Review of donor disclosure policies of corruption cases

Author: Marie Chêne

Reviewer: Roberto Martínez B. Kukutschka

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Disclosing information on corruption cases can play an important role in donors' integrity management systems to prevent, deter and sanction fraud and corruption in the use of development assistance funds. However, the extent to which donors disclose such information greatly varies across agencies, from the publication of generic information and aggregated statistics in annual reports to the full publication of case information, including names of individuals and entities sanctioned. Multilateral donors typically have higher standards of transparency in the disclosure of corruption cases.

U4 Anti-Corruption Helpdesk

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Query

We would like to get more information on how the other bilateral and multilateral donors are publicly disclosing corruption investigations and cases involving development assistance. Please provide current and good practice examples of other donors' public disclosure policies and systems.

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Overview

In recent years, all bilateral and multilateral donors have established integrity management systems to safeguard development assistance funds and prevent, detect and sanction fraud and corruption. Such integrity systems typically include "zero tolerance for corruption" policies, typically supported by whistleblowing policies, transparency standards and an independent integrity body or unit in charge of receiving and investigating allegations of corruption.

As part of the sanctioning process, some donors chose to publish information on cases of corruption. There are several expected benefits of such disclosures (Fagan 2013):

- information sharing between donors on sanctioned firms and individuals as part of due diligence/cross-debarment processes
- deterrence of corruption
- understanding and dissemination of lessons learned on corruption patterns

Main points

— National laws and policies on access to information, data protection, whistleblowing, etc. provide a legal framework that may limit the full disclosure of corruption cases by bilateral donors.

— Few bilateral donors, such as Sida and DANIDA, have made progress in recent years regarding the disclosure of corruption cases.

— Multilateral donors generally have higher standards of transparency and disclosure of corruption cases than bilateral ones.

- transparency and information for the taxpayer on the use of public funds

The extent to which donors disclose information on cases of corruption varies greatly among donors. Most of them publish general information and aggregated statistics about the operations of their integrity unit or body (such as the number of complaints received, investigated and substantiated) online or in their annual reports.

Some information can also be found in reports from government auditing institutions.

For example, the UK's Department for International Development (DFID) generically reports figures on gross losses – where fraud and corruption losses would be expected to be recorded – but only discloses information on specific cases over a certain value without the name of sanctioned individuals and firms (NAO 2017). At the other end of the spectrum, donors such as the Inter-American Development Bank not only publish the name and sanctions of all sanctioned firms and individuals but also pro-actively disseminate the information to partners through automatic email notifications (Jenkins 2016).

Generally, bilateral donors are constrained by the domestic legal framework in which they operate in terms of data protection, privacy and access to information laws, which may limit the extent to which they may or may not disclose information. In Europe, for example, the EU General Data Protection Regulation (GDPR) may have an impact on whistleblowing regulations and disclosure policies (Rahman 2018).

In spite of these constraints, some bilateral donors have made progress in the disclosure of transparency cases since 2013. The Swedish International Development Cooperation Agency (Sida) publishes a summary of all concluded cases online on Open Aid – a web-based information service about Swedish aid built on open government data. The Norwegian Ministry of Foreign Affairs and Norad, and the Danish International Development Agency (DANIDA) also disclose corruption cases and the organisations involved when the cases are concluded and they have been sanctioned.

Multilateral donors tend to promote a transparent approach to external reporting and disclosure of

cases, probably due to their extraterritoriality, which provides them with more legal space to disclose information. Both the World Bank and the IADB publish on their website all closed cases and a list of all debarred and cross-debarred firms and individuals, including the name, address and country of the sanctioned firm or individual.

Examples of bilateral and multilateral donors' disclosure policies

Denmark

DANIDA has a zero tolerance policy on corruption, which means that all staff have a duty to report suspicion or awareness of specific cases of corruption involving other staff members, business partners or project partners directly to their superiors or controller (DANIDA no date).

