

Struggle Against Secrecy – Circumstantial Evidence and Presumptions

Kiev Arbitration Days 2015: Think Big!



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CORRUPTION

*Abuse of entrusted power for private gain**

**Transparency International*

"Safe Harbour for Corruption" Tribunals Ignored the Elephant in the Room



Tribunals Have Flexible Tools to Deal With Corruption Evidence

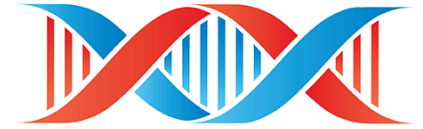
1. Tribunals may order party to provide witness and to produce documents
2. Draw adverse inferences
3. Weigh the inherent likelihood of corruption in the specific case
4. Flexible rules on admissibility of evidence



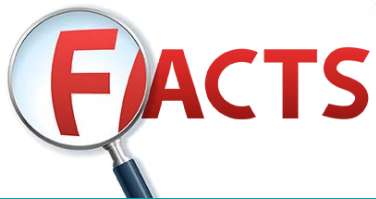
Myth: Circumstantial Evidence Is Weaker



metadata



DNA

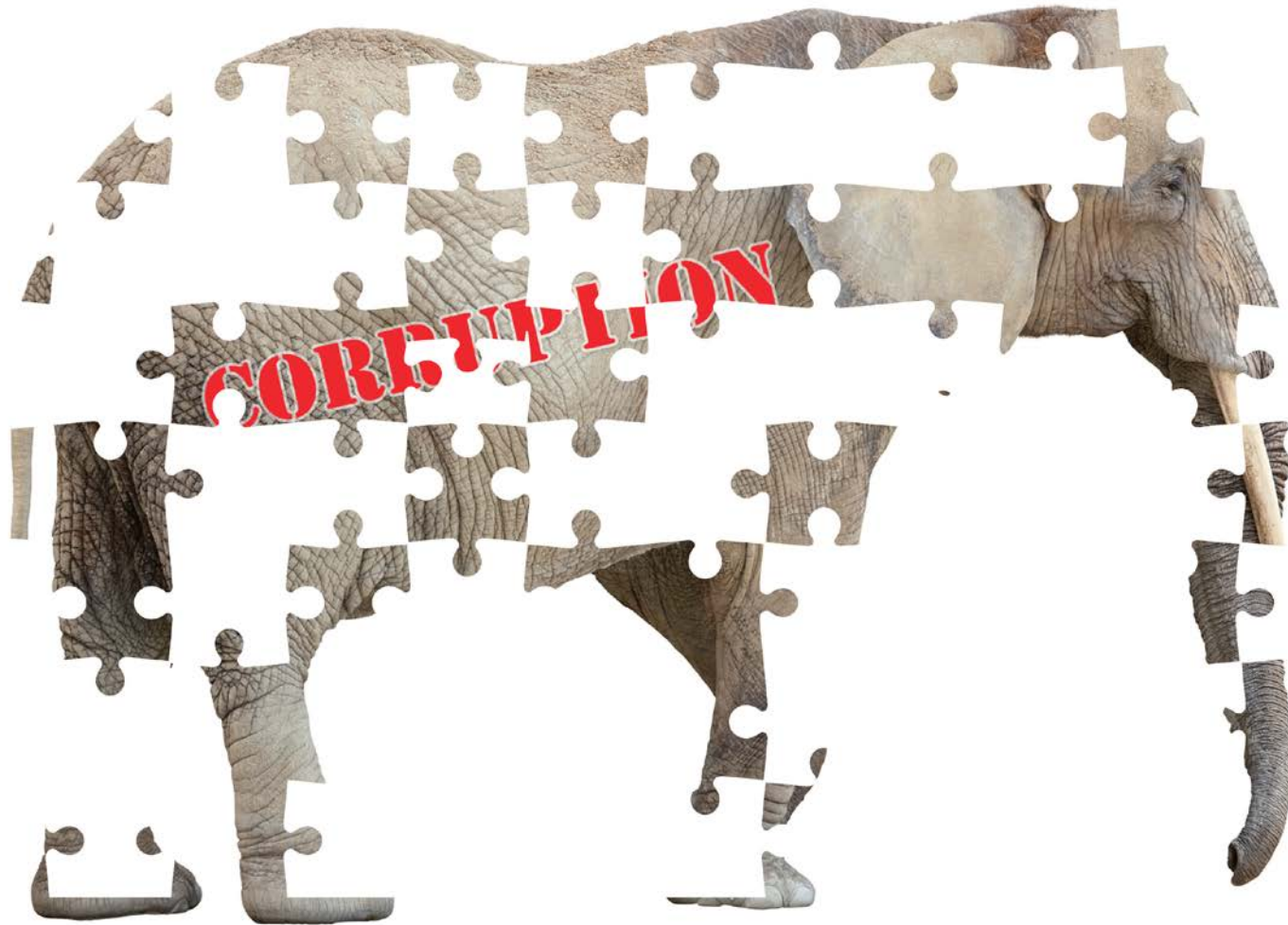


Dispute Scenarios involving Corruption

1. Disputes between intermediary and principal for commissions
2. State raises as defence or seeks declaration that government contract was procured through corruption
3. Claimant victim of corrupt action by government officials



Piece Together Circumstantial Evidence of Corruption



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■ Office locations
■ Regional desks and strategic alliances

