

## Annex 2. Legal-Institutional Framework Analysis

Corruption is facilitated or inhibited by the legal and regulatory framework, how it is put into practice, and how it is enforced or monitored through governmental institutions. This table is provided to assist analysis of these factors. It should be an initial step in the assessment process, and it is meant to provide a general orientation and identification of the main strengths and weaknesses of the anticorruption regime in the country. The assessment team will then gather further information as relevant. The checklist should ideally be completed a legal expert who is well-versed in the current status of laws, regulations and institutions that are typically considered to be the main components of a comprehensive anticorruption regime.

**INSTRUCTIONS FOR COMPLETION:** In describing the *formal provisions*, please complete this table with brief, factual summaries of the content of legal provisions and the identity and authorities of relevant institutions. When completing the second column, *how the provisions are implemented in practice*, please provide your expert perception as to the effectiveness and adequacy of the legal provisions and the capacity and effectiveness of institutions in reality. For both columns, the answers should focus on regulations and institutions that are most relevant to facilitating or preventing corruption. Please indicate compliance with [UNCAC](#) and other relevant regional legal instruments when appropriate (UNCAC article numbers are indicated in the table below). In the last column, please indicate your expert opinion about relevant weaknesses of the legal-institutional components.

	What Are the Formal Provisions?	How Are They Implemented in Practice?	Major Weaknesses/ Comments
<b>1. NATIONAL ANTICORRUPTION STRATEGIES/PLANS</b>			
<b>1.1 Anticorruption Strategy and Plans:</b> Is there a formal national anticorruption strategy/program? (UNCAC Article 5)			
Are there governmental institutions mandated to enforce/implement this strategy/program? What are their legal authorities? (UNCAC Article 6)			
<b>2. ANTICORRUPTION ENFORCEMENT LAWS AND INSTITUTIONS</b>			
<b>2.1 Explicit Anticorruption Laws:</b> Is there legislation explicitly prohibiting or criminalizing corruption or corrupt behaviors (bribery, embezzlement, trading in influence, abuse of functions, illicit enrichment, bribery and embezzlement in the private sector, laundering of proceeds of crime, concealment, obstruction of justice, etc. per Articles 15-31 of the UNCAC)?			
Are there governmental institutions mandated to enforce/implement this anticorruption legislation? What are their legal authorities? (UNCAC Article 36-39, 58)			
<b>2.2 Corruption Investigations</b> (UNCAC Chapter III): Is there legislation regulating investigation of corruption cases?			
What institutions are responsible for investigation of corruption cases? What are their legal authorities?			
<b>2.3 Corruption Prosecution in Courts:</b> Is there legislation regulating prosecution of corrupt offenses?			

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What institutions are responsible for prosecuting corruption cases? What are their legal authorities?			
<b>2.4 Money Laundering</b> (UNCAC Articles 14, 52, 58): Is there legislation prohibiting laundering the proceeds of corrupt activities? (Money laundering is the action with property of any form which is either wholly or in part the proceeds of a crime that will disguise the fact that that property is the proceeds of a crime or obscure the beneficial ownership of said property)			
Are there governmental institutions mandated to enforce/implement this legislation?			
<b>2.5 Asset Recovery</b> (UNCAC Article 8): Is there legislation regulating recovery of assets from corruption cases (confiscation, forfeiture, return, international cooperation, etc.)?			
Are there governmental institutions mandated to enforce/implement this legislation?			
<b>2.6 Witness protection</b> (UNCAC Article 32): Is there is legislation that protects witnesses in corruption cases?			
Are there governmental institutions mandated to enforce/implement this legislation?			
<b>3. CORRUPTION PREVENTION LAWS AND INSTITUTIONS (UNCAC, Chapter II)</b>			
<b>3.1 EXECUTIVE BRANCH</b>			
<b>3.1.1 Asset Disclosure</b> (UNCAC Article 8): Are there laws or regulations that require disclosure of assets for senior elected officials or political candidates and their families?			
Are there governmental institutions mandated to enforce/implement/monitor such laws/ regulations?			
<b>3.1.2 Abuse of Discretion</b> (UNCAC Article 19): Are there laws or regulations that place limits on the discretion of senior government managers in making decisions about the use of government funds?			
Are there governmental institutions mandated to enforce/monitor such laws/regulations?			
<b>3.1.3 Gifts/Favors/Abuse of Influence</b> (UNCAC Articles 7, 8,12,15-22): Are there laws or regulations that place limits on accepting gifts, favors or services, that control or limit how senior government managers use their influence, or that regulate conflicts of interest			