The agency also has an online reporting mechanism, allowing anyone to provide information on suspected cases of fraud and corruption anonymously, but requiring an email address to allow case follow-up. The agency handles reports confidentially and guarantees that it will only be seen by and communicated to the relevant people in the Ministry of Foreign Affair and/or DANIDA's anti-corruption team. All reports are handled confidentially and according to the Access to Public Administration's File Act (DANIDA website).

As part of the case follow-up, the National Audit Office is notified. The National Audit Office will then be informed on a regular basis when there is significant news in the case until the case can be terminated.

In terms of external disclosure of cases, the Ministry of Foreign Affairs is committed to ensure transparency and openness about corruption with

Danish development assistance, and publishes information online (in Danish) about ongoing and completed cases regarding the suspicion or established abuse of Danish development assistance which has been reported to the National Audit Office within the last two years.

After submitting a case to the National Audit Office, it is assessed to determine whether some information should be exempted from public disclosure under the Public Access Act. This may occur when the case contains either sensitive personal information protected by general data protection regulations, information that may damage Denmark's foreign policy interests or information that must be withheld for the purpose of prevention, investigation and prosecution of offences. An assessment is made on an ongoing basis as to whether changes have been made to detained information and documents that allow more publicity.

Published notifications are searchable online on the ministry's website. However, very little information is available in English on specific cases of corruption.

Norway

Similar to DANIDA, Norad has a zero tolerance policy to corruption (Norad No date).

The Helpdesk did not find major recent changes to the disclosure policies of corruption cases described in the 2013 Helpdesk answer. Norad's Fraud and Integrity unit manages cases related to the suspicion of financial irregularities within Norad's grant management. As part of its whistleblower mechanisms, irregularities can be reported either by the agency whistleblower channel by phone or mail, or to a third party firm, by phone, mail or through an electronic reporting form. Reports can be made anonymously to Norad,

while allowing the identity of the discloser to be known to the firm managing the external whistleblower channel (Chêne 2013; Norad website).

In terms of internal disclosure, reports are first handled confidentially by the third party firm (external whistleblower channel), and whistleblowers should be given feedback within reasonable time (unless they have chosen to remain anonymous).

According to Norad's guidelines for dealing with financial irregularities, upon finalisation of the cases, the Fraud Unit prepares a short summarising memo which is added as the last document on the case in Public 360, Norad's electronic archive system. The Foreign Service Control Unit is informed about the completion of the case with a copy of the summarising memo.

Norad adopts a cautious approach to the distribution of case documents. As a general rule, access to information concerning cases involving the suspicion of financial irregularities should be restricted to the programme officer in the entity concerned, the entity's director, the Fraud Unit, the director of AMOR (the Department for Quality Assurance) and Norad's director general. The Fraud Unit deals with requests for access to documents in fraud cases, and takes into consideration whether the affected partner and other donors should be informed (Norad 2011).

All concluded cases, including from Norad, are reported in Norwegian on a quarterly basis on the Foreign Affair Ministry's website, including the amount of money involved and reimbursed as well as certain indication of the individual and entity(ies) involved (Norwegian Ministry of Foreign Affairs 2019). However, there appears to be no access to detailed case reports.

Sweden

The approach of the Swedish International Development Cooperation Agency (Sida) to anti-corruption and other irregularities is to "always prevent, never accept, always inform, always act". Staff have a duty to report a suspicion of corruption to their immediate supervisor or Sida's corruption investigation group, and anonymous reporting of suspected corruption is also possible (SIDA 2016).

All reported suspicions are received and handled by Sida's specialised and independent facility, the investigation group (email: investigation@sida.se). Initially placed in the director general's office and reporting directly to the director general, the group was recently moved to the control and investigation unit in the department of operational support (Sida 2018).

In terms of internal disclosure, while no information is publicly disclosed when cases are being processed, whistleblowers can access their personal records and the case once every calendar year (Fagan 2013). Regarding external disclosure, Sida increased the transparency of its handling of suspicions of corruption by publishing summaries of concluded cases (SIDA 2014).

