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**Session Report Template for Substantive Sessions
Launch of the Global Judicial Integrity Network
(9-10 April 2018, United Nations Vienna)**

This form provides guidance to the organizations that will coordinate sessions to address one of the conference's work streams.

The Conference's main goal is to officially launch the Global Network and to kick start its activities by engaging participants in substantive exchanges and discussions on topics, approaches and emerging good practices related to the strengthening of judicial integrity and preventing corruption in the justice system.

As such, the Conference will work under three streams:

- **Strengthening Judicial Integrity & Accountability**
- **Preventing Corruption in the Justice System**
- **Assessing and Monitoring Integrity**

Each organization coordinating a session is required to prepare a **3-6 pages report** about their sessions (Times New Roman, 12 pt, single space).

The objective of this document is to provide an account of the presentations made and discussions carried out during the session. The report will be shared with all participants of the Conference, as well as disseminated more widely on the Global Judicial Integrity Network website.

The Session Report should cover the following areas:

1. **Introduction of the topic** – providing background information on the issue addressed in the session. The information should include, whenever possible, reference to academic materials, surveys, publications or other reference material, as well as an overall summary of the experiences, practices and challenges to date under the topic. This information may be the same included in the discussion guide of the session;
2. **How the session supports the overall objective of the Global Judicial Integrity Network of strengthening judicial integrity and preventing corruption in the justice system** – this information may be an update/amendment from the initial session proposal submitted;
3. **Outline the issues addressed during the session by the panellists** – information to what aspects of the topic each panellist addressed in his/her presentation;
4. **Outline the issues raised by the audience and discussed with the panel;**
5. **Proposed outcomes of the session and whether they were achieved** – a summary of what the outcomes of the session were when it was initially proposed and whether they were achieved during the session. The report should also include a summary of the outcomes achieved.
6. **Conclusions and Recommendations** – any recommendations or observations that come out of the discussions and relate to priority areas for action and suggestions of activities or services to be provided by the Global Judicial Integrity Network.



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All reports will be incorporated to the library of resources of the Global Judicial Integrity Network and made available through the Network's website, as relevant resources on judicial integrity and the prevention of corruption within the justice system.

Background

With a view to provide sustained support and technical assistance to Member States in implementing the Doha Declaration's goals, UNODC launched in 2016 a **Global Programme for Promoting a Culture of Lawfulness**, with the support of the State of Qatar. The **four-year programme** covers specific areas addressed in the Doha Declaration, including strengthening judicial integrity and the prevention of corruption in the justice system. One of the key objectives of the Global Programme is the establishment of a **Global Judicial Integrity Network**.

Deadline for Submissions:

Discussion guides should be submitted until **30 April 2018**.

How to Submit:

By email addressed to oliver.stolpe@unodc.org and roberta.solis@un.org

In case of further questions, please contact:

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**Global Judicial Integrity Network
Substantive Breakout Session Report**

I. TITLE OF THE SESSION:

Title of the Session:	Assessing disciplinary and criminal measures for judicial integrity: a pilot study
Date and time of the Session:	April, 10 th 2018 - h. 09.00-10.15
Topic of the session:	Assessing and Monitoring Integrity
Organizer(s):	<ul style="list-style-type: none">• International Bar Association (IBA)• National Centre for State Courts (NCSC)• Research Institute on Judicial Systems of the National Research Council of Italy (IRSIG-CNR)
Contact information of the session coordinator:	Rocio.Paniagua@int-bar.org

II. RAPPORTEUR¹

Rapporteur:	Rosanna Amato
Position:	Post-Doctoral Research Fellow
Organization:	Research Institute on Judicial Systems of the National Research Council of Italy (IRSIG-CNR)

III. MODERATOR AND PANELLISTS:

Moderator:	Rocio Paniagua Oliver
Position:	Senior Legal Advisor
Organization:	International Bar Association (IBA)

PANELLISTS

Name:	Violaine Autherman
Position:	Senior Advisor
Organization:	National Centre for State Courts (NCSC)
Topic of presentation:	Beyond Prevention: Typology of Disciplinary and Criminal Measures for Judicial Integrity
Outline of presentation (max. 1000 characters):	- Presentation of the key preliminary findings of the research program (both desk and empirical research);

¹ Responsible for drafting the session report.



