



# GUINEA-BISSAU

## TECHNICAL ASSISTANCE REPORT—ENHANCING GOVERNANCE AND THE ANTI-CORRUPTION FRAMEWORK—NEXT STEPS

June 2020

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# **Guinea-Bissau**

## **Enhancing Governance and the Anti-Corruption Framework: Next Steps**

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**Technical Report**

**May 2020**

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## PREFACE

In response to a request from the authorities of Guinea-Bissau, a team organized by IMF's Fiscal Affairs and Legal Departments visited Bissau from September 18 to October 1, 2019, to conduct a diagnostic of macro-critical weaknesses in fiscal governance, rule of law, market regulation, anti-money laundering (AML), and anti-corruption. The governance assessment of Guinea-Bissau is being carried out according to the IMF's Framework for Enhanced Fund Engagement on Governance Issues approved by the Board in April 2018.<sup>1</sup> The team consisted of Ms. Concepcion Verdugo-Yepes (Head), Mr. David Baar, Mr. Paulo Silva, Mr. Jean Pierre Nguenang (all Fiscal Affairs); and Ms. Ioana Luca and Mr. Maksym Markevych (both Legal).

The mission met with a wide range of government officials, multilateral donors, and private sector and civil society representatives. The team wishes to express its thanks to the authorities for their cooperation and hospitality. The mission would particularly like to thank the Prime Minister, Mr. Aristides Gomes; the Minister of Economy and Finance, Mr. Geraldo Martins; the special advisor to the Prime Minister, Mr. Rui Duarte; the advisors to the Minister of Economy and Finance, Mr. Carlos Andrade and Mr. Jeremias Pereira; and the Director General of Budget, Mr. Elisio Gomes-Sa.

The support and guidance provided by Mr. Tobias Rasmussen and Mr. Max Alier, both African Department mission chiefs; Mr. Patrick Gitton, IMF Resident Representative in Bissau; Mr. Oscar Melhado (former IMF Resident Representative); and Mr. Romao Lopes Varela, Advisor to the IMF Executive Director for Guinea-Bissau significantly improved the effectiveness of the mission.

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<sup>1</sup> This report does not address vulnerabilities to corruption in the "Financial Sector Oversight and Central Bank Governance," and it does not include an analysis of vulnerabilities to corruption in procurement, which is one of the subcomponents of Fiscal Governance.

## EXECUTIVE SUMMARY

Political instability has limited the development of Guinea-Bissau's institutional capacity. For example, tensions between the President and the leadership of the country's largest political party led to six changes of government between the 2014 and 2019 parliamentary elections.

Previous IMF capacity development reports, ECF program reviews staff reports, and other diagnosis undertaken by the World Bank and the European Union have pointed to structural governance weaknesses and proposed corrective measures, in some cases, similar to those highlighted in this report. Regrettably, traction has been limited.

The country's political leadership has a general understanding of the corruption vulnerabilities and their potential materiality, and it is vocal about the need for change, including in the new government's program. Guinea-Bissau, however, lacks a comprehensive national anti-corruption strategy. Political instability contributes to a deep-rooted corruption, entrenched rent-seeking, and predatory behavior. The ability of officials to act with impunity has exacerbated this predatory behavior, and political patronage leads to the placement of unqualified individuals in public sector jobs. Ongoing efforts to mobilize revenues and control expenditures are welcome steps to reduce fiscal vulnerabilities, but further actions are required.

It is critical to now translate this willingness to act and this understanding of vulnerabilities into a medium-term national strategy to address corruption. This report offers a comprehensive approach to address institutional vulnerabilities and strengthen anti-corruption practices in several areas: (1) public financial management (PFM); (2) tax policy framework; (3) tax and customs administration; (4) rule of law and regulatory framework; and (5) anti-corruption and anti-money laundering regimes.

The key fiscal governance, legal, and institutional challenges to the fight against corruption are described in the next section.

### Public Financial Management

Current PFM systems do not ensure adequate prioritization, control, accountability, and efficiency in expenditure management. The budget prepared by the Ministry of Economy and Finance (MEF) is often not approved by the National Assembly on an annual basis and is used in a very limited way to guide expenditures. Spending decisions are made by an in-house committee in charge of the expenditure execution (COTADO), led by the MEF in a discretionary way, because the Treasury Committee meetings have been discontinued due to the Committee's large size and composition. In addition, internal controls are not adequate to ensure that payments are only made after certification that goods and services have been actually delivered and that payments are always made directly to the beneficiaries. Enforcing sound practices and strengthening controls at each phase of the expenditure chain (commitment, liquidation, payment order, and payment) are essential for effective and transparent expenditure management. As a first step, it would be important to comply with contractual provisions, especially payment deadlines and associated penalties in cases of delays.

The existing cash-rationing system is, in part, due to the absence of a treasury single account. The government has not yet prepared an inventory of government entities' bank accounts. Line ministries' bank accounts are opened in commercial banks following agreement by the Treasury, which includes a co-signature arrangement between the parties (Treasury and line minister). However, there are some exceptions; for example, no co-signature is needed for commercial bank accounts held by the National Assembly, the Presidency, and several extrabudgetary autonomous entities. Also, the current cash rationing system has not been able to prevent new expenditure payment arrears, the stock of which is unknown due to recording deficiencies.

There is limited institutional oversight and a paucity of financial information on state-owned enterprises (SOEs). In addition, there are numerous extrabudgetary entities/operations and a sizeable amount of expenditure in the budget that is unspecified (2 percent of GDP in 2018).

The Inspectorate General of Finance (IGF) exercises very limited internal controls due to both institutional and operational weaknesses. The *Tribunal de Contas* has several limitations to perform external audits, mainly due to the de facto lack of financial and administrative autonomy. Despite these limitations, this tribunal has issued nine reports, most of them on SOEs, which identify critical weaknesses in the management, accountability, and efficiency of some of them. However, the tribunal is not provided with follow-up information about its recommendations if any of them were implemented by some SOEs.

There is no central unit within the MEF tasked with the appraisal of donor-funded projects. The authorities need to develop the capacity to control the planning, allocation, and implementation of externally financed investment projects (on average, 95 percent of total public investment during 2011–18). This lack of control by the authorities may lead to risks, such as the overestimation of the total cost of investment projects (including associated loans), cost overruns, and long implementation delays—all of which have negative fiscal implications.

### **Wage Bill and Public Administration**

The legal framework for the employment of public servants has not been consistently applied. This framework stipulates hiring based on merit through a public tender process. However, due to political interference, hiring is typically based on cronyism and nepotism, and senior staff are appointed without the required technical capacity for the positions. In addition, the government does not conduct a regular reconciliation between the personnel records and the payroll file, resulting in a considerable number of ghost workers.<sup>2</sup>

The lack of financial and operational controls on the wage bill, including on workers' presence at their offices, leads to overpayments and excessive absenteeism in the public administration.<sup>3</sup> Of

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<sup>2</sup> The Inspector General of Finance conducted an audit of personnel in June 2018 and estimated that there were 2,800 ghost workers.

<sup>3</sup> Overpayments are estimated at FCFA 1.2 billion, or 0.1 percent of GDP (IGF, 2018 Audit Summary Report).



concern is the extensive use and absence of controls on the payment of incentives (about 22 percent of total wages in 2018) and lack of adequate control over the salaries paid to the members and employees of the National Assembly (FCFA 3.6 billion in 2018, or 0.4 percent of GDP).

## **Tax Policy**

The tax system in Guinea-Bissau is characterized by antiquated and inconsistent legislation, a large compliance burden, and pervasive administrative discretion. The widespread availability of tax exemptions in Guinea-Bissau operates in tandem with numerous fees and charges assessed and collected by a wide range of entities. The result is a nontransparent and costly approach to revenue collection that promotes tax evasion, as well as a growth-inhibiting burden on business activity.

## **Tax and Customs Administration**

The complexity and opacity of Guinea-Bissau's tax system has the effect of normalizing discretionary administration by the Directorate-General for Taxes and Duties (DGCI) and by the Directorate-General for Customs (DGA). These institutional vulnerabilities are exacerbated by the absence of both a results-based management strategy and guidance in the fight against corruption. Political interference in hiring decisions, combined with political instability, have led to high rates of turnover and unqualified staff that are vulnerable when corruption opportunities present themselves. In addition, outdated information technology systems hamper tax compliance, create high operational costs for both the tax and customs administrations, and increase the difficulty of effective verification of taxpayers and oversight of employees.

## **Anti-Corruption and Anti-Money Laundering**

Guinea-Bissau faces significant and systemic corruption risks emerging not only from the misuse of public resources but also from foreign drug traffickers that seek the assistance of the country's officials. The Judicial Police has achieved some successes, including in the investigation of acts of corruption, but credible follow-up by prosecutors and courts is lacking. The resources and independence of the criminal justice system requires enhancement. The asset declaration regime is not operational, and both legislative and institutional frameworks should be reformed and reinforced by publication of the declarations. Preventive anti-corruption measures, notably, on conflicts of interests, should be developed. The authorities need to design a comprehensive anti-corruption strategy. Effective implementation of anti-money laundering measures regarding domestic politically exposed persons would support anti-corruption efforts.

## **Rule of Law**

Market participants are generally distrustful of the court system. Laws are not publicly disseminated with any regularity, nor are they explained to either the private sector or to those designated to apply them. Court decisions are not published, and they are not easily accessible to legal professionals. Court fees are prohibitive; delays in proceedings are common, due to the limited number of judges and an apparent lack of productivity control. The registration of property is costly and paper based, leading to many reported conflicts related to property rights.

## **Market Regulation**

The complexity and opacity of the regulatory environment, including in the area of trade, create significant incentives for corruption by public officials; more generally, they hinder private business. One of the most important limitations to private business is the multitude of charges and fees applied by public entities to business transactions. These fees are usually not transparent and are not consistently applied. The one-stop shop for registering companies is a positive step toward facilitating business operations; it should be upgraded by being digitized and integrated into the network of registries developed by the Organization for the Harmonization of Corporate Law in Africa (OHADA).

## **Key Recommendations and Next Steps**

Setting aside political constraints while remaining cognizant of administrative capacity, the report lays out a road map for reforms to strengthen fiscal governance, legislative frameworks, and institutions. That said, these reforms must be owned by Guinea-Bissau authorities; further engagement will only be worthwhile if the overall direction of governance and anti-corruption reforms have strong political support.

The first step in following up on the recommendations of this report should be the convening of a technical committee on governance in February 2020, with comments due to the IMF staff by February 20, 2020. This technical committee should include representatives from the following offices: President, Prime Minister, Minister of Economy and Finance, Minister of Justice, Minister of Public Function, and Attorney General. In addition, the technical committee should include representatives of the Anti-Corruption Commission, *Tribunal de Contas*, and civil society.

After considering the recommendations in this report, the government's technical committee on governance should develop a comprehensive anti-corruption strategy for the medium-term. The mission's wrap-up presentation is included in Appendix 2 for reference; Table 1 lists the key final recommendations for the short and medium-terms, as agreed with the authorities.

**Table 1. List of Key Recommendations for the Short and Medium Terms<sup>4</sup>**

	<b>Institutions Responsible</b>	<b>Key Recommendations</b>	<b>Timeframe</b>
<b>Public Financial Management</b>			
1	Treasury Committee, COTADO	Reestablish a smaller and focused Treasury Committee by Executive Order; issue prioritization criteria and actions to prevent further accumulation of payments arrears ( <i>restos a pagar</i> ) and to clear the existing stock of arrears.	Short Term
2	MEF	Enforce the normal expenditure execution procedure: certification before payment. Enforce a proper recording of the expenditure phases in the SIGFiP (commitment, verification, payment order, and payments).	Short Term
3	MEF (DG Treasury)	Progressively consolidate government cash in a treasury single account.	Short to Medium Terms
4	Ministry of Public Function; MEF	Enforce control over all public salaries, including employment incentives.	Short Term
5	Ministry of Public Function; MEF	Regularly reconcile the personnel record file and the payroll file. Conduct a biometric census of all public employees and retirees.	Short Term
6	MEF (DG Budget)	Enforce the 2016 budget classification to exclude the unspecified expenditure category.	Short Term
7	MEF (DG Treasury, DG Budget)	Undertake a comprehensive inventory of extrabudgetary operations.	Short Term
8	MEF (Inspector General for Finance)	Approve the annual work program of the Inspector General for Finance; increase staffing and financial resources.	Short Term
9	MEF ( <i>Tribunal de Contas</i> )	Progressively audit and publish all pending consolidated financial statements.	Short to Medium Terms

<sup>4</sup> *Short Term* refers to a period between 1 and 18 months. *Medium Term* refers to a period that goes beyond 18 months up to three years.

	Institutions Responsible	Key Recommendations	Timeframe
<b>Tax Policy and Revenue Administration</b>			
10	Minister of Economy and Finance to develop legislative proposals for consideration by the National Assembly	Repeal the 2015 Budget Law amendments to the General Tax on Sales and Services ( <i>Imposto Geral sobre Vendas e Serviços</i> (IGV)) and the Investment Code ( <i>Código de Investimento</i> ).	Short Term
11	Minister of Economy and Finance to develop legislative proposals for consideration by the National Assembly	Rationalize tax exemptions and incentives, and consolidate those that remain in a tax statute, the <i>Investment Code (Código de Investimento)</i> , or the <i>General exemptions regime (Regime Geral das Isenções)</i> .	Medium Term
12	DGCI	Apply a career plan, based on transparent merit-based hiring and remuneration procedures.	Short Term
13	DGCI	Promote the exchange of information among DGCI and DGA, Treasury, and INSS.	Short Term
14	DGCI	Hire from 6 to 10 information technology development experts, under a public contest, and train the new staff.	Short Term
15	DGCI	Build a new website, including services to the taxpayers, accountability, and transparency.	Short Term
16	President	Promulgate the new general taxation law ( <i>Lei Geral Tributária</i> ) and the new general taxation infringements law ( <i>Regime Geral das Infrações Tributárias</i> ).	Short Term
17	Customs (DGA)	Unify all controls on goods not submitted to Customs under DGA management.	Short Term
18	Customs (DGA)	Review the remuneration system to promote the modernization of Customs.	Short Term
19	Customs (DGA)	Ensure the use of the information technology system in all units, eliminating manual procedures.	Short Term
20	Customs (DGA)	Build a new website, including services to the economic operators, to improve accountability and transparency.	Short Term

	<b>Institutions Responsible</b>	<b>Key Recommendations</b>	<b>Timeframe</b>
21	Customs (DGA)	Implement a simplified Customs transit control from the border to Safin, and a physical structure for the inspection of goods imported across the land borders.	Short Term
<b>Rule of Law, Market Regulation, Anti-Corruption and Anti-Money Laundering Frameworks</b>			
22	Ministry of Justice Superior Council of Magistrates	Submit proposal to revise legislation to set court fees at a level that allows effective access to justice.  Ensure that fees are transparently posted in courts.	Short Term
23	Ministry of Justice Superior Council of Magistrates	Publish laws as soon as they are promulgated and communicate key elements to a broader audience.  Publish final judicial decisions.	Short Term
24	Council of Ministers	Establish a government website, properly organized and structured, with public access ensured.	Short Term
25	Superior Council of Magistrates	Establish a website for the judiciary, properly organized by courts, with public access ensured.	Short Term
26	Ministry of Justice Courts	Publish on the website for each court the number of serving judges and staff, and for each work unit (prosecution) the number of prosecutors and staff. Publish the number of vacant positions for each court and work unit.	Short Term
27		Publish on the website for each court the number of corruption cases; AML/CFT cases; insolvency cases; foreclosure cases; and land cases for 2016, 2017, and 2018. Specify how many are pending and how many are closed.	Short Term
28	Ministry of Justice	Land registry fees should be uniform, accessible, and publicly posted.	Short Term
29	Ministry of Justice DGCI/Customs Other relevant entities	Post all legislation online.  Develop plain language guides describing tax, licensing, and other regulatory obligations.	Short to Medium Term
30	All entities imposing fees	Publish organizational chart for each public entity charging fees.  Ensure that fees are transparently posted in relevant entities and online.	Short Term

	<b>Institutions Responsible</b>	<b>Key Recommendations</b>	<b>Timeframe</b>
31	Ministry of Justice National Assembly Technical committee on governance	Reform both the legislative and institutional frameworks on asset declarations, and follow by full implementation, including online publication.	Short Term
32	Ministry of Finance CENTIF Banking Commission of the BCEAO	Strengthen supervision of preventive AML/CFT measures related to politically exposed persons.	Short Term
33	All relevant authorities	Safeguard the operational independence of investigative, prosecutorial bodies, and courts from political interference and undue influence in the investigation, prosecution, and imposition of sanctions, including confiscation, of corruption and laundering of its proceeds.	Medium Term
34	All relevant authorities	Grant necessary resources, including a sufficient budget for operations, and appropriate budgetary autonomy to law enforcement agencies, notably, the Judicial Police.	Short Term
35	All relevant authorities	Address the gaps in Bissau-Guinean criminal legislation in line with the recommendations of United Nations Convention against Corruption review, notably, on criminalization of corruption offenses.	Short Term

# I. INTRODUCTION

**1. In Guinea-Bissau, the fiscal position is increasingly strained.** The domestic revenue in Guinea-Bissau is the lowest in the region, around 12.5 percent of GDP,<sup>5</sup> and it would need to be significantly increased to provide fiscal space for developmental spending. Up to end-August 2019, domestic revenue was flat in nominal terms, compared to the same period in 2018. DGCI showed some improvement, but this was offset by weaknesses in customs and in non-tax revenue. At the same time, current expenditures were more than 20 percent higher than 2018. This rise reflects significant increases in the wage bill, following 2018's pay increase, in transfers to *Electricidade e Aguas da Guinea-Bissau* (EAGB) to cover its previously incurred liabilities. Public debt, projected to surpass 65 percent of GDP 2019, leaves no room to maneuver. Reducing the deficit to within the 3 percent of GDP West African Economic and Monetary Union (WAEMU) criterion would put the debt-to-GDP ratio on a downward trajectory.