	What Are the Formal Provisions?	How Are They Implemented in Practice?	Major Weaknesses/ Comments
for executive branch managers?			
Are there governmental institutions mandated to enforce/implement/monitor such laws/regulations?			
<b>3.2 LEGISLATIVE BRANCH</b>			
<b>3.2.1 Asset Disclosure</b> (UNCAC Article 8): Are there laws or regulations that require disclosure of assets for legislators or legislative candidates, and their families?			
Are there governmental institutions mandated to enforce/implement/monitor such laws/regulations?			
<b>3.2.2 Gifts/Favors/Abuse of Influence/Conflicts of Interest</b> (UNCAC Articles 7, 8,12,15-22): Are there laws or regulations that place limits on accepting gifts, favors or services, that control or limit the use of influence, or that regulate conflicts of interest for legislators?			
Are there governmental institutions mandated to enforce/implement/monitor such laws/regulations?			
<b>3.2.3 Oversight Responsibility:</b> Is there legislation that provides clear monitoring and oversight responsibility to the legislature to ensure executive and budgetary accountability?			
Are there governmental institutions mandated to enforce or implement such laws?			
<b>3.3. JUDICIAL BRANCH</b>			
<b>3.3.1 Asset Disclosure</b> (UNCAC Article 8): Are there laws or regulations that require disclosure of assets for judges and senior court officials, and their families?			
Are there governmental institutions mandated to enforce/implement/monitor such laws/regulations?			
<b>3.3.2 Gifts/Favors/Abuse of Influence/Conflicts of Interest</b> (UNCAC Articles 15-22): Are there laws or regulations that place limits on accepting gifts, favors or services, that control or limit the use of influence, or that regulate conflicts of interest for judges and senior court officials?			
Are there governmental institutions mandated to enforce/implement/monitor such laws/regulations?			

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<b>3.3.3 Judicial Independence</b> (UNCAC Article 8): Are there laws or regulations that ensure judicial independence from the executive (related to judicial selection, dismissal, and budget issues)?			
Are there governmental institutions mandated to enforce or implement such laws?			
<b>3.3.4 Accountability Mechanisms:</b> Are there laws or regulations that ensure judicial accountability (including transparency of judicial records, process and decisions)?			
Are there governmental institutions mandated to enforce/implement/monitor such laws or regulations?			
<b>3.4. CIVIL SERVICE</b>			
<b>3.4.1 Conflicts of Interest</b> (UNCAC Articles 7, 12): Are there laws or regulations that define conflicts of interest for public officials?			
Are there governmental institutions mandated to enforce/implement conflict of interest legislation?			
<b>3.4.2 Asset Disclosure</b> (UNCAC Article 8): Is there legislation that requires civil servants to disclose their assets? (include whether disclosures are made public)			
Are there governmental institutions mandated to enforce/implement asset disclosure legislation?			
<b>3.4.3 Codes of Conduct</b> (UNCAC Article 8): Are there laws or regulations that establish ethics standards for public officials and civil servants?			
Are there governmental institutions mandated to enforce/implement code of conduct legislation?			
<b>3.4.4 Whistleblower Protection</b> (UNCAC Articles 8, 33): Is there legislation that provides protection for people who report cases of corruption?			
Are there governmental institutions mandated to enforce/implement whistleblower protection legislation?			
<b>3.4.5 Lobbying:</b> Are there laws and regulations that regulate lobbying of public officials?			
Are there governmental institutions mandated to enforce/implement lobbying legislation?			

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<b>3.4.6 Public Hiring and Appointments</b> (UNCAC Article 7): Is there legislation that requires public hiring to be based on merit rather than patronage, nepotism, favoritism, personal connections, and bribery?			
Are there governmental institutions mandated to enforce/implement public hiring and selection legislation?			
<b>3.4.7 Immunity:</b> Is there legislation that regulates removing immunity from elected representatives or senior public officials so that investigations can be conducted into suspected corrupt offenses that they have committed?			
Are there governmental institutions mandated to enforce/implement such immunity-removal legislation?			
<b>3.5. TRANSPARENCY AND ACCOUNTABILITY</b>			
<b>3.5.1 Complaint mechanism</b> (UNCAC Article 13): Is there legislation that establishes and regulates an Ombudsman office or other mechanism for reporting acts of corruption?			
Is an Ombudsman office established or are there other governmental institutions mandated to take reports about corruption and act on them?			
<b>3.5.2 Freedom of Information</b> (UNCAC Articles 10, 13): Is there legislation that provides citizens with rights to access public documents related to government resources and decision making?			
Are there governmental institutions mandated to enforce/implement freedom of information legislation? (when evaluating the formal provisions and actual performance, consider whether any information is provided proactively or only upon request)			
<b>3.5.3 Public participation</b> (UNCAC Article 13): Are there laws or regulations that require that executive, legislative and regulatory meetings, including commissions, be open to the public?			
Are there governmental institutions mandated to enforce/implement legislation/regulations on public hearings?			