	<ul style="list-style-type: none"> - Description of the disciplinary process in France and comparison with Costa Rica and the Philippines; - Description of the key features of the criminalisation of judicial corruption in France.
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Name:	Marco Fabri
Position:	Acting Director
Organization:	Research Institute on Judicial Systems of the National Research Council of Italy (IRSIG-CNR)
Topic of presentation:	Challenges and opportunities of the pilot study on assessing disciplinary and criminal measures for judicial integrity
Outline of presentation (max. 1000 characters):	<ul style="list-style-type: none"> - Overview of the methodology set to carry out the project and focus on the rationale underpinning the study; - Description of the main strengths and drawbacks of the methodology used when carrying out the project; - Proposal to define the next steps of the research program.

Name:	Hon. Alex Poku-Acheampong
Position:	Judicial Secretary
Organization:	Court of Appeal (Ghana)
Topic of presentation:	The Disciplinary process in Ghana
Outline of presentation (max. 1000 characters):	<ul style="list-style-type: none"> - Description of the disciplinary process in Ghana and its practical operation in notorious cases of corruption occurred over the last few years; - Ghanaian Code of Conduct for Judges and Magistrates and its compliance with the Bangalore Principles of Judicial Conduct; - Description of the criminal process used in cases of judicial corruption and its application in actual cases.



IV. BACKGROUND INFORMATION ON THE TOPIC:

Judicial independence is a necessary condition for a democratic State based on the Rule of Law,² but integrity is what makes judges worthy of imposing decisions, and what legitimises judicial power.³ Lack of integrity can result in different legal scenarios, with varying degrees of severity. Despite this, the ultimate consequence of this range of demeanours stays the same; that is a progressive undermining of the citizens' confidence in the judiciary. In this respect, ensuring rectitude and righteousness in judicial performance by setting high standards of ethical conduct, as well as rules and arrangements having the effect of discouraging corruption acts, are necessary but not sufficient. Effective procedures to investigate, prosecute, and to sanction members of the judiciary behaving in violation of disciplinary codes, or even involved in corruption, are essential. When the State is not able to guarantee the effective operation of these mechanisms, the public credibility in and respect for the justice system as a whole fatally erodes.

Over the last two decades, concern for the safeguarding of judicial integrity has gained momentum, quickly rising high in the political agenda of certain States, as well as among the priorities of several international organisations. Taking cues from this trend, supranational monitoring bodies, civil society actors, and academia have increasingly focused on this issue, with a view to exploring the extent and impact of judicial corruption and, more generally, the effects resulting from the lack of integrity on democratic societies. Efforts have also been made to identify the main challenges, opportunities, and best practices, and to provide recommendations for improving national systems.⁴ However, thus far studies that focus

² Among other references, please see the General Comment No.32 (2007) of the Human Rights Committee; the Minimum Standards of Judicial Independence adopted by the International Bar Association in 1982; the United Nations Basic Principles on the Independence of the Judiciary 1985; the Recommendation No.R (94) 12 of the Committee of Ministers of the Council of Europe on the Independence, Efficiency and Role of Judges, 1994; the Beijing Statement of Principles of the Independence of the Judiciary adopted by a conference of Chief Justices of the Asia-Pacific region in 1995; the European Charter on the Statute for Judges adopted in 1998; the Universal Charter of the Judge adopted by the International Association of Judges in 1999; the Opinions of the Consultative Council of European Judges (CCJE), especially the a) Opinion No.1 (2001): Standards concerning the Independence of the Judiciary and the Irremovability of Judges; b) Opinion No.2 (2002): Principles and Rules governing Judges' Professional Conduct, in particular Ethics, Incompatible Behaviour and Impartiality; c) Opinion No.3 (2003): Appropriate Initial and In-Service Training for Judges at National and European Levels; d) Opinion No.10 (2007): A Council for the Judiciary.