**2. Significant fiscal adjustment will be needed to secure a foundation for stronger economic growth and attainment of development objectives.** The new government's program lays out a positive vision for inclusive economic development, based on boosting sectors capable of creating wealth and on improving institutional governance; the vision, however, still needs to be approved by the National Assembly.<sup>6</sup> In pursuing these objectives, the government will have to balance large spending needs with tight resource constraints. Success will require careful prioritization to ensure macroeconomic stability. Instilling confidence in the country's economic management and institutional governance will be key to leveraging private investment and donor support.

**3. Improving governance and curbing corruption can help ensure debt sustainability and safeguard public resources for proper use.** Governance reforms could help to improve domestic revenue and expenditure management. The revenues generated outside of the central government are not accounted for in the budget to provide a complete picture of all of the public resources mobilized, and the internal and external controls imposed in the PFM systems are not enough to ensure the transparency and accountability of the use of public funds. Critical reforms should start now and should cover several areas, including PFM, tax administration and policy, and legal and institutional frameworks. To carry out the preliminary diagnostic, the team generally followed the framework suggested by the 2019 *Fiscal Monitor* (see Figure 1), while tailoring it to the situation on the ground.

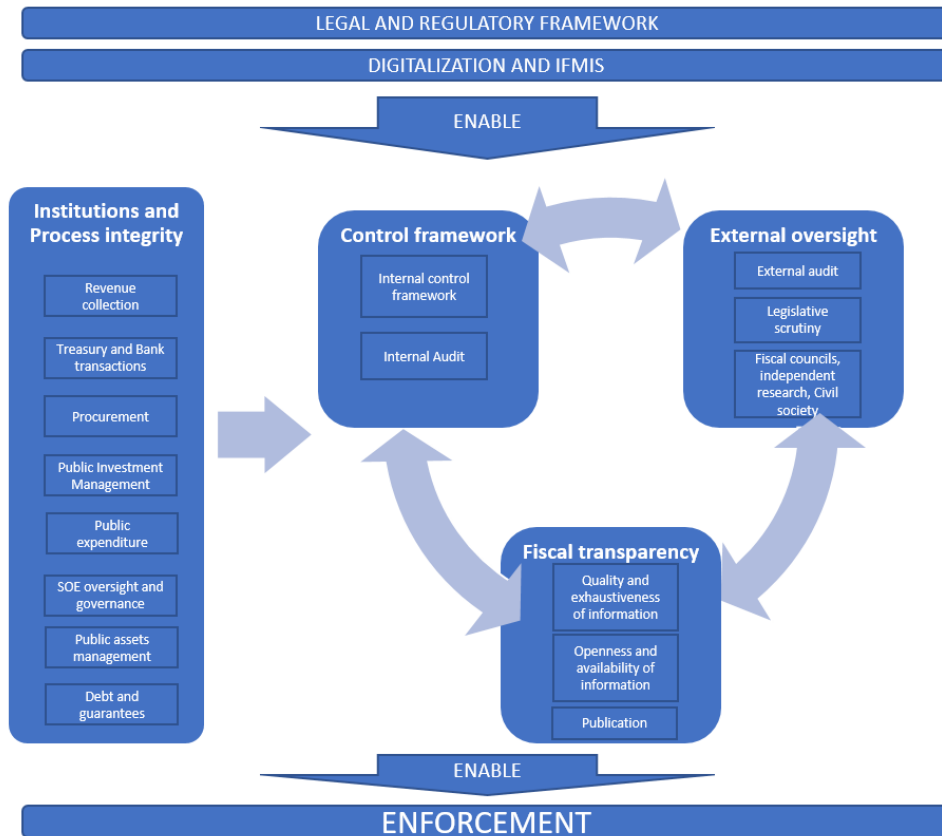
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<sup>5</sup> The estimated value of domestic revenue for 2019 was 12.5 percent of GDP. For 2020, the projection is 9.7 percent. The drop is due to the ongoing COVID-19 crisis.

<sup>6</sup> See O Programa do Governo da X Legislatura baseia-se na visão do Plano Estratégico e Operacional Terra Ranka, Bissau, Agosto. 2019. In particular, Axis 1 and Axis 2 include references to governance reforms in the justice, anti-corruption, and PFM systems.

**4. The Technical Report is organized as follows.** Section II discusses the main institutional vulnerabilities to corruption in the PFM area and recommendations to target them. Section III highlights critical reforms needed in the areas of tax administration and policy to address the challenges posed by poor governance. Section IV analyzes key vulnerabilities in the legal and regulatory frameworks and proposes preliminary recommendations in the areas of rule of law, anti-corruption, anti-money laundering, and market regulation.

**Figure 1. Fiscal Governance Framework for Guinea-Bissau**





## II. PUBLIC FINANCIAL MANAGEMENT

**5. Despite recent progress in legal and regulatory frameworks, budgetary and accounting practices remain weak.** Guinea-Bissau successfully transposed the six 2009 WAEMU PFM directives into national laws and decrees, albeit with delays.<sup>7</sup> Several existing guidance texts and manuals, however, are not followed by budget, control, and accounting officers; the revised ones still need to be developed. These latter include, for example, a treasury single account agreement with the Central Bank, manuals of procedures that relate to budget execution, financial controls, accounting of revenues, and expenditure.

**6. Political instability has posed a significant constraint for PFM systems.** Since 2016, the National Assembly has only approved the 2018 budget. As a result, the annual budget is executed under a provisional twelfth practice, which increasingly undermines the transparency and effectiveness of budget management. The budget prepared by the Ministry of Economy and Finance (MEF) is used in a very limited way to guide expenditure priorities. There is little information on the financial performance of state-owned enterprises (SOEs) and autonomous entities, including on their contingent liabilities and transfers received from the government. Although recent efforts have been made to improve budget execution, the gaps between the authorized budget and actual outturns remain large. Public investment is almost entirely funded by donors according to their priorities, with no domestic systems to consistently appraise and prioritize investment decisions.

**7. Addressing PFM weaknesses would reduce governance vulnerabilities and support fiscal discipline.** With the limited institutional capacity in Guinea-Bissau, basic PFM systems should be strengthened before moving to the implementation of relatively advanced PFM systems provided for in the 2009 WAEMU directives. To that end, this section discusses the key PFM weaknesses associated with governance vulnerabilities, which include the following: treasury systems; non-salary-expenditure execution; public sector wage bill management; public investment management; internal and external controls; operations of SOEs, autonomous entities, and extrabudgetary units; and fiscal transparency.

### A. Treasury Systems

**8. The Treasury Committee—carrying an essential role for budget execution—faced severe challenges.** The Prime Minister signed the Treasury Committee Order 88/2016 in December 2016. This Committee subsequently made spending decisions based on the spending proposals submitted by the DG Budget through the *Comité Técnico de Arbitragem das Despesas Orçamentais*

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<sup>7</sup> Guinea-Bissau transposed WAEMU PFM directives transposed [in 2015–16 as follows; organic law on public finance, public transparency law, and four decrees: public accounting regulation, central government operations table, budget classification, and chart of accounts.

(the COTADO Committee) in a cash-rationing system.<sup>8</sup> This system, however, has recently faced the following challenges:

- The Treasury Committee meetings have been discontinued, because its large composition of 24 entities and more than 40 representatives—including donors and civil society organizations—rendered it too difficult to manage effectively.
- Government cash resources are fragmented and scattered in several bank accounts, especially in commercial banks. There is no treasury single account system at the Central Bank, as stipulated by the Organic Law on public finance.
- The current monthly cash plans are not updated regularly to accurately reflect expenditures that have already been executed and no longer need to be considered; as a result, significant monthly payment deviations are shown in cash plans; accordingly, these plans do not provide an accurate estimate or forecast of amounts remaining to be paid.

**9. Strengthening Guinea-Bissau’s cash management system is critical for effective service delivery and execution of the budget in accordance with approved budgetary allocations.**

Achieving this would require that line ministries receive reliable information on the availability of funds so that they can prioritize and help control commitments and payments for goods and services and investment expenditures. To that end, a revamped Treasury Committee, led by the Minister of Economy and Finance, and comprising no more than 10-15 members, including key line ministries (such as Fisheries, Public Work, Education, and Health) would especially help ensure fiscal discipline and consolidate more government resources in a treasury single account. Detailed actions are also included in the government’s May 2018 priority actions to improve budget preparation and execution, developed with the assistance of IMF’s Fiscal Affairs Department.<sup>9</sup>

**Short-Term Recommendations**

- Reestablish a smaller and focused Treasury Committee by Executive Order; define clear criteria for prioritization of cash payments by expenditure category to avoid arrears (*restos a pagar*) after their due date.
- Conduct a comprehensive census of all central government bank accounts; reduce the number of government bank accounts, and streamline their management to ease daily reporting and centralization of all their balances.
- Improve the capacity to prepare and update reliable in-year (monthly and quarterly) cash plans by carrying out analysis of budget outturns, and by harmonizing them with commitments/spending plans submitted by line ministries and revenue forecasts.

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<sup>8</sup> A cash-rationing system consists of planning all commitments of expenditures on the basis of cash available in a cash-constrained environment.

<sup>9</sup> Benoit Wiest, Claudiano Albuquerque, and Armando Manuel, May 2018. “Guinea-Bissau: Priority Actions to Strengthen Budget Preparation and Execution.” IMF Fiscal Affairs Department. (Unpublished).

## Medium-Term Recommendations

- Progressively establish a treasury single account at the Central Bank pursuant to a treasury single account agreement between the Treasury and the Central Bank.
- Assess the impact on banking system liquidity of the transfer of central government accounts balances from commercial banks to the treasury single account at the Central Bank, and implement measures to mitigate the impact.

## B. Non-Salary Expenditure Execution

**10. The process to make spending decisions leads to numerous vulnerabilities by expenditure category (Table 2).**<sup>10</sup> Sound budget execution requires that a spending proposal pass through all four key stages of the expenditure chain: commitment, verification, payment order, and payment (Box 1). In Guinea-Bissau, the required expenditure chain is not followed. Payments are made without certification that the service is rendered. As a result, there are cases where goods and services may not be delivered, or their quality may not be as stipulated, or they may be undervalued.

### Box 1. Guinea-Bissau: Spending Decision-Making Process

Established by Minister of Finance and Economy Order 25/2017 of January 31, the COTADO committee consists of 11 executive directorates of that ministry. During the suspension of the Treasury Committee, the COTADO committee led by the Minister of Economy and Finance decides on spending ceilings and priorities, taking account of cash available every two weeks, while the Treasury Committee meetings have been discontinued (see Section II.B). The COTADO committee receives spending proposals made by the DG Budget every two weeks, taking account of budget line items and spending requests submitted by line ministries to the Minister of Economy and Finance. Spending requests by line ministries are not constrained by cash availability and are not limited to a given period; the line ministries do not prepare commitment plans on which a credible annual and monthly cash plan could be designed. Cash available is inaccurately evaluated and discussed. The monthly cash plans are not updated to accurately reflect expenditures that have already been executed; accordingly, the monthly payment deviations are not an accurate estimate of amounts remaining to be paid. In the same way, spending proposals by the Director General of Budget are not constrained by cash availability.

Source: IMF Mission and Guinea-Bissau Authorities.

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<sup>10</sup> The authorities reported that the practice of extrabudgetary expenditures (the *despesas não tituladas*, or *DNT*) ended in 2019. These expenditures included interest charges and bank commissions levied outside of the budget. Further verification by the Inspector General of Finance is warranted.

**11. The improperly implemented cash-rationing system leads to expenditure payment arrears.** Expenditure arrears are estimated based on the 90-day rule after the payment order is issued; however, part of these payments may not be due because the actual delivery of the related goods or services has yet to be certified. Also, expenditure payment arrears are rising because the cash availability for a specific expense might have been used for other purpose by the time its payment order is issued. Some priority expenses require a virement from other budget lines when the original budget allocation is insufficient.

**12. Complete stock-taking and certification of all unpaid payment orders are critical to accurately identify the level of expenditure payment arrears.** To date, there is no accurate information on the level of expenditure payment arrears, but it is likely to be substantial. The latest audit, conducted with the support of an external consultant and covering the years 2001 to 2008, found that the total stock of expenditure arrears was FCFA 86 billion; however, this audit was not conclusive, and no arrears settlement plan was approved by the government. The expenditure chain information technology system points to a very small amount of expenditure payment arrears stock (FCFA 1.6 billion, or 1.5 percent of expenditures committed at end-2018) due to recording deficiencies; nearly all of the expenditure transactions are recorded as committed, liquidated, and paid during the same fiscal year.

**13. Strengthened expenditure controls are critical to improving the effectiveness of spending and restoring fiscal discipline, as well as enhancing transparency and accountability.** Reconstituting a smaller and better-focused Treasury Committee would be important. In addition, payment orders should only be made after certification that the goods and services have actually been delivered directly to the beneficiary in accordance with the required specification and quality. Enforcing these practices and strengthening controls at each phase of the expenditure chain (commitment, liquidation, payment order, and payment) is essential for effective and transparent expenditure management. As a first step, it would be important to follow contractual provisions, especially payment deadlines and associated penalties in cases of delays. In addition, the implementation of the detailed action plan on strengthening budget execution—prepared in October 2018 by the authorities with the assistance of AFRITAC West—is critical.<sup>11</sup>

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<sup>11</sup> Bacari Koné and Abdelali Benbrik. *November 2018. République de Guinée-Bissau : Plan d'actions prioritaires pour renforcer l'exécution budgétaire*, AFRITAC West, Abidjan, Côte d'Ivoire. (Unpublished).

**Table 2. Expenditure Category and Associated PFM Weaknesses**

Expenditure Category (FCFA, Total allocation and/or risk exposure in percent of GDP in 2018)	Vulnerabilities found	Public Financial Management Weaknesses
Total wages = FCFA 38.5 billion (4.5 percent of GDP)	Wage bill overpayments	<p>No control by financial control officers on salaries<sup>12</sup></p> <p>The normal procedure of wage bill bypassed by some line ministries that send their requests for adjustments directly to the MEF</p> <p>Lack of consistency between the payroll file and the personnel records because reconciliation is delayed (latest was conducted in 2018 last year)</p> <p>No biometric census of civil service personnel completed in recent years (the latest was in 2009–10).</p> <p>Weak control of absentees</p>
<p><u>Specific risk areas in wage bill</u></p> <p>In June 2018: number of ghost workers = 2,847 (more than 10 percent of total civil servants); savings = FCFA 746 million (0.1 percent of GDP); undue payments discontinued = FCFA 1.185 billion (0.1 percent of GDP); adjustment to actual FCFA 184,000 (0.02 percent of GDP).</p>		<p>No control on the National Assembly salaries: transfer of a lump sum to its commercial bank account</p>
National Assembly wages = FCFA 3.6 billion in 2018 (0.4 percent of GDP)		Some goods and services not delivered.
Goods and services spending = FCFA 21 billion (2.4 percent of GDP)	Other goods and services at risk	Lack of financial control and lack of transparency
Investment spending in 2018 = FCFA 2.1 billion (0.2 percent of GDP)	Some disbursements on domestic investment spending not directed to their intended purposes	<p>Lack of proper ex-ante control by the financial control officers during the procurement process</p> <p>Some payments made in ministries' bank accounts rather than to the contractor's bank accounts</p>

<sup>12</sup> However, according to the Director General of Budget, in principle, the financial control should intervene in the wage bill process through ex-ante analysis.

