings of the Arab Spring, corruption is still rampant. High-level corruption is said to be replaced by petty corruption. Tunisia's [Penal Code](#) criminalizes several forms of corruption, including [active](#) and [passive bribery](#), [abuse of office](#), [extortion](#) and [conflicts of interest](#), but the anti-corruption framework is not effectively enforced, although the government has been taking preliminary steps to implement the laws (HRR 2016). Businesses may encounter [bribery](#), [extortion](#) or [facilitation payments](#), particularly in the public procurement sector. Even though gift-giving and gift-receiving are criminalized, these practices are commonplace in Tunisia.

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Judicial System

The judiciary in Tunisia is criticized for a lack of independence, a lax prosecutorial environment and corruption ([HRR 2016](#); [WJP 2016](#)). Companies perceive that irregular payments are frequently made to obtain favorable judgments ([GCR 2015-2016](#)). Public perception of the judiciary has been improving; only one in eight households consider the judiciary to be corrupt ([GCB 2015](#)). The 2014 constitution provides for judicial independence, but in practice the government continues to assert influence over court cases ([BTI 2016](#)). Notwithstanding, the judiciary is highly professionalized (BTI 2016).

Commercial disputes involving foreign companies rarely take place. In cases where disputes have occurred, foreign companies have generally been successful in seeking redress through the local judicial system ([ICS 2017](#)). Nonetheless, businesses report that the judiciary does not settle disputes or allows for challenging the legality of government actions and/or regulations with sufficient efficiency ([GCR 2016-2017](#)). The time and costs required to enforce contracts through Tunisian courts are lower than regional averages ([DB 2017](#)). Tunisia is a member of the [International Centre for Settlement of Investment Disputes](#) (ICSID) and is a signatory to the [New York Convention 1958](#) on the Recognition and Enforcement of Foreign Arbitral Awards.

Police

Businesses face a moderate to high risk of corruption when dealing with the Tunisian police. The police is ranked among the the most corrupt institutions in Tunisia ([GCB 2015](#)). One in four people in Tunisia consider the police to be

corrupt, yet a very low number report to have paid a bribe (GCB 2015). Investigations into police corruption and abuse by government authorities lack transparency (HRR 2016). Companies are not completely convinced by the reliability of Tunisian police forces to protect them from crime and to uphold law and order (GCR 2016-2017). Over two thirds of companies report paying for security; double the regional average (ES 2013).

Public Services

There is a high risk of corruption in Tunisia's public services administration. Corruption and practices of favoritism hamper Tunisia's public administration (BTI 2016), and inefficient government bureaucracy is reported as the largest impediment to doing business (GCR 2016-2017). More than one-tenth of businesses report encountering at least one bribe payment request, while 5% expected to give gifts to obtain an operating license or to 'get things done' (ES 2013). More than one-quarter of firms report that they provided officials with facilitation payments to accelerate a transaction (ICAT 2014). The practice of *wasta* (the use of connections) has built a network based on nepotism and cronyism (ATPB 2017). Many civil servants installed after the 2011 revolution do not have the right qualifications (BTI 2016). Everyday administrative procedures become favors, and positions within institutions or enterprises are connection-based rather than merit-based (*Carnegie Endowment*, Nov. 2016). These shortcomings have negatively impacted the professionalism of basic administrative structures (BTI 2016). The economic regulatory framework is inefficient and inhibits competition, thereby facilitating pervasive corruption in public and private entities (BTI 2016).

Tunisia has made starting a business more difficult by increasing company registration costs (DB 2015). Nonetheless, starting a business takes only half as much time as the regional average (DB 2017). Likewise, getting electricity takes fewer steps and less time than the regional average (DB 2017). A one-stop

shop, the Agence de Promotion de l'Industrie (API; Industry Promotion Agency), and an online portal, [Portail de l'Industrie Tunisienne](#) (Tunisian Industry Portal), provide comprehensive information related to starting a company.

Land Administration

Corruption within Tunisia's land administration is a problem. [Bribery](#) within this sector is common as almost one-tenth of companies expect to give [gifts](#) in return for obtaining a construction permit (ES 2013). Property rights and the acquisition of property are legally well-defined in Tunisia, but foreign investors face a cumbersome process when acquiring land as prior permission is needed (BTI 2016). Businesses perceive the legal framework as fairly efficient in terms of the protection of property rights (GCR 2016-2017); however, commercial cases take a long time to resolve, and legal procedures are complex (BTI 2016). Registering property in Tunisia is more costly and time-consuming than regional averages (DB 2017).