³ Among other references, please see Human Rights Council Resolution 25/4, Integrity of the judicial system (2014); The Bangalore Principles of Judicial Conduct (Judicial Group on Strengthening Judicial Integrity, 2002); Commentary to the Bangalore Principles (Judicial Group on Strengthening Judicial Integrity, 2002); Measures for the effective implementation of the Bangalore Principles of Judicial Conduct (Judicial Group on Strengthening Judicial Integrity, 2010).

⁴ Just to give a few examples, the following initiatives can be considered: The Council of Europe CCJE Working Group currently in charge of preparing Opinion No. 21 on "Judicial integrity and fighting/preventing corruption in the judicial system"; the work carried out by the International Commission of jurists in the field of the independence and integrity of judges, lawyers and prosecutors; the United States Agency for International Development activities in the anti-corruption field aimed at strengthening public confidence in the police and the courts; the work OSCE is conducting in the field of identification of the judicial shortcomings in processing corruption cases; the Judicial Integrity Scan Initiative, developed by the Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH working on behalf of the German Federal Ministry for Economic Cooperation and Development (BMZ).



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specifically on the interactions between judicial professionals, are limited and sometimes lack the approach needed to sustain the development of evidence-based anti-corruption strategies. The present breakout session was intended to contribute to filling - to the extent possible - this gap, addressing the systems put in place at a national level to assess judicial conduct through criminal and disciplinary proceedings. The main focus was on the early findings of a pilot research project carried out under the lead of the International Bar Association Legal Policy and Research Unit (IBA LPRU). This had been aimed at designing a methodological tool that may be used to make easier the assessment of the judiciary's compliance with the integrity benchmark as defined at the international level, first and foremost, the Bangalore Principle of Judicial Conduct, and also the standards provided for by article 11 UNCAC.

V. SUMMARY OF THE SESSION:

The session has been opened with a brief description of the background of the project presented. The Moderator has stressed that this represents the second stage of the Judicial Integrity Initiative (JII): a broad programme launched by IBA in 2015 that was firstly conceived to identify the most prevalent patterns in which corruption manifests in judicial systems and understand how interactions among judicial actors are vulnerable to corruption.⁵ This has provided preliminary insights into systemic weaknesses in judiciaries and has allowed identifying key areas for subsequent research, first and foremost the risks arising at different stages of the judicial process. Against this background, together with the NCSC and the IRSIG-CNR, a follow-up project has been developed with the aim to examine those criminal and disciplinary processes, through which allegations of corruption brought against judges are investigated and prosecuted, to ensure adequate accountability and independence of the judiciary. The rationale underpinning this activity was to understand whether beyond formal compliance with integrity benchmark and standards defined at international level, national systems are properly equipped to genuinely detect, prosecute and punish judicial corruption or unethical behaviours when they occur. In order to achieve this goal, the project team has developed a specific diagnosis tool to be used across a broad spectrum of countries that has been presented for the first time to the public during the conference session.

It has been pointed out that such an instrument has been designed to better observe how these proceedings work in practice and to identify their actual strengths and drawbacks. For this reason, a mixed method research has been adopted, integrating legal analysis and empirical assessment.