Expenditure Category (FCFA, Total allocation and/or risk exposure in percent of GDP in 2018)	Vulnerabilities found	Public Financial Management Weaknesses
Total transfers for 2018 = FCFA 21.6 billion (2.5 percent GDP)	Some transfers to SOEs at risk	Little oversight of SOEs through a recently established Coordinating Committee No financial statements of SOEs
<u>Guaranteed loans</u> As of June 2019: FCFA 6.2 billion (0.7 percent of GDP), of which FCFA 800 million is for a private corporation	Some payments on guaranteed loans not justified	Three guarantees signed to SOEs (one with a private company) without prior approval by the Council of Ministers and ratification by the Parliament No tracking of loan repayments by primary debtor corporates, in advance of the materialization of loans guarantees

Source: IMF staff estimates

## Short-Term Recommendations

- Comply with all contractual provisions, especially the payment deadlines and associated penalties in cases of delays. The MEF should organize a meeting with the private sector (for example, Chamber of Commerce) and commercial banks to agree on the modalities of compliance with the contractual provisions.
- Finalize, adopt, disseminate, and enforce the draft manual of procedures for expenditure execution, developed in May 2019 with AFRITAC West assistance,<sup>13</sup> and update the manual for financial control.

## Medium-Term Recommendations

- Conduct a comprehensive stock-taking, validate the certification of accumulated arrears (*restos a pagar*) after their due date, and prepare a comprehensive settlement plan for expenditure arrears that are certified and validated.

## C. Public Sector Wage Bill Management

**14. Many unofficial employees continue to be paid with budgetary resources.** The total number of civil servants in Guinea-Bissau was approximately 24,000 in June 2019. The actual size of the public sector workforce, however, could have been substantially larger, given the higher number of unofficial employees, many of whom continue to be paid using budgetary resources intended for non-wage spending or using ministries' own revenue. Also, the salaries of many of the workers dismissed as part of the downsizing programs continue to be paid by the government but do not appear on the official wage bill, because their salaries are classified under transfers.

**15. Official figures do not provide a full picture of total government employment and compensation.** Several spending items—including pensions, bonuses, salary top-ups, health benefits, and salaries of staff in autonomous state institutions—are classified under different budget lines and not included in official figures. When all of these items are considered, the total government employee compensation amounts to nearly double the official wage bill. Bonuses paid to staff of the MEF to incentivize tax collection (*incentivos*) have increased rapidly, reaching 22.8 percent of total wages in 2018. However, the contributions of incentives to raising tax revenues is questionable because they are not linked to individual performance.

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<sup>13</sup> Bacari Koné and Abdelali Benbrik. May 2019. *Guinea-Bissau : Appui à l'élaboration d'un manuel d'exécution de la dépense publique*, AFRITAC West, Abidjan, Côte d'Ivoire. (Unpublished).

### Box 2. Wage Bill Current Procedures

The Director General of Budget oversees salaries, whereas the recruitment of personnel is controlled through multiple levels: the Ministry of Public Function, the Director General of Financial Control, and the *Tribunal de Contas*. The Director General of Financial Control checks the budget line and other supporting documents required by the civil service statutes; it also checks promotions and pensions. It has no mechanism to control ghost workers. Upon the death of employees, the families are eligible to apply to the MEF for six-month lump sum payments; families that do not notify the MEF may be able to continue collecting salaries. The Director General of Budget reconciles the payroll file against the personnel records maintained by the Ministry of Public Function twice a year.

Official Wages and Salaries and Other Compensation	Public Function	DG Financial Control	DG Budget	Tribunal de Contas
Hiring process	Yes	Yes	Yes	Yes
Civil service pensions	Yes	Yes	Yes	Yes
Autonomous services wages (transfers)	No	Yes	Yes	No
Private individuals (transfers)	No	Yes	Yes	No
National assembly wages (transfers)	No	No	No	No
Tax collection incentives (other current expenditure)	No	No	No	No
Medical benefits (other current expenditure)	No	No	No	No
Travel expenses (goods and services)	No	Yes	Yes	No
Salary top-ups (goods and services)	No	No	Yes	No
Ghost workers	Yes	Yes	Yes	No

Source: IMF staff.

**16. The lack of defined career paths with predefined and functioning promotion mechanisms limits career progression and opens the door to rent-seeking opportunities.** Salary tables were changed in 2018, with upward adjustments for all of the grades. However, the average wage in the defense sector has grown 40 percent in nominal terms as the structure has become increasingly top-heavy. Wage level adjustments only slightly reduced wage disparity between the top grades and the rest, which continue to be significant. At the same time, there has been a lack of promotion opportunities for civil servants. Most low-skilled civil servants have been replaced by those in professional categories.



**17. Despite recent actions that resulted in the elimination of ghost workers, controls on the wage bill remain weak, which leads to frequent overpayments** (Table 2 and Box 2). The following weaknesses are persistent: (1) the absence of control over the salaries of the National Assembly because a lump sum is transferred to its account; (2) the existence of ghost workers in payroll records (representing more than 10 percent of total civil servants in June 2018), partly due to the long delay in reconciling them with personnel records; (3) the normal procedure for salary adjustments is bypassed, with changes introduced directly through the payroll record;<sup>14</sup> (4) and there has been no census of civil service personnel completed in the past decade (the latest was done in 2009-10).<sup>15</sup>

**18. Strengthening payroll controls is needed to prevent overpayments and to limit discretion.** Achieving this would require reestablishing the normal procedure governing the payments of public sector salaries. Guinea-Bissau may consider improving the internal controls, completing the public sector organigram and preparing the multi-annual staffing plans.

### Short-Term Recommendations

- Enforce control over all salaries, including employment incentives, and the National Assembly salaries, which should be incorporated in the payroll records.
- Conduct regular in-year (quarterly) reconciliations between the personnel and the payroll records.

### Medium-Term Recommendations

- Complete the public sector organigram, undertake a full biometric census of civil servants, and prepare multi-annual staffing plans.

## D. Public Investment Management

**19. Guinea-Bissau has a very limited capacity to appraise, select, implement, and monitor public investment projects.** With a significant share of externally financed projects in the capital budget (over 95 percent, on average, during 2016–18), there is little coordination among government entities, as well as between the government and donors/lenders; this lack negatively affects the quality of information on investment projects. No central unit within the MEF is tasked with the appraisal of donor-funded projects. The authorities have limited control over the planning, allocation, and implementation of externally financed (multilateral and bilateral) investment projects, although they follow the procedures of the respective donors.<sup>16</sup> This approach may lead to an overestimation of the total costs of investment projects and associated loans, cost overruns, and

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<sup>14</sup> The payroll record is supported by an information technology system, managed with assistance from an external consultant.

<sup>15</sup> With a European Union consultant, a control on personnel records took place in 2017.

<sup>16</sup> Based on preliminary data, most of these investment projects do not follow the national procurement system. In 2018, only a small portion (FCFA 6.672 billion, or about 10 percent) went through the national procurement system.

long implementation delays—all of which have fiscal implications. To date, no internal controls by the IGF and no ex-post evaluation have occurred on public investment projects.

**20. Some domestically financed projects may not be proper investment projects—as they mainly provide for recurrent expenditures—and therefore they are not appropriately classified.** In 2019, Guinea-Bissau’s annual investment plan includes 188 projects; 136 of these projects are financed by donor resources (including 19 that receive a small portion of counterpart funds from the government), and 52 are financed entirely by government resources. Considering that a total amount of FCFA 2 billion (about 0.2 percent of GDP) is equally distributed among the 52 domestically funded projects, each project receives about FCFA 40 million. Some of these domestically financed projects may be wrongly classified as investment projects, since they are current expenditures. This misclassification is explained by (1) the absence of a rigorous process for investment expenditure decisions and (2) some ceilings constraints for current expenditures.

**21. Strengthening the efficiency of public investment management is a key prerequisite for achieving and sustaining economic growth and for addressing Guinea-Bissau’s *Terra Ranka* strategic policy objectives.** Public investment systems and institutions would provide greater public benefits by implementing the action plan prepared by the government, with the support of the April 2019 Fiscal Affairs Department mission.<sup>17</sup>

### Short-Term Recommendations

- Centralize the information collection by the MEF on externally funded projects under a high-level committee in the Ministry, headed by the Minister and including an advisor to the Prime Minister.<sup>18</sup> This high-level committee should organize an annual conference with donors and lenders in April, prior to initiating the budget preparation process; centralize the collection of information from line ministries and financing institutions; and validate periodic reports on investment projects’ execution and disbursements, and corresponding updates to public debt figures and the time profile of debt service.
- Start reviewing appraisals of major capital projects to ensure value for money.
- Update the project file (*Ficha de Projecto*) by collecting basic quantitative information on the annual cost of each project and relevant data to support the planning and budgeting processes. Create an Excel-based medium-term PIP database, centralizing all the quantitative information included in the *Fichas de Projecto* to be used for preparing an improved PIP consistent with the medium-term fiscal strategy and the annual budget.
- Strengthen the budget preparation process through a single budget negotiation for current and investment budgets. Doing this would entail revising the budget calendar.

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<sup>17</sup> Jean Pierre Nguenang, Rui Montero, Keyra Primus, et al. 2019. “Guinea-Bissau: Basic Actions to Improve the Planning and the Execution of the Capital Budget.” April IMF, Washington, D.C. (Unpublished).

<sup>18</sup> This high-level committee should include the following: Directors General of Planning, Public Debt, Budget, Financial Control, Treasury, and Public Accounting, and those from the line ministries managing projects.

## Medium-Term Recommendations

- Analyze the fiscal impact of any new loan agreement before it is signed to ensure its medium- to long-term fiscal and debt sustainability.
- Establish a stringent regulatory framework defining the accountability and responsibilities of each actor in conjunction with the three phases of public investment management (appraisal, allocation, and implementation).

## E. State-Owned Enterprises, Autonomous Government Entities, and Guarantees

**22. Governance of SOEs and autonomous entities is weak in Guinea-Bissau.** The MEF has not conducted any financial oversight of SOEs in recent years; SOE performance has been weak, and staffing has been done with a significant amount of discretion. A committee set up by a recent ministerial decision in 2018 oversees the financial performance of SOEs and autonomous entities; to date, however, the committee has focused more on operations than on strategic issues.<sup>19</sup> The MEF structure includes a department (under the Director General of Treasury and Public Accounting—DGTCP) that should oversee SOEs, but it has no staff due to a lack of political support and management commitment. In addition to a few SOEs, about 120 government entities have revenues and expenditures that are not fully covered in the state budget and that suffer from the same lack of financial oversight. Most of these entities do not have internal controls or adequate accounting (which is done only on a cash basis), and they do not report to the MEF.

**23. Audits for a few SOEs undertaken by the *Tribunal de Contas* identified critical governance weaknesses.** These weaknesses include the following: (1) noncompliance with the internal rules and procedures; (2) irregularities in hiring because hiring is based more on political connections than on qualifications; (3) social security contributions are deducted from salaries but not transferred to the social security administration; (4) lending by SOEs to other entities and individuals, without a repayment schedule or evidence of repayment; and (5) no clear identification of loans that have government guarantees. A few loan guarantees have materialized, but they have done so without any control mechanism in place at the MEF to ascertain and validate them prior to any payments by the Treasury to service the guaranteed debt.

**24. Adequate procedures to monitor contingent liabilities should be in place.** One of the key fiscal risks created by nonfinancial public entities and other structured financing instruments (such as public-private partnerships, or PPPs) can take the form of debt service defaults from operations backed by sovereign guarantees. Guinea-Bissau should strengthen the oversight of SOEs

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<sup>19</sup> These operations include the following: collection of tax due, controls of spending proposals by SOEs and autonomous entities, and co-signature requirements on the SOE and autonomous entities bank accounts.

and other autonomous entities in line with the recommendations prepared jointly by IMF and the authorities.<sup>20</sup>

### Short-Term Recommendations

- Reestablish a permanent unit within the MEF for the financial supervision of SOEs and autonomous bodies, and provide it with required resources and authority for its operation.
- Carry out the financial supervision with a prioritized list of SOEs and autonomous entities.
- Enforce controls throughout the full process of managing loan guarantees.

### Medium-Term Recommendations

- Undertake the activities of financial supervision, prioritizing five areas of intervention: controlling debt, overseeing business plans and accounts, improving the governance of supervised entities by overcoming the identified irregularities mentioned by the *Tribunal de Contas* (see par. 23), promoting transparency, and managing the portfolio of supervised entities.
- Prepare and publish yearly reports on SOE supervision, beginning with the most relevant and extending to others over time.

## F. Internal and External Controls<sup>21</sup>

### 25. Internal and external controls are not effective due to the following:

- The IGF and separate entities (*Inspecções Gerais*) in line ministries carry out the public sector internal financial audit function, but they do not coordinate among themselves. The IGF's annual audit activities cover less than 20 percent of the central government's expenditure and revenue. The effectiveness of the IGF is critically undermined by significant weaknesses, both institutional and operational (nonexistent or inaccessible financial data, including SIGFiP [*Sistema Integrado de Gestão das Finanças Públicas*], and perception of impunity since the executive and the judiciary branches do not impose sanctions because of lack of resources. In 2011–17, three major inspections of the active personnel against the Ministry of Public Function's records led to payroll savings. In addition, in 2017, the IGF contributed to a first-time eight audits of SOEs and military spending by the *Tribunal de Contas*.
- Under a 1992 law, the *Tribunal de Contas* lacks financial and administrative autonomy. Despite this situation, it recently conducted several audits that have highlighted the relevant material issues and the systemic and control risks of SOEs.<sup>22</sup> However, it has been less active in finalizing

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<sup>20</sup> Rui Montero, Felipe Bardella and Mário Almeida. August 2019. "Guinea-Bissau: Recommendations for Improvement in Supervision of State-Owned Enterprises", IMF, Washington, D.C. (Unpublished).

<sup>21</sup> This section includes inputs received from Elena Arjona, senior desk for Guinea-Bissau, African Department.

<sup>22</sup> The *Tribunal de Contas* has planned 19 audits in 2019; it is currently completing 8 audits, examining 36 accounts and conducting 40 investigations, including public schools. Audits will be repeated in 2020, especially where risks are anticipated. Audits have been requested for the Ministry of Agriculture on infrastructure, resources, and financial.

the audit reports of the state consolidated financial statements of the central government for 2011 to 2016. The 2009 state consolidated financial statement was the most recent one audited by the *Tribunal de Contas*.

- The National Assembly has been inactive in recent years for various reasons related to political instability. As a result, the government's draft annual budgets have not been approved by the National Assembly, leading to their execution based on the provisional twelfth practice.
- Despite their relevance and importance, critical findings of audits were not followed up by the executive or audited entity.

**26. Strengthening internal and external controls institutions are key to ensuring accountability and transparency in the use of public funds.** To that end, the IGF and other inspections should carry out regular audits and provide adequate feedback on the compliance of government entities with the prescribed internal procedures. Greater financial autonomy should be given to the internal and external controls bodies to ensure the effectiveness of the audits. The independence of the *Tribunal de Contas* is a prerequisite. Amending the 1992 law that established the *Tribunal de Contas* to grant more financial and administrative autonomy to this institution would be an important step.

### Short-Term Recommendations

- Approve the IGF's annual work program, staffing, and appropriate financial resources; approve its pending regulation; and continue collaboration between the IGF and *Tribunal de Contas*.
- Provide more financial autonomy to the *Tribunal de Contas* and appropriately finance its annual work program; approve the *Tribunal de Contas* updated law.
- Progressively audit and publish all pending state consolidated financial statements.
- Follow-up on previous audit recommendations.