After conducting an investigation, the investigation group writes a concluding memorandum that includes a brief summary of the suspicions, the measures taken, the conclusions and the lessons that can be learned from the investigation. The reports are then published on Open Aid.

As part of the process of improving transparency, Sida has also signed memoranda of understanding to share information about current corruption investigations with the World Bank's investigation unit (Integrity Vice Presidency) and with the European Anti-Fraud Office, OLAF (Sida 2014).

In addition, Sida publishes online an annual report of its management of corruption cases. In 2017, for example, Sida received 262 reports of corruption or irregularities, the highest figure since the agency began compiling these statistics in 2007. As stated in the 2017 annual report, "the investigation group's assessment is that the significant increase in reported suspicions is due to a greater awareness of what should be reported and how it should be reported". The agency has made requests for repayment in 108 cases, totalling an amount of approximately SEK 44 (around €4 million) (Sida 2018).

United Kingdom

As a way to uphold its commitment to transparency when providing development assistance, DFID publishes details of all its new programmes and transactions over £500 on its website (DFID 2015). The agency also has a whistleblowing policy that allows its staff and individuals from delivery partners or third parties to report concerns anonymously using a dedicated phone line. The agency's Counter Fraud and Whistleblower Unit receives all internal and external cases of fraud and corruption through a dedicated secured email address: fraud@dfid.gov.uk.

A 2011 assessment of DFID's approach to anti-corruption conducted by the Independent Commission on Aid Impact (ICAI) found that the agency was well aware of corruption risks, has taken measures to safeguard UK funds and is playing a leading role within the donor community on anti-corruption work (ICAI 2011).

In terms of internal reporting, all cases must be reported to the head of internal audit, which directs all investigations. During investigations, information about the case remains confidential but may be shared with local law enforcement agencies (Fagan 2013). DFID reports fraud and

corruption information to its audit committee and the Cabinet Office's fraud team on a quarterly basis. In addition, while specific details of the cases are not published, DFID's internal audit function identifies lessons from fraud cases and shares knowledge with policy teams and other organisations in various fora, while fraud case examples can be used in internal training materials (NAO 2017).

In terms of external reporting, some generic information can be found in the agency's annual report, which is made available on its website. A recent assessment of DFID's approach to tackling fraud by the National Audit Office, however, notes that the agency provides less information than it used to do in those reports and no information on specific cases, supposedly to reduce the overall size of the document (NAO 2017).

While DFID provides a table listing all gross and net losses by country, between 2011-12 and 2013-14, such information is no longer provided in its 2014-15 and 2015-16 annual reports. As HM Treasury guidance only requires departments to report individual losses greater than £300,000, the agency provided no detail on any fraud cases after its 2013-14 annual report (NAO 2017). Similarly, the 2017-18 annual report does not provide specific information on losses, although the report mentions that statistics regarding their fraud losses are published on the gov.uk website (DFID 2018).

Finally, when allegations of fraud and corruption are established and sanctions imposed, DFID does not publicise the actions taken, and justifies this approach with concern for protecting the identity of those alleging fraud (NAO 2017).

Other donors

The UK National Audit Office investigation of DFID's handling of corruption cases refers to a number of international NGOs that have adopted a more transparent approach to external reporting and disclosure (NAO 2017). Plan International, for example, publishes on its website a quarterly update on fraud cases, providing a date, location, allegation and resolution, initial loss, fund recovered, net loss, and lessons learned and actions taken (Plan International website; Plan International 2019).

Another example is the Norwegian Refugee Council (NRC), which is also committed to high standards of transparency in its Open Information Policy (Norwegian Refugee Council 2016). This policy is based on the principle that all information will be publicly disclosed, unless well-founded and predefined reasons justify non-disclosure. The policy explicitly lists closed corruption cases as one category of information that the organisation commits to share through its website or upon request. The NRC publishes information about closed cases on its website on an annual basis (NRC 2018).