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<b>3.6. POLITICAL PARTIES AND ELECTIONS</b>			
<b>3.6.1 Political Party Financing</b> (UNCAC Article 7): Is there legislation that requires transparency in political party funding and expenditures?			
Are there governmental institutions mandated to enforce/implement political party financing legislation?			
<b>3.6.2 Elections</b> (UNCAC Article 7): Is there legislation that regulates the conduct and financing of elections? (independence of election commissions, elections budgets free from political pressure, ethical standards, provisions for whistleblowing, etc.)			
Are there governmental institutions mandated to enforce/implement legislation related to elections and their financing?			
<b>3.7. PUBLIC FINANCE</b>			
<b>3.7.1 Financial Management Systems</b> (UNCAC Article 14): Are there laws or regulations that establish and regulate an integrated financial management system?			
Are there governmental institutions mandated to enforce/implement this legislation/regulation?			
<b>3.7.2 Audits of Public Expenditures</b> (UNCAC Article 14): Is there legislation that requires periodic auditing of public accounts, public budgets and public expenditures?			
Are there governmental institutions mandated to enforce/implement public audit legislation? (consider both the institutions mandated to carry out audits and the institutions mandated to review and follow up on audit findings)			
<b>3.7.3 Public Procurement</b> (UNCAC Article 9): Is there legislation that regulates and promotes transparency in public procurements?			
Are there governmental institutions mandated to enforce/implement public procurement legislation?			
<b>3.7.4 Budgeting Process</b> (UNCAC Article 9): Are there laws or regulations that require transparency in budget planning?			
Are there governmental institutions mandated to enforce/implement this legislation/regulation?			

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<b>3.7.5 Taxation</b> (UNCAC Article 12): Is there legislation that disallows the deductibility of expenses that constitute bribes, for tax purposes? (Article 12, paragraph 4)			
Are there governmental institutions mandated to enforce/implement this provision in the law?			
<b>3.7.6. Banking System</b> (UNCAC Articles 14,15, 40): Are there laws or regulations that require transparency and accountability in the banking system?			
Are there governmental institutions mandated to enforce/implement this legislation/regulation?			
<b>3.8. PRIVATE SECTOR REGULATION AND PRIVATIZATION</b>			
<b>3.8.1 Business regulations</b> (UNCAC Article 12): Are there laws or regulations that establish rules for regulating business operations (including but not limited to accessibility of information on business requirements and fee structures, administrative remedies to challenge decisions and fees, etc.)?			
Are there governmental institutions mandated to enforce/implement such business-related legislation or regulation?			
<b>3.8.2 Privatization:</b> Is there legislation that regulates how the privatization of state enterprises should be conducted?			
Are there governmental institutions mandated to enforce/implement privatization legislation?			
<b>3.8.3. Business Sector Anticorruption Actions</b> (UNCAC Article 12): Are there anticorruption actions taken by the private sector (ethics codes, anticorruption advocacy activities, etc.)?			
<b>3.9. NON-GOVERNMENTAL ORGANIZATIONS AND THE MEDIA</b>			
<b>3.9.1 Civil Society Organizations</b> (UNCAC Article 13): Are there laws or regulations that limit the ability of nongovernmental organizations to organize or advocate for reform or monitor government performance?			
Are there governmental institutions mandated to enforce/implement this legislation?			
Are there CSOs that advocate for anticorruption reforms and/or implement anticorruption activities? (Note: For column one, provide a general sense of the number of organizations or size of the NGO sector, as well as prominent organizations working on			

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anticorruption. For column two, please indicate the overall strengths and weaknesses of organizations and/or the NGO sector.)			
<b>3.9.2 Media:</b> Are there laws that limit the media's rights to investigate corruption cases (censorship, gag or libel laws)?			
Are there governmental institutions mandated to enforce/implement this legislation?			
Are investigations on corruption published in the media?			
<b>4. CULTURAL DIMENSIONS</b>			
Are there any particular features of tradition or culture (practices, institutions) that support/prevent anticorruption efforts?			
<b>5. INTERNATIONAL COOPERATION</b>			
Are there laws that require international cooperation in investigations of and proceedings in civil and administrative matters relating to corruption? (UNCAC Chapter IV; Articles 54-59)			
Are there governmental institutions mandated to enforce/implement this legislation?			
<b>6. COMPLIANCE WITH INTERNATIONAL LEGAL INSTRUMENTS</b> (for each relevant international instrument below, please provide information in column 2 on the official level of compliance (signed, ratified in full, ratified in part, etc.); in column 3 provide your expert opinion on the effectiveness of compliance in practice. A list of many relevant international legal instruments can be found in Figure 3 and the Appendix of the Handbook)			
1. UN Convention against Corruption			
2. CoE Civil Law Convention on Corruption ( <i>if applicable</i> )			
3. CoE Criminal Law Convention on Corruption ( <i>if applicable</i> )			
4. Other (please indicate) _____			
5. Other (please indicate) _____			
6. Other (please indicate) _____			