Tax Administration

Corruption and bribery within the tax administration constitute a problem for businesses operating in Tunisia. Irregular payments and bribes are frequently made when meeting tax officials (GCR 2015-2016). Favoritism is a problem among tax officials as the best-connected firms are found to bargain their way out of tax payments ([ICAT 2014](#)). There is no legislation providing for the non-deductibility of bribes, which can be disguised as legitimate expenses or paid through 'slush funds' held abroad ([OECD 2013](#)). Businesses identify tax regulations and rates as being among the most important impediments to business in Tunisia (GCR 2016-2017). Tunisians frequently cite the lack of trust in the government, unfairness in the taxation system, and high tax rates as the major causes of tax evasion (Neifar, Jan. 2016). Tunisia has lowered the

corporate income tax rate in the past two years, and the total time and cost required to pay taxes are lower than regional averages (DB 2017).

Tunisian anti-corruption group IWatch has alleged that Nabil Karoui, head of the Nessma tv channel, has evaded TND 2.5 million in taxes (*Jeune Afrique*, May 2017). He was subsequently caught on tape instructing his staff to slander IWatch with made-up accusations (*Jeune Afrique*, May 2017).

Customs Administration

There is a significant risk of corruption in Tunisia's customs administration. Companies should be aware that irregular payments at the border occur regularly and companies report the clearance process is not efficient (GETR 2016). Almost one-tenth of businesses expect to give gifts in return for an import license (ES 2013). Tunisia's customs clearance process is lengthy and opaque, constituting a competitive disadvantage, and investors complain of the inconsistent application of regulations (ICS 2017; BTI 2016). In the same vein, companies cite corruption, tariffs, and burdensome import procedures as the biggest impediments for importing (GETR 2016). Tunisia introduced new measures to increase efficiency at its state-owned port handling company resulting in a decrease in border compliance time; the amount of time required is now far below the regional average (DB 2017).

Collaboration between arms and drugs smugglers and customs officials is widely suspected (BTI 2016). Local police reportedly also engage in smuggling activities (*Foreign Policy*, Feb. 2016). Under the old Ben Ali regime, members of Ben Ali's inner circle built their business empires by bribing customs officials and using their connections to monopolize import concessions (*New York Times*, Jun 2017). Tariff and tax evasion on imported goods is common; while tariff evasion in sectors previously dominated by Ben Ali connected firms declined, overall tariff evasion has gone up since the revolution (World Bank 2015). This

is in line with an overall increase in the informal economy since the 2011 revolution (World Bank 2015).

The head of the customs agency indicated that 101 customs officers are suspected of corrupt activity and 29 have been permanently dismissed from their positions (*Réalités*, Jan 2017). In another raid, over USD 288 million in foreign currency was retrieved from smugglers running fraudulent operations (*African Manager*, Jul. 2017).

Public Procurement

Tunisia's public procurement sector is vulnerable to corruption ([OECD 2013](#)). Companies report that bribes and irregular payments are frequently made when bidding on government contracts (GCR 2015-2016). Businesses demonstrate a low-degree of trust in government officials to make decisions objectively and to not favor well-connected companies or individuals when deciding policies and contracts (GCR 2016-2017). Firms report that collaborating with the 'right connections' helps overcome administrative obstacles (BTI 2016), while one-third of surveyed companies expect to give gifts in order to secure a government contract ([ES 2013](#)).

Public tenders in Tunisia require all bidding parties to provide a sworn statement committing not to promise or give gifts (even through third parties) or to influence the outcome of the tender (ICS 2017). Key challenges in Tunisia's procurement system include the lack of professionalism and good governance, and a lack of adequate specialization of control and audit bodies ([OECD 2016](#)). Inadequate safeguards against corruption exist in Tunisia (OECD 2016). Companies can use the electronic public procurement system, [TUNEPS](#). Companies are recommended to use a [specialised public procurement due diligence tool](#) to mitigate the corruption risks associated with public procurement in Tunisia.

The health care system in Tunisia is said to be rife with corruption; false prescriptions, illicit drugs, and faults in public procurement are said to distort the cost of healthcare (*Middle East Eye*, Apr. 2017).