Examples of multilateral donors' disclosure policies

Due to their extraterritoriality, most multilateral donors have more legal space to promote and enforce high standards of transparency and disclosure of corruption cases.

World Bank Group (WBG)

The World Bank has a zero tolerance policy to corruption, supported by strong whistleblower and transparency policies (Fagan 2013; Jenkins 2016). Corruption allegations can be reported online and can be made anonymously. The World Bank Integrity Vice Presidency (INT) is the independent unit in charge of investigating and pursuing sanctions related to allegations of fraud and

corruption. In 2018, 99 staff made protected disclosures to INT.

In terms of internal disclosure, when a case is substantiated, INT produces a final investigation report (FIR), which is sent to regional management for comment for finalisation before sharing with the WBG president. Redacted reports are also provided to the WBG's board of executive directors based on the FIR and, after the completion of all related sanctions proceedings, made publicly available. FIRs also form the basis of referral reports to relevant national authorities if evidence indicates that national laws may have been violated. In 2018, 43 FIRs were issued and referred to national authorities, providing information about the allegations, methodology and findings of the investigations, as well as any action taken by the WBG (World Bank 2018).

In terms of external disclosure, The World Bank's Access to Information policy, adopted in 2010, is based on the principle that the World Bank will disclose any information in its possession that is not on its list of exceptions. Accordingly, the World Bank has strengthened its commitment to transparency and disclosure of corruption cases in recent years. The bank publicly discloses all closed cases on its website and publishes a list of all debarred and cross-debarred firms and individuals on its website, including the name, address and country of the sanctioned firm or individual. The list of debarred firms and individuals is available here. In addition, the information is shared with five other multilateral development banks as part of the cross debarment agreement signed in 2010.

In addition, the bank publishes an annual report of its sanction system that provides detailed statistics on INT's operations. In 2018 alone, the World Bank received 1,426 complaints. Of these complaints, 927 resulted in no further action, 130

were forwarded to other units and 379 preliminary investigations were started; 68 new investigations were started and 71 investigations were completed, of which 48 (67.6%) were substantiated (World Bank 2018).

Inter-American Development Bank (IADB)

As with the World Bank, the IADB has a solid integrity management system supporting strong whistleblowing, transparency, and disclosure policies and practices. Staff have the duty to report suspicions of fraud and corruption and cooperate with investigations, and can do so anonymously and confidentially. The Office of Institutional Integrity (OII) is responsible for preventing and investigating allegations of fraud and corruption, and refers investigated cases to the Sanction Committee for a final decision.

In terms of external reporting, IADB's access to information disclosure, adopted in 2010, expands the information to be disclosed to the public on the bank's activities, including an explicit mention of investigated and sanctioned cases, regulations and reports of the Oversight Committee on Fraud and Corruption. "Notices containing the identity of a sanctioned party and the sanctions imposed on a firm, entity or individual by the Bank's Sanction Committee shall be published by the Office of Institutional Integrity (OII) no later than five (5) working days after the bank has notified the sanctioned party, the decision of the Committee" (IADB 2010).

In compliance with this policy, the Sanction Committee publishes all firms and individuals that have engaged in fraud and corruption, with their name, type of entity, affiliation, project country, ground and duration of sanctions (IADB website). The IADB goes a step further than the World Bank in this regard by pro-actively disseminating the list

of sanctioned firms and individuals with automatic email notifications (Jenkins 2016).

In addition, OII and the sanction system publish an annual report of their activities. In the past 15 years, OII has responded to over 1,861 allegations, leading to over 437 sanctions. In 2017 alone, OII received 119 new complaints in addition to 13 carried over from 2016. Alleged prohibited practices were substantiated in 57% of completed investigations (IADB 2018).

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Partner agencies

DFAT (Australia), GIZ/BMZ (Germany), Ministry for Foreign Affairs of Finland, Danida (Denmark), Sida (Sweden), SDC (Switzerland), Norad (Norway), UK Aid/DFID.

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www.U4.no

U4@cmi.no

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