## G. Fiscal Transparency and Extrabudgetary Operations

**27. Fiscal transparency is undermined by the following:**

- A substantial share of expenditures is in the unspecified category, the "other current expenditure," representing about 2 percent of GDP, or about 7 percent to 8 percent of total expenditure in 2018. According to IMF's recent Selected Issues Paper,<sup>23</sup> which contains a chapter on the management of government spending in Guinea-Bissau, the category in question includes bonuses paid to public employees and purchases of goods and services.<sup>24</sup> These should be classified appropriately under compensations, and goods and services categories, respectively. In

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<sup>23</sup> Elena Arjona Pérez, Cristina Cheptea, Francis Kumah, and others. December 2017. "Guinea-Bissau: Selected Issues Paper", IMF Country Report No. 17/381, Washington, D.C.

<sup>24</sup> The authorities ended the practice of extrabudgetary expenditures (the *despesas não tituladas*, or DNT), which were interests and bank commissions done outside the budget.

addition, an appropriate amount to cover unforeseen expenditures (or *dotação provisional*) should be budgeted and allocated during execution to recipient budget lines and should be reflected in budget execution reports. Best practice suggests that this allocation for unforeseen expenditures should not exceed 2 percent of total expenditure.

- Fiscal reporting is weak. Budget execution reports are prepared but not published. The 2016 consolidated financial statements were finalized with the assistance of a European Union consultant and submitted to the *Tribunal de Contas*. The consolidated financial statements for 2017 and 2018 are still being finalized by the MEF.
- Public access to fiscal information is limited. The MEF's website ([www.mef.gw](http://www.mef.gw)) lacks updates on pertinent accounting documents and reports. *The Tribunal de Contas'* website contains limited and outdated information.
- Although their total number is unknown, there are many extrabudgetary funds and units; only about 120 have been identified to date, and their operations are only partially reported in fiscal documents. The unreported operations include the following categories: (1) a significant fraction of revenues collected (mainly taxes and fees) and spent without parliamentary authorization by most line ministries (for example, Fisheries, Education, Justice, and Health) through commercial bank accounts under a co-signature system with the Treasury for a very few of them; (2) some underbudgeted donor-funded projects due to a lack of coordination among involved entities; and (3) others that are unknown because a comprehensive inventory of extrabudgetary funds and units has not been prepared to date.
- The financial management information system SIGFiP was developed in French, not translated into Portuguese, and is underutilized. The SIGFiP system covers budget preparation, budget execution, and accounting. However, some financial operations are undertaken outside of the system, undermining the control over spending and creating reporting issues. These mainly include externally financed operations and projects. Stages of expenditure that are recorded in the system do not accurately reflect when these have occurred. The SIGFiP system does not include the expenditure ceilings to allow their enforcement during budget execution processes. Strengthening these functionalities is essential to improving the SIGFiP system.

**28. Enhancing fiscal transparency is key for effectively managing public finances, improving governance, and reducing corruption.** The lack of fiscal transparency can undermine accountability and provide opportunities for the misappropriation of public funds. Implementing a detailed action plan related to the SIGFiP system—prepared by the government with support from donors, including the IMF—would significantly improve reporting and transparency.<sup>25</sup>

### Short-Term Recommendations

- Implement the new budget classification adopted in 2016 to remove the currently unspecified expenditure category.

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<sup>25</sup> Benoit Wiest, et al, May 2018. "Guinea-Bissau: Priority Actions to Strengthen Budget Preparation and Execution." Fiscal Affairs Department, IMF, Washington, DC. (Unpublished).

- Finalize the quarterly budget execution reports, make them available to the National Assembly, and publish them on the MEF website.
- Undertake a comprehensive inventory of extrabudgetary funds/units/operations, and streamline them.

### **Medium-Term Recommendations**

- Finalize the state consolidated financial statements for 2017 and 2018, and submit them to the *Tribunal de Contas*.
- Continue improving the functionalities of the SIGFiP system, and appropriately record all of the expenditure phases in the system.

### III. TAX POLICY AND REVENUE ADMINISTRATION

**29. The tax system in Guinea-Bissau is characterized by antiquated and inconsistent legislation, a large compliance burden, and pervasive administrative discretion.** The widespread availability of tax exemptions operates in tandem with numerous fees and charges that are assessed and collected by a wide range of entities. The result is a nontransparent and costly approach to revenue collection that promotes tax evasion and is a growth-inhibiting burden on business activity.

- Neither taxpayers nor tax administrators have easy access to the legislative and interpretation materials that would allow them to clearly understand the applicable rules and procedures. Poor communication when a new tax is introduced, or existing taxes are amended, leads taxpayers to be unable to distinguish legitimate changes from extortion efforts.
- Multiple taxes apply to the same income or goods, and some taxes in effect are not collected.
- Fees and charges—that have the effect of a tax—are assessed and collected by ministries, other public entities, or even private entities. A portion of these revenues is supposed to be remitted to the MEF’s Treasury department. However, line ministries may not properly account for the revenue that they collect or remit an appropriate share to the Treasury. Further, these revenue streams are often not integrated into the government budget.

**30. The overarching challenge in Guinea-Bissau is to create a tax system that raises the required level of revenue by taxing different types of income and activities in a consistent, predictable, and comparable manner, regardless of whom earns the income, in what sector it is earned, or what good or activity is being supplied.** The legal and administrative challenge is to develop a modern, rules-based framework with the simplicity and clarity to minimize opportunities for discretion.

**31. Two tax policy objectives should be the overwhelming tax policy priorities for the government: horizontal equity and simplification.** Given the limited capacity of both the private sector (low levels of literacy) and the tax administrators, simplicity is particularly important. A simpler tax framework reduces corruption vulnerabilities and makes it easier for taxpayers to understand and comply with their tax obligations, as well as for the government to collect taxes.

#### A. Tax Exemptions

**32. To support a simple, rules-based approach to revenue generation, the discretion of both ministers and tax administrators should be minimized, while exemptions should be limited and legislated.** The discretionary provision of tax exemptions or incentives undermines investment and revenue generation by (1) creating uncertainty concerning what tax rules will apply, and (2) doubt about whether a competitor will be taxed in a consistent manner. The availability of tax exemptions and other types of preferential treatment can lead to the following:

- Rent-seeking behavior from businesses and investors that seek profits from government favoritism, rather than organizational efficiencies and innovative ideas.



- Corruption, as businesses and individuals bribe ministers or officials to receive an exemption.
- Tax avoidance, as taxpayers restructure their affairs to take advantage of preferential tax treatment.
- A more complex tax system that is more difficult to fairly administer.

The challenges for Guinea-Bissau primarily exist in the breadth of exemptions for which some entities (such as nongovernmental organizations, religious organizations, magistrates, and former combatants) are legally eligible; additional challenges arise from the ability and willingness of ministers and others to “authorize” discretionary exemptions to individuals or entities. Estimates of the fiscal cost of tax exemptions are not available.

**33. The key short-term actions to limit discretionary tax exemptions and incentives relate to repealing the 2015 Budget Law amendments to the *Imposto Geral sobre Vendas e Serviços* and the *Código de Investimento*; doing this was proposed in the 2019 budget.** These amendments created important exemptions, significantly reduced the IGV base, added two positive rates to the single rate that previously existed, eliminated the zero rate for exports, and allowed the proliferation of tax benefits. Since the 2015 budget law took effect, exemptions of any type can be granted to investment projects, existing activities, or individual businesses at the discretion of the Minister of Economy and Finance.

**34. The 1995 *Regime Geral das Isenções* should be updated to narrow the range of taxes and activities for which priority entities are entitled to an exemption.** An updated *Regime Geral das Isenções* should set common transparency, procedural, and control rules for each type of individuals or entities that are entitled to an exemption. An update statute should also do the following: (1) prohibit the contractual provision of a tax exemption by any agent of the government, except as authorized under the *Regime Geral das Isenções* or the *Código de Investimento*; (2) establish a more limited list of entities as eligible for preferential treatment; (3) narrow the range of taxes and activities from which these priority entities are entitled to be exempt; and (4) require that all authorizations of an exemption be published on the website of the MEF.

**35. A modernized *Imposto Geral sobre Vendas e Serviços* (which has many attributes of a value-added tax) should simplify administration; more precisely, it should define exemptions in the legislative text and collect tax on all imports and at every stage in the production and supply of goods or services.** Doing this secures revenue, limits any losses from noncompliance at the final retail stage, provides a comprehensive framework for verification and audit, and helps create a taxpaying culture. Precisely defining a limited number of exemptions and applying a single tax rate to all other supplies also reduce corruption vulnerabilities by minimizing administrative discretion over how to classify a supply of a good or service.

### Short-Term Recommendation

- Repeal the 2015 Budget Law amendments to the IGV and the Investment Code (*Código de Investimento*), as contemplated in the 2019 budget proposal.

## Medium-Term Recommendations

- Rationalize tax exemptions and incentives, and consolidate those that remain in a tax statute, the Investment Code (*Código de Investimento*), or the General Exemptions Regime (*Regime Geral das Isenções*).
- Promulgate a modernized statute for the General Tax on Sales and Services (*Imposto Geral sobre Vendas e Serviços*), with a more limited and better-defined set of exemptions.

## B. Fees and Charges

**36. Numerous fees and charges are assessed and collected by a wide range of ministries, government agencies, or even private entities, but they do not generate the level of revenue required to fund the public services necessary for development.** There is no comprehensive listing of legal fees and charges and no consolidated statement of the value collected. The extensive use of fees and charges in Guinea-Bissau results in the following:

- higher costs to collect taxes due to duplication of systems and functions;
- a substantial compliance burden on taxpayers from idiosyncratic rules issued by multiple tax collectors; and
- government and societal decision-making on expenditure priorities not reflected in the allocation of funds.

Requiring individual departments or agencies to fund their operations by independently raising revenue through their own dedicated fees or charges has a substantial negative impact on economic growth.

**37. The comprehensive and diverse set of fees and charges imposed by different departments, agencies, and private entities is far-reaching and excessive.** This extensive use of fees and charges may be at least partially a response to weaknesses in the tax system. Further, it appears that the legal basis for imposing many of these fees and charges is questionable or unclear.

**38. Government spending priorities should be evaluated as competing priorities for a constrained pool of general government revenues; while the required revenues should be generated as efficiently as possible.** In contrast, most of the revenues generated by these fees and charges are retained by the ministry or entity that collected them, rather than deposited into the central treasury account.

**39. The medium-term action that would drive fiscal reform would be the introduction of legislation to impose a strictly limited, rules-based approach to fees and charges.** Defining the scope, nature, magnitude, and process for imposing any future fee or charge will transform the interactions of citizens with their government, enable the more efficient generation of revenues, and give the government the ability to allocate available revenue to its program priorities.

**40. Legislation to define the use and magnitude of fees and charges should accomplish the following:**

- The scope and nature of fees and charges levied by public bodies should be limited.
- The number of public bodies that may benefit from earmarked fees and charges should be restricted.
- Fees and charges should be subordinated to a strict principle of recovery of cost.
- Fees and charges should not be imposed without an economic memorandum attesting to the recovery of cost.
- All existing fees and charges should be revoked (general revocation clause). The implementing legislation should consider how the transition can best be managed with respect to legally (re)establishing fees and charges in a manner consistent with the new legislative framework.

**Medium-Term Recommendation**

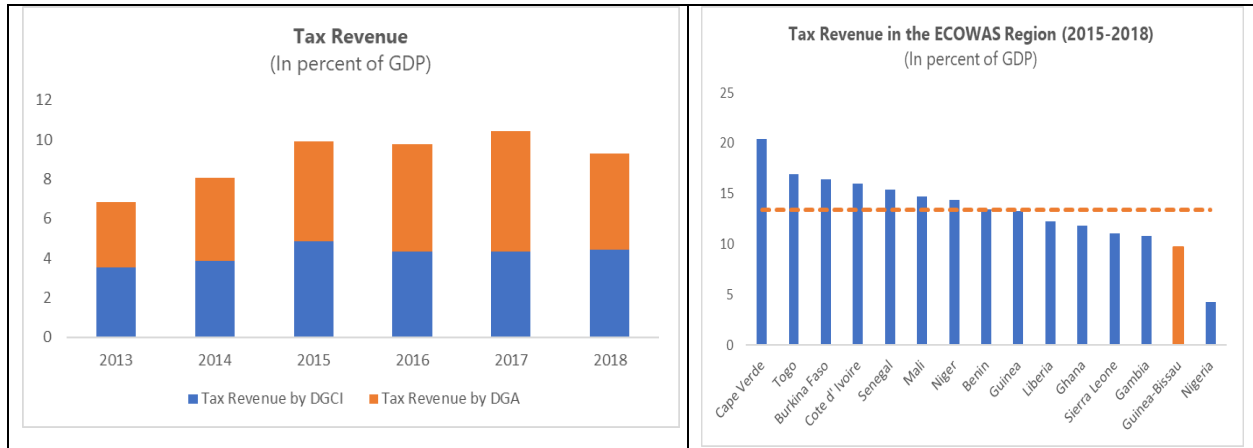
- Introduce legislation to revoke all existing fees and charges; define the scope, nature, magnitude, and process for imposing any fee or charge. This legislation should include a general revocation clause to ensure that all fees and charges are consistent with the new legislative framework.

## **C. Improving Fiscal Governance to Increase Tax Revenue Collection**

**41. Tax revenue performance in Guinea-Bissau remains below the average in ECOWAS.**

While the tax revenue collected by DGCI is around 4.35 (as a percent of GDP) for the past three years, the tax revenues collected by DGA are estimated between the 4.85 and 6.09 (as a percent of GDP). The total tax revenue has been around 10 percent, which is the second-lowest performance among the ECOWAS countries; the average tax revenue-to-GDP rate is 13.5 as a percent of GDP (Figure 2). Some causes associated with this low revenue collection arise from the poor governance framework that applies to DGCI and DGA, including complex and discretionary processes, lack of training provided to officials, weak information technology systems, and low levels of professionalism.

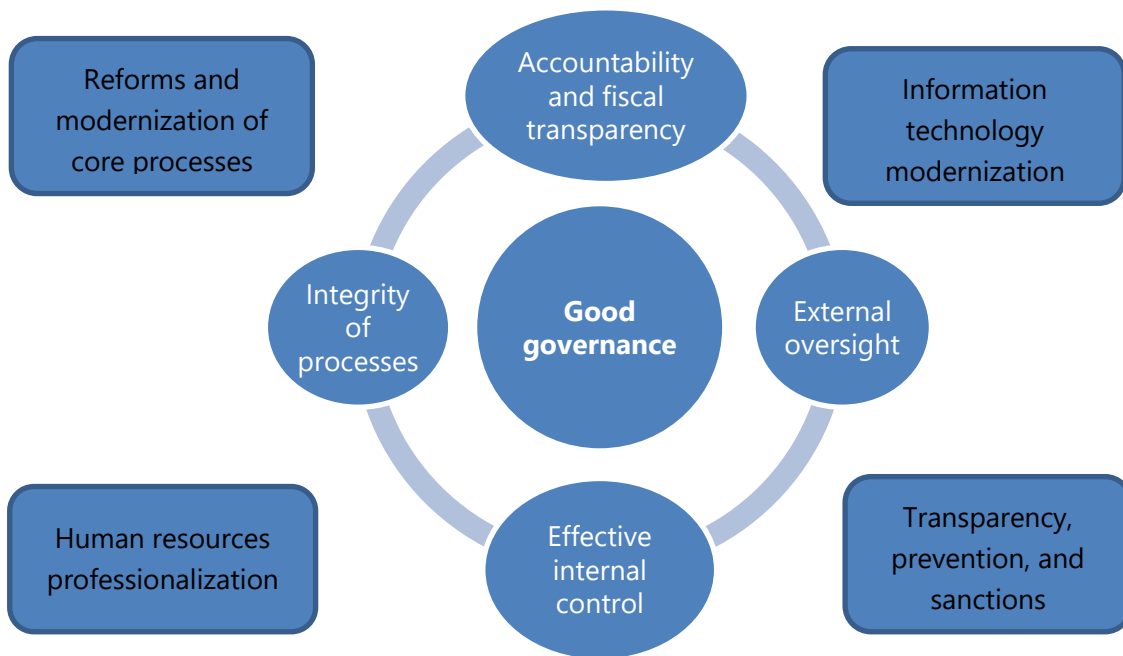
**Figure 2. Tax Revenue to GDP Rate in Guinea-Bissau and the ECOWAS Region**



Source: IMF staff estimates.