In line with this approach, a matrix has been devised made up of three parts. The first two focused on the criminal and disciplinary proceeding respectively, the third one meant to capture possible connections between the two. Each section includes some selected questions aimed at exploring specific aspects of the two processes that may have major implications when dealing with allegations of corruption or disciplinary offences. Every single question requires a “double” analysis to be answered. The normative examination is intended to provide a clear overview of

⁵ For further information on the first phase of the Judicial Integrity Initiative (JII) and the main findings achieved, please see the Report “The International Bar Association Judicial Integrity Initiative: Judicial Systems and Corruption, realised in partnership with the Basel Institute on Governance, May 2016. The document is available at the following page https://www.ibanet.org/Legal_Projects_Team/judicialintegrityinitiative.aspx



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the relevant sources of law, while the empirical analysis is needed to ascertain how rules are applied in the current practice.

The matrix has then been “tested” in four pilot countries (Costa Rica, France, Ghana, and the Philippines), with a view to verifying whether it can be a suitable diagnostic instrument to be used in diverse contexts, and make the necessary amendments.

Having addressed the above methodological issues, the session then focused on the early findings of the project. Panellists have recognised the potential of the instrument developed, that can provide researchers and policy-makers with the material they need for the best possible insight into existing situations and how they are developing. This offers a bird's-eye view of the proceedings analysed and of their actual operation making it easier to realise which kind of obstacles prevent an effective prosecution from being achieved as well as possible areas for improvement.

First and foremost, testing the matrix has allowed identifying interesting differences and commonalities. With regard to the **disciplinary** process, panellists highlighted that the countries analysed have a diverse organisation in terms of competencies relating to the initiation of the proceeding as well as to the adjudication stage. At times, different processes are also in place, depending on whether lower courts judges or higher courts judges are involved or whether other branches of the government are concerned. Together with these, the analysis has revealed recurrent problems such as those pertaining to the collection of evidence and their admissibility; the limited resources made available to the investigative bodies; and the detrimental effect this situation has, especially when a short statute of limitation is provided by law. During the session, the Ghanaian disciplinary process has been described in detail, also providing examples from actual cases. More to the point, the biggest corruption scandal to hit the Ghanaian judiciary has been referred to. This occurred in 2015, following an exposé by an undercover investigative lawyer-turned journalist, which has triggered a constitutional process aimed at ensuring that both the lower court judges and superior court judges named would be officially investigated. The Judicial Secretary, Hon. Alex Poku-Acheampong has described the main steps of this process, whilst noting some critical aspects of this specific case. Among these, he mentioned the one most reported in the press, concerning the early retirement of a number of the superior court judges under prosecution, thanks to which they avoided being sentenced.

On a more general note, it has been pointed out that such a dynamic represents a similar problem in other national systems. In France, for instance, the voluntary retirement by magistrates under investigation is a practice that undermines the ability of the judiciary to self-regulate, allows the avoidance of sanctions and also allows those accused to keep the benefits from their past roles and functions.

As far as the **criminal** process is concerned, some degree of specialisation has been observed in the majority of countries analysed, albeit relating to different aspects. In certain States, this concerns the existence of specific rules criminalising judicial corruption, whilst in others this is about the establishment of specialised bodies. During the conference session, the French system was described in more depth. Here as well, the reference to actual cases has allowed a more detailed image of the features of the criminal proceeding relevant to the fight against corruption to emerge. Notably, the 2010 case of the president of the criminal chamber at a first instance court who was accused of receiving bribes, has offered the opportunity to highlight peculiarities of the national procedure, predominantly issues pertaining to the authorities in



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charge of conducting the investigations. In France, cases of judicial corruption are usually referred by the public prosecutor to the investigative judge. This is only partly due to the complexity of the matter at hand. The rationale underpinning this choice mainly relies on the need to preserve the independence of judicial action by avoiding both the risk of perceived corporatism, as well as possible detrimental effects resulting from the close relationship between prosecutors and the executive. Beyond this, it is worth mentioning that this case fits in with a fashion trend which has led to a harder-line approach towards allegations of corruption levied against magistrates (often placed in pre-trial detention and subject to stricter disciplinary measures). In this respect, it was interesting to note that this outcome is not only due to the legitimate attempt to contrast the erosion of citizens' confidence in their judicial institutions, but also to highlight the role played by media which so often reported cases of this kind.