Natural Resources

Companies face high corruption risks when dealing with the natural resources sector. Transparency in the natural resources sector has been debated extensively in Tunisia in the past few years, leading to constitutional protections of resources, including naming the Tunisian people as the owners of all resources (NRGI 2017). The implementation of these reforms is still underway (NRGI 2017). Tunisia performs adequately when it comes to enabling an environment that promotes accountability and transparency (NRGI 2017). The government disclosed all its oil and gas contracts in 2016 (NRGI 2017). Tunisia has reformed its regulations to require parliamentary approval for every new oil and gas contract signed, but the implementation of these regulations has stalled (NRGI 2017).

Legislation

[Tunisia's Penal Code](#) (in French) criminalizes attempted corruption, [active](#) and [passive bribery](#), using public resources for private gain, bribing a foreign official, [abuse of function](#), [embezzlement](#), [money laundering](#) and [extortion](#). Tunisian legislation also addresses [conflict of interest](#). According to the Penal Code, the offense of passive bribery or offering, promising or giving any undue pecuniary or other advantage to a Tunisian public official (directly or through an intermediary) carries a 10 year prison sentence and a fine equal to twice the amount of the bribe/[gift](#) received or promised; the minimum fine is TND 10,000 (approximately USD 6,000). However, Article 93 of the Penal Code provides that bribers or intermediaries

who notify the public authorities of the offense before criminal charges are brought against them will be exempted from punishment. The constitution contains a provision demanding public officials with high posts to declare their assets. Tunisians bribing a public official outside the country may be prosecuted under Tunisian law. Whistleblowers enjoy protections from retaliation in both the public and private sectors. Whistleblowers are required to reveal their identity to the judicial authorities, but may remain publicly anonymous. The government does not consistently succeed in enforcing its anti-corruption laws (HRR 2016). In a step to strengthen the protection of whistleblowers, Tunisia's parliament approved a new anti-corruption law criminalizing retribution against whistleblowers. The law sets out the conditions under which whistleblowers can report corruption, the procedures for protecting whistleblowers and the penalties any person might face in case of revealing the identity of a whistleblower (*Middle East Monitor*, Feb. 2017). A hotly debated Reconciliation Bill that would grant amnesty to public officials who committed corruption crimes under the old regime, is currently under consideration in Tunisia's parliament (*Middle East Eye*, Jul. 2017). Tunisia's government has escalated its anti-corruption efforts since May 2017; a number of high profile businessmen, politicians, police, and customs officers have been arrested in an effort to rid Tunisia of its 'kleptocracy' (*Carnegie Endowment*, Jul. 2017). Citizen support for Prime Minister Chahed's anti-corruption campaign is growing; over 800 Tunisians signed a petition in support of the effort (*Kapatalis*, Jul. 2017).

Tunisia has signed and ratified the [United Nations Convention against Corruption](#) (UNCAC) and is a founding member of the [Middle East and North Africa Financial Action Task Force](#), which combats money laundering and terrorist financing. Tunisia is not party to neither the [OECD Anti-Bribery Convention](#) nor the [AU Convention on Preventing and Combating Corruption](#).

Civil Society

Post-revolution Tunisia has witnessed a much freer press. The media can now scrutinize the behavior of government officials and bring government corruption to light ([FotP 2016](#)). The Constitution provides for freedom of expression and media independence, but several of these provisions are described in vague and broad terms, allowing media content to be censored ([FotP 2016](#)). News organizations are generally divided by political affiliation and ideology ([FotP 2016](#)). Violence against reporters continues to be a problem and defamation laws inconsistent with the new constitution are still on the books ([FotP 2016](#)). Tunisia's Constitution guarantees access to information, but exceptions are reportedly so broad that they can undermine the law's ability to ensure transparency and accountability ([FotP 2016](#)). Tunisia's media environment is evaluated as 'partly free' ([FotP 2016](#)).

Freedom of assembly and association are guaranteed by the Constitution, but the government does not consistently respect this right ([FitW 2017](#); [HRR 2016](#)). The government, at times, has put associations through unnecessary bureaucratic registration procedures for politically motivated reasons ([HRR 2016](#)). Civil society participation is uneven, but has become increasingly important; civil society was involved in drawing up the new constitution as well as solving the political crisis of 2013 ([BTI 2016](#)). Among the achievements of the cooperation between the state, civil society and the UNDP in Tunisia is the creation of the [Portail National Pour La Lutte Anti-Corruption](#), which revolves around three principal elements: an information site, a space for constructive ideas contributing to the National Anti-Corruption Strategy and an interactive space for anti-corruption activists.

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