**42. DGCI and Customs (DGA) need to focus on building strong fiscal governance and reduce vulnerabilities to corruption to contribute to increasing tax revenue.** Simplified and non-discretionary core processes, carried out by professional public servants, supported by information technology solutions, and with effective control over and sanctions against behavioral deviation are key to improve governance in tax administration. Intensifying accountability and fiscal transparency, in conjunction with internal and external controls, will strengthen the processes in those areas, as represented in Figure 3. This chapter will analyze these key points for both tax and customs. Some useful recommendations to enhance governance from previous technical assistance reports are included in Appendix 1.

**Figure 3. Tax and Customs Administration Governance Framework**



Source: IMF. April 2019. *Fiscal Monitor: Curbing Corruption*, Washington, DC.

## D. Reform and Modernization of Core Processes

### Domestic Tax Collection (DGCI)

**43. DGCI has made remarkable progress in modernizing core processes and reducing discretion.** Segregation between audit cases selection and audit execution functions follows international standards. Electronic tax returns implementation has reduced contact points between taxpayers and tax inspectors. The extension of the information technology network to local and regional offices has increased transparency at DGCI.

**44. Large taxpayer monitoring and tax arrears enforcing require rebuilding, investment, and support.** The Large Taxpayer Office has been acting in a reactive way to receiving tax returns and collecting taxes. Despite recommendations from technical assistance,<sup>26</sup> the large taxpayers monitoring to improve compliance has not been effective. Tax arrears collection lacks resources to enforce noncompliant taxpayers, and some outdated framework and procedures can be modernized. Various specific laws—one law for each tax—increases complexity and undermines fiscal governance. A new General Tax Code and a new Tax Penalties Regime, to provide a common basis for administration of all taxes regardless of tax types and promote fairness and standardized understanding for taxpayers and tax inspectors, were approved by Parliament last December, but they were not signed by the President of the Republic.

**45. There is scope to enhance transparency and reduce discretion, as suggested in previous technical assistance missions.**<sup>27</sup> The income tax code establishes a framework<sup>28</sup> where, after hearing taxpayers' representatives, DGCI can publish the value due for each taxpayer group, bringing transparency and reducing interactions between tax authorities and taxpayers. Nevertheless, DGCI is not applying this rule; tax inspectors are establishing, with no uniform criteria, the amount due, which can generate conflicts, harassment, and opportunities for corruption. All audits need to follow the audit plan, and the General Director needs to ensure full compliance with the national audit plan by the agents in charge of its execution.

**46. Collecting taxes outside of the banking system brings integrity risks.** In previous years, during the cashew harvest, the transporters of the cashew nuts production could pay the related tax in cash at local DGCI offices. In 2019, DGCI required the use of the banking system for tax payments from transporters bringing cashew nuts from the production area to the Bissau port and created an inspection point in Safin. The tax revenue collected was equivalent to the sum of the past three years.

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<sup>26</sup> Paulo Paz, et al. *Prevenção e Combate à Fraude e à Evasão Fiscal como parte da Estratégia para o Incremento de Receitas*. FAD/FMI, Bissau: Fundo Monetário Internacional/FAD. Janeiro de 2019. (Unpublished); Carlos Roberto Occaso and Luiz Lorenzi. 2019. *Medidas do Controlo das Isenções, Monitoramento dos Grandes Contribuintes e da Cobrança das Dívidas*, FAD/FMI, Bissau: Fundo Monetário Internacional/FAD, Maio. (Unpublished).

<sup>27</sup> Carlos Roberto Occaso, and José Armando Ribeiro. 2018. *Aprimoramento no modelo de cobrança de dívidas e padronização da gestão de microcontribuintes*. FAD/FMI. Guinéa-Bissau, August. (Unpublished).

<sup>28</sup> Contribuição Industrial Code, Section 11 (3), and Section 26 (2). Decree 39, 1983.

The two factors—the use of the bank system and the inspection point in Safin—contributed to that improvement. The collection of tax in cash is recognized as a vulnerability to corruption.

## Customs (DGA)

**47. The private sector is critical of the Customs Administration due to a mix of bureaucracy and slow clearance of goods.** Eliminating manual noncompliant tasks with the current legislation<sup>29</sup> and eliminating manual procedures is a priority. In 2017, a new executive order has simplified goods import clearance from 24 steps to 9 steps; some unnecessary tasks, however, such as paper copies of Cargo Manifestos and the legalization of Bill of Lading, are still required by Customs agents from importers. Manual tasks, which create unnecessary contact points between tax inspectors and economic operators, can be replaced by procedures using the information technology system, such as Cargo Manifestos canvass, surpluses and shortages of goods, and warehouses management.

**48. Improving Customs control over the land flow of imported goods.** Goods from non-African countries are coming to Guinea-Bissau from Senegal and Gambia for two main reasons: lack of land border controls and lower costs compared to Bissau port. Customs clearance of goods transported by land should be done in accordance with normal Customs rules (identical to those of the port). Establishing a simplified transit control from the border points to Safin for goods destined for Bissau and the region, or to the Customs office of destination—in conjunction with creating a structure for physical checking to be paid by the importers in Safin—will solve these two weaknesses and will eliminate advantages for those using land borders.

## Short-Term Recommendations

- Promulgate the *Lei Geral Tributária* and the *Regime Geral das Infracções Tributárias* that were approved by the National Assembly in 2018.
- Implement a simplified custom transit control from the border to Safin and a physical structure for the inspection of goods imported from the land borders.

## E. Professionalization of Human Resources

### Domestic Tax Collection (DGCI)

**49. The absence of a clear message at the top level of government to promote ethical behavior opens the door to wrongdoing.** The higher levels of the government, heads of tax agencies, and senior staff have supported or, at least, tolerated, nepotism in the domestic tax administration over the years. After a legal and lonely hiring procedure started in 2014, the number of public employees at DGCI is increasing through irregular appointments.<sup>30</sup> It is important to highlight that DGA is refusing to receive those non-regular employees (or *trainees*, as the irregular

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<sup>29</sup> As establish in *Despacho nro. 147/GMEF/2017, 03/10/2017*.

<sup>30</sup> There were 462 employees being paid in January 2018 and 513 in July 2019, but no tender was performed.

employees are known). DGCI should continue to refuse such non-regular employees, and the Minister of Economy and Finance should send a clear message of support to DGCI on this matter.

**50. Although the law<sup>31</sup> requires a public tender for appointing new employees to the civil service, hiring practices do not follow the law.** The legal framework for hiring employees is reasonable, but it is not respected. New employees are selected by powerful or influential people and hired through an opaque process for a transitory period that never ends. During the mission, senior staff was not able to identify the requirements for hiring in some of the cases requested at DGCI. A previous technical assistance mission<sup>32</sup> had identified difference between the number of employees receiving salaries and the number of employees receiving incentives—as incentives can be paid without the involvement of the Ministry of Public Service. Irregular employees are receiving the incentives but no salaries, so as to hide the illegal hiring practice. People who do not receive salaries should not receive incentives, either.

**51. After breaking the status quo of nepotism<sup>33</sup> and political influence in 2015, DGCI is experiencing a setback with the employee selection process.** Previous technical assistance reports,<sup>34</sup> corroborated by information from senior staff, concluded that the number of personnel is sufficient but lacks appropriate qualifications. In 2014, a public competition was organized to hire highly qualified employees. That public competition was the last concluded in the country; since then, the successive governments took a step backward and resumed hiring low-qualified people through nepotism and cronyism.

**52. Salaries have not been paid on time, enhancing vulnerability to corruption.** Salaries have been paid one or two months after their due dates since last year. Although this situation does not justify corruption, it is undeniable that vulnerabilities increase if employees are not able to meet their basic needs. There are no career and promotion plans, duties, and rights for DGCI's employees. A specific law needs to be developed that specifies the duties, responsibilities, and rights for each position at DGCI.

**53. Senior staff are key in the modernization process; they need to be hired by technical criteria, committed to the reforms, and capable of being agents of change.** Some low-skilled chiefs at DGCI do not understand the opportunities for modernization and the benefits of transparency. They continue to apply traditional practices rather than the law. Some chiefs of departments were hired without the application of competencies and skills criteria. Unfortunately, they have a limited capacity to interpret the law, resulting in a lack of consistency between the legal framework and the work in practice. Also, the intense turnover of Directors General and senior staff—

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<sup>31</sup> The Decree 30-A/92 establish the public contest as the way for hiring public servants.

<sup>32</sup> Zayda Manatta, et al. 2018. *Desafios e Oportunidades para o Incremento de Receitas*. Bissau: FAD/FMI. Less than 20 percent of the DGCI's employees were hired under a public tender. (Unpublished).

<sup>33</sup> In 2014-2015, DGCI conducted an open public contest—the first in the country—with FAD support.

<sup>34</sup> Zayda Manatta, et al. 2018. *Desafios e Oportunidades para o Incremento de Receitas*. Bissau: FAD/FMI. (Unpublished).

for instance, there were three Directors General in less than one year—destabilizes the governance process.

## Customs (DGA)

**54. According to private sector representatives,<sup>35</sup> DGA officials charge for several procedures with no clearly defined legal basis and do not account for these fees.** A previous FAD report clarified that some irregular employees (who do not receive salaries) have been paid in cash directly by Customs brokers for each task performed. The more procedures are required, the more payment employees receive, contravening ethical principles. Compensations and individual payments by task should be replaced by a sufficient and transparent salary, which may have a reasonable incentive component paid by the government to encourage modernization.

**55. All personnel performing customs missions and tasks, including Ministry of Interior officers responsible for customs surveillance and anti-smuggling, should report to the Director General of Customs.** Customs surveillance, border guard, and detection of smuggling are the responsibilities of the Fiscal Action Brigade (BAF), which is part of the National Guard of the Ministry of Interior. Despite working daily with DGA services, a Fiscal Action Brigade is not under the authority of the Director General of Customs. DGA and Fiscal Action Brigade agents have different statutes, rights, obligations, and administrative powers. The current separation into two services results in lack of coordination and duplication, and it negatively affects the availability and motivation of staff. A procedure for identifying the real needs in terms of BAF personnel and selecting skilled BAF employees for those needs is detailed in a previous HQ report.<sup>36</sup>

**56. Lack of customs training results in lack of standardized procedures and inefficient controls.** There are no training programs through the institution, either for new or old employees; as a consequence, best practices standards are not being observed. DGA is not applying modern customs principles; the absence of procedure manuals to organize laws and regulation, as well as the lack of standardized work procedures, hamper reforms implementation, in particular, in the area of controls.

## Short-Term Recommendations

- Apply a career plan, based on transparent, merit-based hiring and remuneration procedures.
- Unify all controls on goods not submitted to Customs under DGA management.
- Review the DGA's remuneration system to promote the modernization of Customs rather than the status quo or bad practices.

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<sup>35</sup> Gilles Montagnat-Rentier et al. 2018. *Reformas Estruturais para Modernizar a Administração Aduaneira*. Bissau: FAD/FMI. (Unpublished).

<sup>36</sup> Gilles Montagnat-Rentier et al. 2018. *Reformas Estruturais para Modernizar a Administração Aduaneira*. Bissau: FAD/FMI. (Unpublished).



## F. Intensive Use of Information Technology Solutions

### Domestic Tax Collection (DGCI)

**57. The DGCI's information technology strategic plan implementation should be prioritized to improve governance arrangements.** To overcome the fragile information technology development level, DGCI, with FAD/IMF, developed a long-term vision of the institutional needs. This vision included investments in information technology infrastructure and a roadmap to improve the information technology system, enabling DGCI to deliver the expected results. The information technology strategic plan is a guideline to modernize the information technology system, bringing control over employee actions and offering traceability of procedures conducted at DGCI. The information technology department needs to follow up with the plan and update it monthly, under the direct and effective supervision of the Director General.

**58. Electronic tax filing is one remarkable area of success in the country, and it should be expanded to include all tax returns.** The information technology system must be able to transfer the tax return information automatically to a centralized storage database. Electronic tax returns for self-assessments promote voluntary compliance by taxpayers and minimize the intrusion of revenue officials with compliant taxpayers. The architecture used for the current withholding tax returns and the income tax return (in Excel spreadsheets) should be extended to other taxes, given its efficiency and ease of use, and it should replace the manual capture of data.

**59. The government needs to ensure the efficient exchange of information between DGCI and DGA, Treasury, and the Social Security Agency.** Despite all of the agreements that have already been signed by the Directors General of the DGCI, DGA, Treasury, and Social Security agencies, this exchange of information has not yet started, due to challenges in establishing the administrative and financial responsibilities. This exchange of information will bring transparency and accountability to operations among public entities and will help to increase tax revenue mobilization.

**60. DGCI needs to develop its staff capacity in software development to ensure its autonomy.** Only three of the 13 information technology employees at the information technology department can work in software development. New information technology solutions can reduce contact points between taxpayers, offering modern and transparent solutions that can help detect and prevent unethical behavior. Between 6 to 10 specialized information technology professionals need to be hired, under a public tender, to develop a modernized information technology system in a sustainable way; the other information technology staff should receive training as well.

### Customs (DGA)

**61. Although good progress in improving the information technology network has already been achieved outside of Bissau, the use of the information technology system is still limited due to lack of training.** Customs operations must be truly and fully automated to reduce face-to-face interactions and ensure the integrity of decisions. Doing this requires the use of the computerized system by employees and the elimination of manual routines that currently duplicate

procedures. The information technology system already allows for a simplified procedure to clear and keep electronic records on goods of lower prices—under a small threshold. Nevertheless, an outdated paper book solution remains in place for Customs clearance of those goods.

**62. Migration from the Automated System for Customs Data<sup>37</sup> (ASYCUDA<sup>37</sup>) to ASYCUDA World should be considered.** Exporters and importers have been complaining how obsolete, costly, non-transparent, and slow the process of clearance is. ASYCUDA World supports more timely and accurate solutions, especially digitalization, bringing transparency and agility to the imports and exports processes.

### Short-Term Recommendations

- Promote the exchange of information between DGCI and DGA, Treasury, and INSS.
- DGCI should hire from six to 10 information technology development experts, under a public contest, and should train these staff.
- DGA should ensure the use of the information technology system in all units, eliminating manual procedures.

## G. Transparency, Prevention, and Sanctions

### Domestic Tax Collection (DGCI)

**63. DGCI plans lack transparency.** Information on strategic and operational plans, indicators, targets, and results are delivered only to the Minister of Economy and Finance. A DGCI website was developed in 2015, but its most recent information is from July 2016. Lack of information does not allow Parliament, civil society, the media, and others to perform their oversight roles.

**64. The internal control has a reasonable legal framework, although with no results.** The Internal Audit Directorate is composed of 11 employees, who have reported constraints, lack of support for doing their work in recent years, and the absence of training. Specific audit reports were supposed to be delivered to the Director General, but the senior staff from the audited areas did not receive the reports for comments or for implementation of measures. Neither the 2019 internal audit plan nor the execution report from previous years were provided to the mission.

**65. At the external level, it seems that there is insufficient cooperation between the Internal Audit Directorate and external audit institutions.** The Internal Audit Directorate's team does not work closely with the IGF, as it is supposed to do. The team was not able to provide any information on when the latest interaction with the *Tribunal de Contas* occurred.

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<sup>37</sup> ASYCUDA is a computerized system designed by the United Nations Conference on Trade and Development (UNCTAD) to administer a country's Customs.

**66. Guidelines for integrity are unclear, and the system to detect and punish wrongdoing is rarely applied.** No rules for the declaration of assets, no conflict of interest guidelines, and no mandatory reporting of gifts are in place. To provide orientation to employees about expected behavior, a draft of a Code of Ethics is being developed; it needs to be further discussed and approved. In the past four years, only two cases were opened to investigate and impose penalties on public servants for possible wrongdoing; only one of those cases was concluded.

### Customs (DGA)

**67. Similar to DGCI, there is no transparency in DGA plans and results.** The DGA strategic plan, developed for 2014 to 2017, was extended to 2020, but it was sent only to the Ministry of Finance. There is no formal approval by the Minister, who is only notified. DGA does not have a website to provide information to civil society, the media, and others who perform oversight roles.