In contrast, in Ghana the connection between the disciplinary and criminal process does not seem to be as prominent as in France. At the time of the big corruption scandal mentioned above, no criminal proceeding has been initiated against the judicial officers sanctioned by the disciplinary committee, despite a recommendation to the Inspector General of Police being made to suggest that a criminal investigation should be initiated. Still, this does not represent a general trend. In a not-related case involving a high court judge accused of stealing, criminal charges have been properly brought against him, and disciplinary measures withdrawing the benefits connected to his professional status were imposed, even though the person concerned retired before the completion of the criminal proceeding.

The session then closed with an overview of the drawbacks associated with the use of the method developed, which have been experienced over the course of the project. It has been recognised that even though this project has the potential to close some apparent gaps in assessing disciplinary and criminal measures of judicial integrity, turning theory into practice has inevitably unveiled some shortcomings. As an example, as far as the legal analysis is concerned, problems can arise in countries where online access to jurisprudence is not ensured since this does not allow a full in-depth analysis of the issues. The most relevant weaknesses encountered, however, concern the empirical assessment. Problems relating to transparency of information and data were faced in carrying out the pilot study (this issue was also stressed by the audience, especially with respect to the disciplinary scenario). Furthermore, where available, data is more frequently presented in aggregate form, which drastically mitigates the possibility to single out the judicial corruption cases. The second major point concerning shortcoming pertains to interviews. As highlighted by panellists, fieldwork is needed in complementing the information obtained by desk research, but when dealing with corruption or integrity, collecting meaningful information which can assist in providing a clear and representative picture of the problems occurring in a given context can be an arduous task, due to the sensitiveness of the topic and the variety of interests at stake. Therefore, the careful selection of interviewees is of paramount importance in order to collect information about problems occurring in their own working environment. Many professionals feel more comfortable staying in their "safe zone" whereby they simply talk about issues regarding legislation. Together with this, the pilot project has revealed that a few practitioners are actually familiar with corruption-related proceedings due to the limited availability of cases.

The session has been concluded proposing the possible next steps of the research. The latter will be referred to in the following sections.



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VI. HOW THE SESSION SUPPORTS THE OVERALL OBJECTIVE OF THE GLOBAL JUDICIAL INTEGRITY NETWORK OF STRENGTHENING JUDICIAL INTEGRITY AND PREVENTING CORRUPTION IN THE JUSTICE SYSTEM:

The Initiative launched by UNODC aims to assist judiciaries across the globe in strengthening integrity in the justice sector, in line with article 11 of the UNCAC. With this in mind, this conference session intended to contribute to the broad debate aimed at exploring possible actions to be taken to enhance the State's capacity to assess and monitor judicial integrity. This would be achieved by shifting the spotlights on the mechanisms in place at a national level to evaluate judicial conduct, both criminal and disciplinary. Notably, the session aimed to present a new and more efficient diagnosis tool that can help the members of the Network in self-assessing their own criminal and disciplinary proceedings, through the combined examination of a variety of data on judicial corruption. Information on the relevant national legislation firstly provides a clear and complete overview of the sources of law and offers a great angle on the way countries have addressed problems connected to judicial corruption and judicial integrity through legal reforms. Furthermore, it allows possible mutual connections among them to be highlighted and possible overlapping or even inconsistencies and contradictions. Data – especially disaggregated, where available – offers insight into corruptive trends and makes it possible to observe whether these figures are more or less remote from statistics relating to perceived levels of corruption. Finally, interviews with key informants are a privileged source of information that can uncover the insider's view of reality and grasp inner meanings.