**68. The Internal Audit Directorate reportedly lacks knowledge, material conditions, and support.** There is a new team that composed of technicians who did not receive training. Although the activities reports for previous years had been requested, they were not provided to the governance mission. According to information from officials, the previous internal audit team lacked knowledge and training. The 2019 internal audit plan was not delivered to the mission, either.

**69. No cooperation occurs between the Internal Audit Directorate and external audit institutions.** The Internal Audit Directorate's team does not work closely with the IGF. The *Tribunal de Contas* is only interested in the financial aspects of Customs administration. The information from the DGA authorities indicates that the last visit from the *Tribunal de Contas* was in 2015 and that it occurred to examine the records of Customs operations in 2011 and 2012.

**70. No Code of Ethics is in place, but the system to detect and punish wrongdoing is being applied.** An Ethics Code is being developed to overcome the absence of rules for the declaration of assets, conflict of interest guidelines, and mandatory reporting of gifts. In the past six years, 11 cases were opened to investigate and apply penalties on public servants for possible wrongdoing; all of them were confirmed. Two cases were sent to the Public Prosecutor's Office to initiate criminal proceedings.

### Short-Term Recommendations

- Both DGCI and DGA should build new websites that include services to taxpayers; services for importers and exporters; accountability mechanisms; and improved transparency through the posting of fees, laws, and judicial decisions.

## IV. LEGAL AND REGULATORY FRAMEWORK

### A. Courts, Transparency, and Property Rights

**71. Several areas exist for improvement in the court system to address such issues as high court fees, procedural delays, and lack of effective controls.** Court costs are prohibitive and limit access to justice; they are not charged in a manner that would allow effective access to justice but rather in proportion to the value of the dispute. Court processing is manual, which can result in misplaced files and delays in the retrieval of information. The authorities introduced a commercial court of first instance in 2010 for such issues as insolvency, bankruptcy, and commercial debt; three magistrates were allocated here and one at the appeals level. With the application of the OHADA procedural rules, there has reportedly been an improvement in the processing of commercial cases. However, there are indications that delays persist; there may be a need to control the application of OHADA rules.<sup>38</sup> The absence of controls on the judiciary and the absence of publication of court decisions contribute to the perception that the judiciary lacks independence.<sup>39</sup>

**72. In terms of transparency, there are significant shortfalls in public data reporting, including with respect to laws, orders, and judicial decisions.** Laws and decisions are not routinely published, either in hard copy or online. Laws are published in the Official Gazette once a year, and sometimes more often if they are issued by a Ministry as a supplement; if published as a supplement, the cost of publication is borne by the issuing Ministry. Market participants and public servants often do not know what the applicable law is or how to interpret the myriad of provisions applicable to business transactions.<sup>40</sup> Court decisions are not widely disseminated, nor is there an accessible database of laws and decisions for legal practitioners.<sup>41</sup> This condition fosters arbitrariness in decision-making, and it invites discretionary treatment and delays, as well as its corollary of preferential treatment.<sup>42</sup>

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<sup>38</sup> In FY 2018/2019, there were 291 cases pending at the commercial court out of 371 cases processed. In FY 2017/2018, there were 436 cases pending out of 508 cases processed. (Source: internal report from the Commercial Court).

<sup>39</sup> See the Index of Economic Freedoms (2019); and the Ibrahim index (2017)—where the country ranks 51.2/100 (independence of judiciary), 25/100 (independence and transparency of judicial process), and 28.8/100 (access to justice). The Ministry of Justice is proposing a revision of the Organic Law on the Statute of the Judiciary recommending external audits. We asked for a copy for review but did not receive it and therefore are unable to make recommendations on this matter for the purposes of this report.

<sup>40</sup> For example, cashew exporters must make at least 13 different payments of charges and fees and must provide 15 different documents for an export license. See the IMF Technical Assistance report, “Tax Reforms for Fairness and Growth” (March 2019). (Unpublished).

<sup>41</sup> We were told that the University of Bissau is undertaking several projects to create compendiums of laws and their amendments, but these projects lack sufficient resources and are entirely voluntary.

<sup>42</sup> Publication online would not incur the same costs as hard copies. Although the rate of internet access appears low, a submarine cable is planned to reach the country and provide better internet connectivity, as part of a World Bank-financed project. The literary rate in Guinea-Bissau in 2015 was about 59.8 percent (Source: KNOEMA).

**73. Registration of property rights must be facilitated to create greater certainty and foster business activity.** There are different ways of acquiring property in Guinea-Bissau,<sup>43</sup> but a property cannot be transferred or used as collateral if it is not registered. Very few people are aware of these registration requirements and hence do not register property, resulting in a non-registration ratio of about 90 percent. Furthermore, registration fees are prohibitive and highly discretionary, often decided randomly by registration officers; fees of up to 50 percent of value were reported. The registry is not electronic but based on manual registration in books. Accordingly, it is a priority to digitize the land registry, with registration to be done electronically and the fees reduced to the marginal cost of operations.<sup>44</sup>

### Short-Term Recommendations

- Revise legislation to set court fees at a level that allows effective access to justice.
- Ensure that fees are transparently posted in courts, with notaries, and at the Land Registry.
- Publish laws as they are adopted and disseminate key elements online.
- Publish final judicial decisions online.
- Establish websites for government entities and for courts, with up-to-date information.
- Publish information on each court website on the number of staff, number of vacant positions, and number of cases (corruption AML/CFT cases; insolvency cases; foreclosure cases; land cases for 2016, 2017, and 2018 and onward. Specify how many are pending, and how many are closed.
- Ensure that property registration fees are uniform, accessible, and public.

### Medium-Term Recommendations

- Digitize the property registry, and ensure national coverage.

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<sup>43</sup> For example, through contract with transfer of ownership of deed through notary under the Property Code; inheritance (including with subdivisions of property); transfers in particular areas where the Land Law allows occupants to declare transfer to someone else (with experts demarcating the land through location map, and with the involvement of the Ministries of Public Works (concession document), Finance (land certificate), and Justice (final registration) to produce necessary legal documents, with the Ministry of Finance valuing the land.

<sup>44</sup> We were not able to meet with Land Registry representatives from the Ministry of Justice. This information comes from an IMF Technical Assistance report (Unpublished), "Tax Reforms for Fairness and Growth" (March 2019), Fiscal Affairs Department, and has been corroborated based on interviews with market participants and the Ministry of Justice.

## B. Anti-Corruption and Anti-Money Laundering

### Corruption Risks

**74. Governance vulnerabilities, proceeds of crimes, and weak corruption controls give rise to corruption risks in Guinea-Bissau.** Widespread governance vulnerabilities, particularly in the fiscal area, create significant vulnerabilities to embezzlement of state resources, abuse of office, and tax evasion facilitated by corrupt officials. The discretion in levying numerous and non-transparent fees (for example, exporting cashews requires the payment of more than a dozen fees) and in granting tax exemptions is vulnerable to the abuse of office and bribery of relevant officials. Corruption is also widespread in the provision of basic public services, most critically, in the administration of justice. Guinea-Bissau suffers from environmental crimes, such as illegal fishing, logging, and cashew harvesting; criminals seek to corrupt officials in the relevant control bodies, such as Customs. Weaknesses in the corruption controls, both preventive and repressive, are unable to limit corruption stemming from these governance vulnerabilities and crimes.

**75. Foreign drug trafficking activity also poses significant corruption risks in Guinea-Bissau.** Location in West Africa; weaknesses in the border controls, including in the port of Bissau; and 87 mostly uninhabited coastal islands make Guinea-Bissau attractive as a transit hub for cocaine trafficking from South America to Europe. Details of the foreign prosecutions of drug trafficking through Guinea-Bissau suggest that the drug traffickers seek the assistance of the country's officials;<sup>45</sup> recent seizures indicate that the amounts crossing Guinea-Bissau are substantial.<sup>46</sup>

**76. Authorities have a general understanding of corruption risks but lack a comprehensive national anti-corruption strategy.** Political leadership is aware of the main corruption risks and their materiality and is vocal about the need for change. Most of the sectoral ministries, directorates, and agencies have an understanding of the corruption risks specific to their respective areas. The Judicial Police has a detailed understanding of the main sectors, methods, and typologies of corruption, as well as the governance vulnerabilities that give rise to corruption. It is critical to translate the understanding of corruption risks into comprehensive national strategies and coordination mechanisms to combat corruption.

### Anti-Corruption Legal and Institutional Framework

**77. Guinea-Bissau has some elements of an anti-corruption institutional and legal framework in place.** The anti-corruption legislation includes the Criminal Code, the Criminal Procedure Code, the Uniform Law on Money-Laundering adopted in 2018, and Law 14/97 on Political Functions. Criminal investigations of acts of corruption are led by the Prosecutor's Office and largely conducted by the Judicial Police. The corruption cases are adjudicated by the courts of

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<sup>45</sup> High-level officials pleaded guilty in the US courts to conspiring to import drugs into the US in 2014 and 2016.

<sup>46</sup> On March 9, 2019, the government of Guinea-Bissau seized 789 kg of cocaine. On September 2, 2019, the government seized 1,947 kg of cocaine. Both operations were led by the Judicial Police of Guinea-Bissau, with the participation of the Transnational Crime Unit.

general jurisdiction. The Supreme Anti-Corruption Inspectorate is tasked with combating corruption, including by receiving the asset declarations from high-level officials, but it is not operational. The National Financial Intelligence Processing Unit (CENTIF) is responsible for the coordination of anti-money-laundering activities and gathering, analyzing, and disseminating financial intelligence.

**78. Important gaps exist in the criminalization of corruption offenses in the Criminal Code.**

The main corruption offenses—such as giving and receiving undue advantage (bribe), embezzlement, and misuse of property—are criminalized. However, the Criminal Code contains gaps in the criminalization of corruption offenses that may impair the effectiveness of anti-corruption efforts and that need to be addressed (Box 3). The authorities are also strongly encouraged to consider the criminalization of illicit enrichment.

**Box 3. Selected Gaps in the Criminalization of Corruption Offenses<sup>47</sup>**

- Unlike the promise or giving of a bribe, the offering of a bribe is not criminalized.
- For the indirect giving of a bribe, it needs to be proven that the official gave the approval and was aware of the benefit given.
- For the indirect receiving of the bribe, it needs to be proven that the official was aware of the specific actions of his intermediary; the official is not punished when, prior to committing the act, he or she voluntarily repudiates the promise or returns the goods.
- Both the Criminal Code and the Criminal Procedure Code use the term “public official” in corruption offenses, but it is not defined.
- Abuse of functions is criminalized only if committed by holders of “political functions,” and abuse of functions by any other public official is not criminalized.
- Giving a bribe to foreign public officials and officials of public international organizations is not criminalized.

**79. Legal provisions on the obstruction of justice need to be strengthened, and witness and whistleblower protection measures need to be established.**

Guinea-Bissau criminalized threats against judges by persons vested with political, public, military, or police authority to prevent the free exercise of the judges’ duties, a provision that should be broadened to include threats made by any person against judges. The use of intimidation to interfere with the exercise of official duties of judges or law enforcement officials should also be criminalized. Another element of obstruction of justice that needs to be criminalized is the obstruction of the giving of testimony or production of evidence. Guinea-Bissau should develop measures to protect witnesses, whistleblowers, and offenders who cooperate with the authorities.

**80. Guinea-Bissau needs to develop comprehensive anti-corruption preventive measures.**

Importantly, a comprehensive framework for the prevention of conflicts of interest needs to be developed. Operationalization of the conflicts of interest framework should be prioritized in the areas

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<sup>47</sup> A comprehensive analysis of the criminalization of corruption offenses in Guinea-Bissau is available in the *Review of Implementation of the United Nations Convention Against Corruption* (November 2017), Conference of the State Parties to the United Nations Convention against Corruption.

that pose significant corruption risks, such as the granting of tax exemptions by the exemptions committee. Codes of conduct to promote integrity, honesty, and responsibility should be also developed, including for the members of judiciary and prosecution. The transparency measures indicated in preceding sections should become part of the anti-corruption preventive system.

## **Implementation of Anti-Corruption Frameworks**

**81. The asset declaration framework is not operational and should be reformed.** The Supreme Anti-Corruption Inspectorate is authorized to receive the asset declarations of high-level officials, but it has neither the resources nor the powers to enforce the requirement to submit the asset declarations and to verify their accuracy. The asset declaration regime should be reformed, including its legislative and institutional frameworks. The requirement to declare assets should be broadened to cover all politically exposed persons (PEPs), as defined by the Financial Action Task Force standards and assets owned beneficially and abroad. The framework should be reinforced by the online publication of declarations, as well as by the possibility of imposing effective and dissuasive sanctions for the failure of submission or the submission of false declarations.

**82. The assessment of effectiveness of the anti-corruption enforcement is hampered by the absence of a national system of crime statistics.**<sup>48</sup> Such statistics should be collected with disaggregation by offense, status of the proceeding, and its outcome, and should allow monitoring of individual proceedings at the different stages of investigation, prosecution, and adjudication. The national system of statistics should also include data on the international cooperation, as well as on the amounts seized, frozen, and confiscated.

**83. The Judicial Police has achieved some successes in the investigation of acts of corruption, despite severe limitations in its resources.** Anti-corruption is one of the three main priorities of the Judicial Police, along with drug trafficking and organized crime. The Judicial Police has a specialized anti-corruption brigade, which focuses on the investigation of corruption and money laundering, and which is composed of 10 investigators. Corruption investigations by the Judicial Police cover various sectors, including bribery that facilitates tax evasion, drug trafficking, illegal logging, and embezzlement of state resources, and they have involved high-level officials. The Judicial Police intends to transform the anti-corruption brigade into a more specialized and independent anti-corruption unit, which is envisaged to include around 40 investigators. However, the Judicial Police faces significant resource constraints; it does not have permanent premises or a budget for operational activity. To receive financing for specific operations, both the Judicial Police and the Prosecutor's Office need to disclose the details of the operation to the Ministry of Finance. This requirement negatively impacts the operational independence of law enforcement bodies; their budget for operational activity and budgetary autonomy needs to be increased.

**84. The cooperation between the Judicial Police and the Prosecutor's Office needs to be strengthened.** The Prosecutor's Office leads the investigations and issues authorizations for a variety of investigative actions (such as searches and detentions), including by the Judicial Police, and it makes decisions on prosecution. The Prosecutor's Office comprises 87 prosecutors, all of whom can

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<sup>48</sup> The authorities did not provide requested criminal justice statistics to the staff. The following analysis is based on the discussions with authorities, civil society, donors, and legal professionals, as well as desk review of public information.



conduct their own investigations; in most cases, however, the prosecutors take on the investigation of the Judicial Police cases. The number of corruption cases prosecuted is low and may indicate insufficient follow-up by the Prosecutor's office on the corruption investigations initiated by the Judicial Police. The operational cooperation between the Judicial Police and the Prosecutor's Office needs to be strengthened, ensuring that the proceedings initiated by the Judicial Police receive timely response and sufficient follow-up by the Prosecutors Office. The authorities need to ensure that the discretionary legal powers relating to the prosecution of persons for corruption offenses are exercised to maximize the effectiveness of law enforcement. In this respect, developing prosecutorial guidelines could assist in setting expectations and providing clarity for the Prosecutor's Office and other law enforcement bodies on a range of issues, including the following: timeline for consideration of law enforcement's authorization requests to prosecutors, grounds for taking on a case by the Prosecutor's Office, amount of evidence required to prosecute, follow-up on the financial intelligence reports received from CENTIF, and feedback on the status of the cases.

**85. The sanctions that have been applied in corruption cases do not seem dissuasive.** The rare sentences in corruption cases usually do not lead to imprisonment, and acquittals of convicted persons on health grounds have occurred. Conditional release (parole) is possible, and its granting does not take into account the gravity of the offense. The Disciplinary Statute for Central, Regional, and Local Administration Officials and Agents establishes a disciplinary system, but the system is rarely used to address corruption concerns. Procedures for the dismissal or suspension of public officials accused of corruption, as well as for the disqualification of all persons convicted of corruption offenses from public offices, should be developed.

**86. Guinea-Bissau has not achieved confiscations of the proceeds of corruption.** The amounts of confiscated proceeds of corruption are low for several reasons: low number of convictions; low rate of application of provisional measures; and insufficient capacity to conduct financial investigations, including the negligible amount of financial intelligence available for investigation of corruption offenses. The effectiveness of confiscation is also hindered by the legal framework, which allows the confiscation of property and other instrumentalities used for corruption only in certain circumstances; it does not allow the confiscation of the proceeds of crime that have been intermingled with property acquired from legitimate sources. Asset recovery, amounts of which could be material in the context of Guinea-Bissau due to the significant amount of proceeds and limited fiscal resources, needs to become a policy objective in a comprehensive anti-corruption strategy.

### **Anti-Money Laundering**

**87. Guinea-Bissau faces significant risks of the laundering of proceeds of domestic corruption.** The authorities consider the risk posed by the laundering of proceeds of corruption to be high; however, they indicate that a significant share of domestic corruption proceeds is laundered abroad, including in Portugal and other Western European countries. The main methods of money laundering mentioned include the purchase of real estate, deposits of cash in banks, and trade-based money laundering using the cashew exports (the country's main export).

**88. Implementation of preventive measures regarding politically exposed persons faces challenges.** The extensive shadow economy and widespread use of cash even for significant transactions hinder banks' preventive measures required for PEPs. Enhanced due diligence measures—such as source of wealth and source of funds checks—are impeded by the inability to distinguish between legitimate proceeds and possible proceeds of corruption. Given these difficulties

and the high threat of the laundering of proceeds of crimes, including corruption, the level of reporting by the banks in Guinea-Bissau is low. Banks report that identification of PEPs is facilitated by the context of a small country, but identification of associates of PEPs is difficult. Moreover, the AML/CFT legislation, which was amended in 2018 with the intention to transpose the WAEMU AML/CFT Directive,<sup>49</sup> does not require the application of preventive measures regarding PEPs to family members and close associates of domestic PEPs. Financial institutions are not required to consider a person a PEP until he or she has held a significant public office for a period of at least one year; this approach represents a significant gap in the context of frequent changes in significant public offices. Preventive measures regarding PEPs are virtually absent in other sectors, such as non-bank financial institutions and real estate agents.

**89. Comprehensive and public asset declarations by PEPs can be a low-cost, high-impact tool to prevent the laundering of the proceeds of corruption.** A strengthened asset declaration regime would support the application of preventive measures related to PEPs by financial institutions (including institutions located abroad) and the reporting of suspicious transactions. Such reporting could potentially lead to criminal investigations including by foreign law enforcement agencies regarding the activity of domestic PEPs in foreign jurisdictions, which is particularly relevant given the lack of convictions and dissuasive sanctions in corruption-related crimes in Guinea-Bissau.

**90. Supervision of compliance of financial institutions with their AML/CFT obligations, including those that are PEP-related, should be strengthened at both the regional and domestic levels.** The Banking Commission of BCEAO (The Central Bank of West African States) is in charge of AML/CFT supervision of banks in Guinea-Bissau. The authorities and banks indicated that thematic AML/CFT on-site inspections of banks are rare and that some on-site inspections have an AML/CFT component. The authorities expressed support for strengthening the AML/CFT supervision of banks, including of the implementation of measures regarding PEPs. The AML/CFT supervision of designated non-financial businesses and professions (DNFBP)<sup>50</sup> and non-bank financial institutions has not started yet; it is in the domestic authorities' remit.

**91. Law enforcement should use financial intelligence for corruption investigations.** According to CENTIF, the number of suspicious transaction reports received has increased in recent years but is still low, particularly regarding PEPs, and submitted only by banks, mostly by the subsidiaries of international banks. CENTIF has disseminated reports to the prosecutor's office, which were not used for investigations. More effective use of financial intelligence can help in the detection and investigation of the acts of corruption and in the asset recovery. The CENTIF has strengthened its capacity to collect and analyze the reports it receives, and it seeks membership in the Egmont Group of Financial Intelligence Units to strengthen its international cooperation in the exchange of information with foreign counterparts.

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<sup>49</sup> The Bissau-Guinean AML/CFT regime is scheduled to undergo a comprehensive assessment by the Inter-Governmental Action Group against Money Laundering in West Africa (GIABA) in 2020–21.

<sup>50</sup> Designated non-financial businesses and professions (DNFBP) means (1) casinos; (2) real estate agents; (3) dealers in precious metals; (4) dealers in precious stones; (5) lawyers, notaries, other independent legal professionals and accountants; and (6) trust and company service providers.

## **92. Legal entities are vulnerable to facilitate the laundering of the proceeds of corruption.**

The Center for Formalization of Enterprises holds a company register, which collects information on legal ownership of companies registered in Guinea-Bissau, but there is no requirement to report beneficial ownership information. Law enforcement agencies report that the legal ownership information is available on request and mostly in a timely manner; however, banks, which are required to collect the beneficial ownership information, show low levels of cooperation. As a result, legal entities with layered corporate structures, particularly with a layer of companies incorporated abroad, are vulnerable to money laundering abuse. The legal framework ambiguously requires the identification of the beneficial owner “where appropriate,” which is not in line with the international standards. Furthermore, there is no legal requirement for financial institutions to understand the nature of the ownership and control structure of customers’ legal persons.

### **Short-Term Recommendations**

- Reform the asset declaration regime, which should (1) cover all PEPs, as defined by the Financial Action Task Force standards and their family members; (2) cover assets owned beneficially and abroad; (3) be publicly available online; and (4) allow the imposition of dissuasive sanctions for failure of submission or submission of false declaration.
- Grant necessary resources, including a sufficient budget for operations, to law enforcement agencies, notably, the Judicial Police.
- Strengthen the budgetary autonomy of the Judicial Police and the Prosecutor’s Office.
- Develop prosecutorial guidelines to ensure that the prosecutors’ discretionary powers are exercised to maximize the effectiveness of law enforcement. Design a comprehensive national anti-corruption strategy to address corruption risks in Guinea-Bissau.

### **Medium-Term Recommendations**

- Safeguard the operational independence of investigative, prosecutorial bodies, and courts from political interference and undue influence in the investigation, prosecution, and adjudication of corruption and laundering of its proceeds.
- Create a national system of crime statistics.
- Address the gaps in criminal legislation in line with the recommendations of United Nations Convention against Corruption review, notably, on the criminalization of corruption offenses.
- Encourage and monitor the efforts of the Banking Commission of the BCEAO to strengthen supervision of Bissau-Guinean banks’ compliance with their AML/CFT obligations, including those that are PEP-related.
- Supervise the compliance of non-bank financial institutions and DNFBPs with their AML/CFT obligations, including those that are PEP-related.
- Support CENTIF’s efforts to join the Egmont Group of Financial Intelligence Units.
- Establish witness and whistleblower protection measures.

## C. Market Regulation and Business Environment

**93. The 2019 World Bank *Doing Business Report* places Guinea-Bissau at 158 and 175 of 190 economies for ease of starting a business and ease of doing business, respectively.**

According to these results, much more needs to be done to improve the business environment in the country, which, in turn, would foster private sector development.

**94. The one-stop shop for registering companies (CFE) is a positive step toward facilitating business operations in Guinea-Bissau.** Before the creation of the CFE in 2011, it took 200 days to register a company; now it reportedly takes one day. The CFE has representatives on site from all relevant ministries and agencies (including the Ministry of Finance, Commerce, Immigration, Tourism, Industry, and the local council). The CFE keeps a portion of the fees to cover its costs; the rest goes to the relevant entities. The tax numbers are integrated with the DGCI database. The risk of bribery is minimized by having fee charts posted online. Further transparency measures regarding the company registry will be pursued. Currently, the company registry is not fully electronic and is not easily accessible. The authorities plan to digitize the registry to provide easier access by government agencies and the public. This improved access will allow better cross-checking by law enforcement and tax authorities, as well as by civil society organizations, to monitor possible conflicts of interest and corruption vulnerabilities. Ultimately, this database can be integrated with other national databases, as well as with the regional OHADA database. As detailed in the section on AML/CFT, efforts should be made to incorporate beneficial ownership information.

**95. The opaque and discretionary regulatory environment discourages entrepreneurial activity, virtually precluding any significant private sector development.** Much of the labor force is employed in the public sector or the informal economy. Running a business is complicated by the lack of clear information—both for the business people and for the public officials involved. Different officials often require different documentation and different fees that are not transparently levied. It would be important for the authorities to simplify the fee-charging regime and develop tools to clearly explain to the market the regulatory requirements for all major commercial activities (for example, cashew export, fishing licensing, selling rice, and eventually, mining and tourism) The public repository of legal instruments in force, discussed earlier as a transparency measure, would further ensure a level playing field; however, it is not sufficient, since laws may be written in a language that is not accessible to all stakeholders. Furthermore, the cashew export counter could be transformed into a one-stop shop to facilitate the issuance of export licenses, streamline the steps required to do so, and add transparency to the fees required. Such an export counter could be extended to other basic goods.

### **Short-Term Recommendations**

- Post all legislation, decrees, and regulations online.
- Develop plain language guides describing tax, licensing, and other regulatory obligations.
- Publish organizational charts for each public entity charging fees in relevant entities and online.
- Ensure that fees are transparently posted in relevant entities and online.
- Digitize the records of CFE in a searchable, public database.
- Integrate the CFE database with OHADA.
- Provide CFE services online.

### **Medium-Term Recommendations**


- Establish a one-stop shop for cashew exports.

## Appendix I. Useful Recommendations in Tax and Custom Administration from Previous Fiscal Affairs Department Reports

DGCI			
Area	Recommendation	Previous Report	Timeframe for Reform Implementation
Core processes	Implementation of the large taxpayers monitoring strategy supported by IMF	January 2018 April 2018 January 2019 May 2019	9 months
	Promulgation of the new General Tax Code and the new Tax Penalties Regime	April 2018 (TP report)	9 months
	Implementation of the income tax rule, which determines prefixing the due amount for Group B taxpayers by DGCI	August 2018 January 2019	9 months
	Implementation of a banking system as the main way of collecting tax revenue	June 2019 Staff visit	2 years
HR	Create and apply a career plan, with requirements that honor meritocracy and schooling, based on transparent, merit-based hiring and remuneration procedures	January 2018	9 months
	Review payment of benefits only to people in the career plan	January 2018	2 years
	Refuse, with Ministerial support, to hire non-regular employees	January 2018	immediate
	Establish in the law a criminal penalty for the inclusion, consent, or maintenance of irregular or ghost employees	-	1 year
	Require a university degree and specified knowledge for appointment as director of service	-	9 months
IT systems	Follow the information technology strategic planning	January 2016 January 2018 January 2019	immediate
	Extend the electronic tax returns for all taxes under its administration	January 2018	2 years
	Promote the exchange of information among DGCI and DGA, Treasury, and Social Security Agency	January 2018 January 2019	6 months
	Launch a public contest to hire from 6 to 10 information technology development experts.	January 2019 April 2019	9 months

Transparency, Prevention, and Sanctions	Require DGCI to support the internal audit team		Immediate
	Promote capacity building	January 2019	1 year
	Update the website, including services to the taxpayers		9 months
<b>DGA</b>			
Area	Recommendation	Previous Report	New Term
Core processes	Apply the reviewed procedure approved in 2017	September 2018	2 years
	Implement a structure for physical verification in Safin	September 2018	6 months
	Deploy a simplified custom transit control from the border to Safin	September 2018	6 months
Human Resources	Review the remuneration system to promote the modernization of Customs rather than status quo or bad practices	September 2018	6 months
	Unify all controls on goods not submitted to Customs under DGA management	September 2018	9 months
Information technology systems	Promote capacity building for technicians working in core processes with information technology supported tools	September 2018	1 year
	Migrate to ASYCUDA World	September 2018	2 years
Transparency, prevention, and sanctions	Require DGA to support the internal audit team	September 2018	immediate
	Promote capacity building	September 2018	1 year
	Update the website, including services to the economic operators	September 2018	9 months

## Appendix II. Wrap-Up Presentation



**Guinea-Bissau:  
Next Steps in  
Improving Governance**

SEPTEMBER 2019

Concha Verdugo-Yepes	Jean Pierre Nguenang
David Baar	Paulo Silva da Paz
Ioana Luca	Maksym Markevych

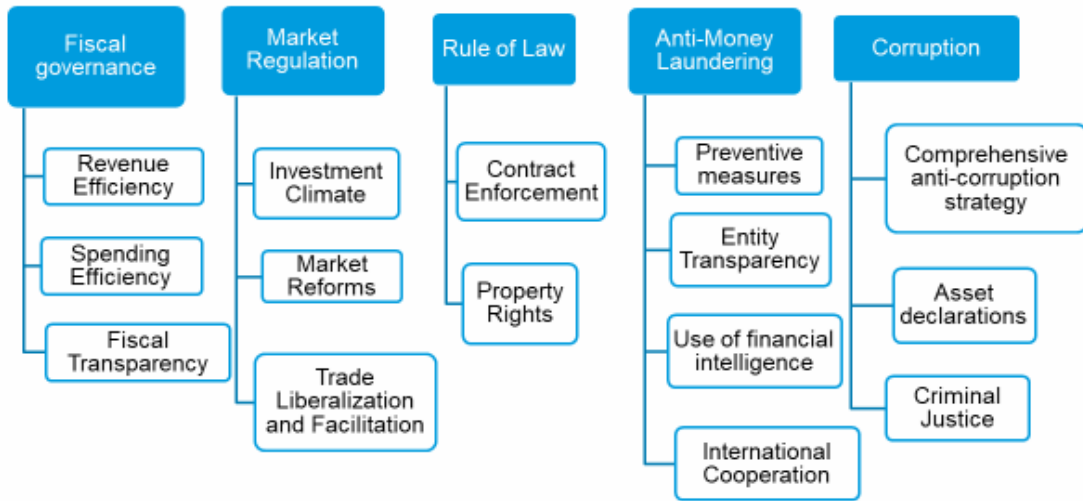
### IMF Framework for Engagement on Governance

#### New Framework for Enhanced Engagement on Governance (2018)

- Key idea: corruption is bad for economic outcomes, governance weaknesses create vulnerabilities to corruption, therefore policies to improve governance will help reduce corruption/improve econ outcomes
- Given this: Fund now making assessments of governance weaknesses in six key governmental areas to expose corruption vulnerabilities.
  - Should allow for more specific, concrete, and granular diagnosis
- Centralized assessment process is now in place, every year for all 189 members, using relevant criteria.

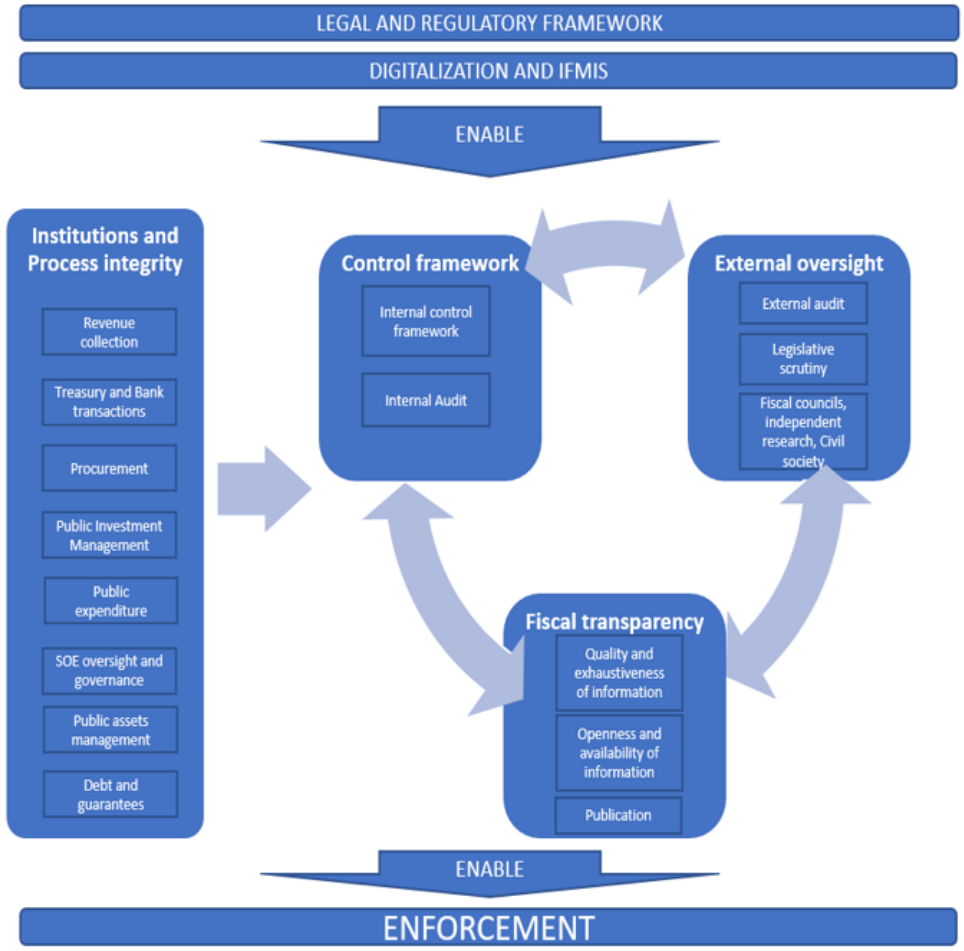


## Key State Functions – where we assessed governance vulnerabilities\*



\* This governance assessment for Guinea Bissau did not focus on the areas of Financial Sector Oversight and Central Bank Governance. These will be addressed separately, as needed, in coordination with the relevant regional institutions.

# FISCAL GOVERNANCE FRAMEWORK



## Public Financial Management Priority Recommendations

Institutions Responsible	Vulnerability	Main Measures	Timing
Minister of Economy and Finance	Unorthodox Expenditure Execution.	<ul style="list-style-type: none"> <li>Enforce the normal procedure: certification before payment.</li> </ul>	6-9 months
Treasury Committee, COTADO	Fragmented, non transparent government resources in multiple bank accounts	<ul style="list-style-type: none"> <li>Reestablish a smaller and focused Treasury Committee; clear criteria and prioritization to avoid “restos a pagar”.</li> <li>Progressively consolidate government resources in a treasury single account</li> </ul>	6-9 months
<u>Ministerio Administración Pública</u>	Weak controls on wages.	<ul style="list-style-type: none"> <li>Enforce control over all salaries, including employment incentives.</li> </ul>	6-9 months
Minister of Economy and Finance	No control on National Assembly's salaries	<ul style="list-style-type: none"> <li>Regular reconciliation between personnel record file and payroll file</li> </ul>	

## Public Financial Management Priority Recommendations (continued)

Institutions Responsible	Vulnerability	Main Measures	Timing
Ministry of Economy and Finance (DG Treasury)	Limited institutional oversight of state-owned enterprises (SOEs)	<ul style="list-style-type: none"> <li>Reestablish a unit within the MEF for financial supervision of SOEs and autonomous entities</li> </ul>	3-6 months
	Scarce financial information	<ul style="list-style-type: none"> <li>Carry out the financial supervision with a prioritized list of SOEs and autonomous entities</li> </ul>	12-15 months
Ministry of Economy and Finance (DG Budget)	Unspecified expenditure category	<ul style="list-style-type: none"> <li>Enforce the 2016 budget classification to exclude the unspecified expenditure category</li> </ul>	3-6 months
Ministry of Economy and Finance (DG Treasury / DG Budget)	Extrabudgetary operations (EBUs)	<ul style="list-style-type: none"> <li>Undertake a comprehensive inventory of EBUs</li> </ul>	3-6 months
		<ul style="list-style-type: none"> <li>Streamline the EBUs</li> </ul>	6-9 months

## Public Financial Management Priority Recommendations (continued)

Institutions Responsible	Vulnerability	Main Measures	Timing
Minister of Economy and Finance	The Inspector General for Finances lacks adequate resources (e.g., staffing, funding)	<ul style="list-style-type: none"> <li>Approve IGF's annual work program, increase its staffing, and associated budget</li> </ul>	3-6 months
		<ul style="list-style-type: none"> <li>Approve its updated regulation</li> <li>Continue collaboration with the Tribunal de Contas</li> </ul>	6-9 months
Minister of Economy and Finance	No recent audit of the financial consolidated statements (latest 2010)	<ul style="list-style-type: none"> <li>Provide more financial autonomy to the Tribunal de Contas and appropriately finance its annual work program</li> </ul>	6-9 months
Tribunal de Contas		<ul style="list-style-type: none"> <li>Progressively audit and publish all pending consolidated financial statements</li> <li>Approve its pending law</li> </ul>	ongoing  9-12 months

IMF | Fiscal Affairs Department; Legal Department

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## Public Financial Management Priority Recommendations (continued)

Institutions Responsible	Vulnerability	Main Measures	Timing
Ministry of Economy and Finance	Minimal coordination between government entities	<ul style="list-style-type: none"> <li>Fully integrate information collection by Ministry of Economy and Finance under a high-level committee</li> </ul>	3-6 months
	Weak coordination between government and donors/lenders	<ul style="list-style-type: none"> <li>Strengthen the capacity to appraise and select investment projects</li> </ul>	2-3 years
	Limited capacity to appraise, select investment projects		
Ministry of Economy and Finance	Lack of control on loans guarantees	<ul style="list-style-type: none"> <li>Enforce control on loans guarantees</li> </ul>	3 months

IMF | Fiscal Affairs Department; Legal Department

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## Tax Policy Framework Priority Recommendations

Institutions Responsible	Vulnerability	Main Measures	Timing
Ministry of Economy and Finance	Isenções discricionárias Inequities and unfairness of tax exemptions motivates evasion and corruption.	• Repeal the 2015 Budget Law amendments to the <i>Imposto Geral sobre Vendas e Serviços</i> (IGV) and the <i>Código de Investimento</i> .	6 months
		• Implement conflict of interest rules for the exemption committee.	6 months
		• Rationalize tax exemptions and incentives, and consolidate those that remain in: a tax statute; the <i>Código de Investimento</i> ; or the <i>Regime Geral das Isenções</i> .	1-3 years

IMF | Fiscal Affairs Department; Legal Department

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## Tax Policy Framework Priority Recommendations (continued)

Institutions Responsible	Vulnerability	Main Measures	Timing
Ministry of Economy and Finance	Legal basis for imposing many fees and charges is unclear Complexities, inconsistencies, duplication, discretion in rates and bases.	<ul style="list-style-type: none"> <li>• Introduce legislation to define the scope, nature, magnitude and process for imposing a fee or charge: <ul style="list-style-type: none"> <li>– subordinate fees and charges to a strict principle of marginal cost recovery</li> <li>– restrict and define the entities that may impose a fee or charge</li> </ul> </li> </ul>	2-3 years

IMF | Fiscal Affairs Department; Legal Department

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## Tax Administration Priority Recommendations

Institutions Responsible	Vulnerability	Main Measures	Timing
DGCI	Hiring process not based in merit	Apply a career plan, based on transparent merit-based hiring and remuneration procedures	9 months
DGCI	Deficiency of information technology systems	Promote the exchange of information between DGCI and DGA, Treasury, and INSS	6 months
DGCI	Deficiency of information technology systems	Hire from 6 to 10 information technology development experts, under a public contest, and train its staff	9 months
DGCI	Lack of accountability, transparency and control	Build a new website, including services to the taxpayers, accountability and transparency	9 months
DGCI	Outdated work processes and procedures	Promulgate the new <i>Lei Geral Tributária</i> and the new <i>Regime Geral das Infrações Tributárias</i>	6 months

IMF | Fiscal Affairs Department; Legal Department

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## Customs Administration Priority Recommendations

Institutions Responsible	Vulnerability	Main Measures	Timing
DGA	Human Resources	Unify all controls on goods not submitted to Customs under DGA management.	9 months
DGA	Human Resources	Review the remuneration system to promote the modernization of Customs, rather than status quo or bad practices .	6 months
DGA	Information Technology Department	Ensure use of information technology system in all units, eliminating manual procedures.	9 months
DGA	Transparency, Prevention and Control	Build a new website, including services to the economic operators, to improve accountability and transparency.	9 months
DGA	Core Processes	Implement a simplified Customs transit control from the border to Safin, and a physical structure for inspection of goods imported across the land border.	6 months

IMF | Fiscal Affairs Department; Legal Department

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## Customs Administration Priority Recommendations

Institutions Responsible	Vulnerability	Main Measures	Timing
DGA	Human Resources	Unify all controls on goods not submitted to Customs under DGA management.	9 months
DGA	Human Resources	Review the remuneration system to promote the modernization of Customs, rather than status quo or bad practices .	6 months
DGA	Information Technology Department	Ensure use of information technology system in all units, eliminating manual procedures.	9 months
DGA	Transparency, Prevention and Control	Build a new website, including services to the economic operators, to improve accountability and transparency.	9 months
DGA	Core Processes	Implement a simplified Customs transit control from the border to Safin, and a physical structure for inspection of goods imported across the land border.	6 months

IMF | Fiscal Affairs Department; Legal Department

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## Market Regulation Priority Recommendations

Institutions Responsible	Vulnerability	Main Measures	Timing
Ministry of Justice DGCI/Customs Other relevant entities	Poor access to laws Poor communication of tax and other legislative changes	<ul style="list-style-type: none"> <li>Post all legislation online.</li> <li>Develop plain language guides describing tax, licensing and other regulatory obligations.</li> </ul>	3 months 1-3 years
All entities imposing fees	Lack of clarity as to the authority of agent asking for payment of fee	<ul style="list-style-type: none"> <li>Publish organizational chart for each public entity charging fees</li> <li>Ensure that fees are transparently posted in relevant entities and online</li> </ul>	6 months
Ministry of Finance	Lack of digitalization at Center for Formalization of Enterprises (CFE)	<ul style="list-style-type: none"> <li>Digitize records of CFE in a searchable, public data base</li> <li>Integrate data base with OHADA</li> <li>Provide services online</li> </ul>	1 year

IMF | Fiscal Affairs Department; Legal Department

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## Anti-Corruption Priority Recommendations

Relevant Institutions	Vulnerability	Main Measures	Timing
High-level governance committee	No comprehensive anti-corruption strategy	Authorities' understanding of corruption risks needs to be translated into a comprehensive anti-corruption strategy	3 months
Ministerio Publico Ministry of Justice Courts Judicial Police	Effectiveness of criminal justice system	Strengthening enforcement: i. resources ii. prosecution / conviction / confiscation iii. coordination	1-2 years
Ministry of Justice National Assembly High-level governance committee	Asset declaration regime is not operational	Reform of both the legislative and institutional frameworks on asset declarations	9 months

IMF | Fiscal Affairs Department; Legal Department

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## Anti-Money Laundering (AML) Priority Recommendations

Relevant Institutions	Vulnerability	Main Measures	Timing
Ministry of Finance AML/CFT coordination committee CENTIF	Implementation of preventive measures	Strengthen implementation of preventive measures related to politically exposed persons	6 months
Ministerio Publico CENTIF Judicial Police	Rare use of financial intelligence in corruption investigations	Strengthening the capacity of CENTIF, intensification of the use of financial intelligence in corruption investigations	1-2 years

IMF | Fiscal Affairs Department; Legal Department

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## Rule of Law Priority Recommendations

Institutions Responsible	Vulnerability	Main Measures	Timing
Ministry of Justice Courts	High court fees	<ul style="list-style-type: none"> <li>Revise legislation to set court fees at a level that covers costs</li> <li>Ensure that fees are transparently posted in courts</li> </ul>	6-9 months
Ministry of Justice Courts	Limited transparency of laws and judicial decisions	<ul style="list-style-type: none"> <li>Publish laws as they get adopted and disseminate key elements</li> <li>Publish final judicial decisions [online]</li> </ul>	6 months
Ministry of Justice	Deficiencies in land registry	<ul style="list-style-type: none"> <li>Registration fees should be uniform, accessible and public</li> <li>The registry should be digitized and cover the entire country</li> </ul>	6-9 months

IMF | Fiscal Affairs Department, Legal Department

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## Technical Assistance on Governance

**World Bank** → Public Sector Strengthening Project (2015-2019)

- Customs: Capacity building, rehabilitation of premises, equipment & digitalization;
- Taxes: Capacity building rehabilitation of premises & equipment;
- Budget: Capacity building for budget preparation, validation and control;
- Debt management: Modernization of the tracking system by installing software which is now in use;
- PFM system: SIGFIP: Financing of the diagnosis of the system recommendations and results disseminated.

IMF | Fiscal Affairs Department; Legal Department

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## Technical Assistance on Governance (continued)

### European Union → National Indicative Program 2014-2020

- TA to Court of Accounts (closing of state general accounts, external audits of public institutions)
- TA to Min. of Economy and Finance (internal control of expenditure chain, software on projections & revenue estimates)
- TA to Min. of Public Administration (development of HR information and management system -SIGRHAP)

### European Union → Regional Indicative Program PALOP-TL

- Program for consolidating economic governance and PFM
- Establishment of Econ. And Financial Management Training Institute of PALOP countries
- Rule of law in PALOP countries

## Next Steps

- This technical committee should include representatives from the offices of the: President, Prime Minister, Minister of Finance, Minister of Justice, Minister of Public Administration, and Attorney General. In addition, the technical committee should include representatives from the: Anti-Corruption Commission, Tribunal de Contas, Superior Audit Court, and Civil Society. This should be the first step taken by the authorities to follow up on the recommendations of this report.
- After considering the recommendations in the report of the IMF governance mission, the Government's technical committee on governance should develop a comprehensive, medium-term anti-corruption strategy.
- IMF will come back to the country to finalize the diagnostic report after elections.
  - Publication of the diagnostic report and the national strategy
  - Coordination with donors to implement the medium term strategy

### Appendix III. List of Meetings with Authorities

Prime Minister of Guinea-Bissau	
President of Guinea-Bissau	Business Formalization Center
Attorney General of Guinea-Bissau	Public Procurement National Agency
Supreme Audit Institution	Civil Society Movement for Peace, Democracy and Development
National Assembly: Specialized Committee on Legal, Constitutional, Human Rights, and Public Administration Affairs	Lawyers' representatives
National Assembly: Supreme Anti-Corruption Inspectorate	Commercial bank representatives
Minister of Economy and Finance	Chamber of Commerce
Minister of Justice	Private companies
Minister of Planning	WAEMU
Minister of Fisheries	ECOWAS
Minister of Public Function	World Bank
Judiciary National Center for the Processing of Financial Information	African Development Bank
United Nations Office on Drugs and Crime	Embassy of Portugal
Central Bank	
Secretary of State of Budget	
Secretary of Treasury	
Director General for Budget	
Director Treasury and Public Accounting	
Director Financial Control	
Director General for Taxes and Duties	
Director General for Customs	
Director General of Planning	
Director for Public Debt	
Director General of Modernization of State	
Director General of Public Administration	
President of the Exemptions Committee	
Inspector General for Finances	

## Appendix IV. Abbreviations

BAF	Fiscal Action Brigade
BCEAO	The Central Bank of West African States
CFE	<i>Centro de Formalizacao de Empresas</i> (one-stop shop for registering companies)
COTADO	<i>Comitê Técnico de Arbitragem da Despesa</i> (Technical Committee of Expenditure Arbitration)
DGA	<i>Direcção-Geral da Alfândega</i> (Directorate General for Customs)
DGCI	<i>Direcção-Geral de Contribuições e Impostos</i> (Directorate-General for Taxes and Duties)
ECF	Extended Credit Facility
ECOWAS	Economic Community of West African States
FAD	Fiscal Affairs Department
FCFA	<i>Franco da Comunidade Financeira Africana</i> (Franc from the African Financial Community within WAEMU)
FDI	Foreign Direct Investment
GDP	Gross Domestic Product
IGF	<i>Inspeção-Geral de Finanças</i> (Inspectorate General for Finances)
IGV	<i>Imposto Geral sobre Vendas</i> (Goods and Services Tax)
IMF	International Monetary Fund
INSS	<i>Instituto Nacional de Segurança Social</i> (Social Security Institute)
MEF	Ministry of Economy and Finance
OHADA	Organization for the Harmonization of Corporate Law in Africa
PFM	Public finances management
PIP	Annual Investment Plan
PPP	Public-private partnership
SIGFiP	<i>Sistema Integrado de Gestão das Finanças Públicas</i> (Public Finance Management System)
SOE	State-owned enterprise
TA	Technical assistance
WAEMU	West African Economic and Monetary Union