Moreover, the matrix presented has proved that it can be a valuable tool in identifying trends⁶ and good practices to be shared among the members of the Network. A case in point is the establishment of “early warning mechanisms” providing the heads of jurisdiction an opportunity to detect in advance risky behaviours, which could constitute precursors to disciplinary misconduct (abuse of alcohol, gambling, insolvency situations, etc.) and avoid more serious violations which could subsequently occur.⁷ Furthermore, national rules allowing anticorruption organisations⁸ or media⁹ to play a role in triggering the judicial action have been considered worthy of interest. The conference session's goal was also to share research findings that could be used as a tool for future work by all the members of the Network and contribute to more specifically targeted measures to improve integrity in the judiciaries. This was intended to stimulate the establishment of working groups that may exchange best practices and work towards accountability processes to fight and prosecute corruption more effectively.

⁶ In certain States, however, recent trends suggest a stricter approach to allegations of corruption levied against magistrates. This is the case of France and Costa Rica, where the legislation into force allows to request the temporary suspension of a magistrate under investigation.

⁷ Based on the analysis carried out in France and in Costa Rica.

⁸ As an example, in 2013 a new provision (Criminal Procedure Code, art. 2-23) has been adopted in France so as to allow organisations, which list the fight against corruption as one of its missions, to initiate criminal action in case of inertia of the prosecution, eliminating the risk that prosecutors would exercise their discretionary authority not to pursue cases of corruption against their fellow magistrates out of corporatism.

⁹ Based on the analysis carried out in Ghana and France.



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VII. PROPOSED OUTCOME(S) OF THE SESSION AND THEIR ACHIEVEMENT:

The main outcome of the session was to inform the Network of the work conducted thus far and to provide policy-makers, members of the judiciary, academia, and experts with a diagnosis tool to better evaluate their national systems and understand whether they are equipped to genuinely detect, prosecute and punish judicial unethical behaviours when it occurs.

The session was a privileged forum to share the research findings and further spur new ideas about both criminal and disciplinary proceedings that must balance accountability and guarantees of judicial independence. Notably, this was an opportunity for mutual exchange to increase awareness on the need to improve empirical studies on judicial corruption and develop related policies accordingly to fact-based evidence. The fruitful discussion between the panellists and feedback from the audience will be incorporated into the next phases of the project in order to improve the content and methodology used and to provide the members of the Network a fine-grained analysis of their criminal and disciplinary proceedings, assess integrity risks and design tailored anti-corruption policies and strategies. This should be coordinated and consistent with the variety of initiatives taken at a national and international level to analyse and monitor corruption-related trends.

VIII. CONCLUSIONS OF THE SESSION AND RECOMMENDATIONS TO THE GLOBAL JUDICIAL INTEGRITY NETWORK:

Taking into account the rationale underpinning the establishment of the Global Judicial Integrity Network, this conference session has been a great opportunity to share lessons learned on the application of the methodology in this study, highlighting both challenges and emerging issues. The good practices identified have also been discussed and can serve to provide the members of the Network ideas to improve their national systems.

Taking the results obtained through the pilot project as a starting point for reflection, the next steps to be taken should give priority to refine the matrix, in order to allow users to capture more meaningful information and obtain a clearer picture of how countries address problems connected to judicial integrity. As an example, during the conference session attention has been paid to resources available to the authorities in charge of conducting disciplinary and criminal proceeding, especially those responsible for the investigative stage of a case. For this reason, a good place to start is to expand on the questions included in the matrix. Further points relating to the authorities playing a role in the two procedures should be investigated in greater detail, especially when specialised bodies have been established. Attention should be paid to the nature of their duties, their remit, the internal structure of these bodies, the way they operate, the budget set for them and their staff.

The session was also an attempt to encourage the use of the matrix in other national contexts. The application of this method to the greatest possible number of countries can contribute to create a comprehensive database of relevant resources and provide the Network with valuable information that can be used to refine their assessment systems.

IX. ADDITIONAL OBSERVATIONS, IF APPLICABLE

The pilot project is now running its final stage. The findings obtained so far are in the process of being finalised and have been merged in a final executive report that may be shared with the members of the network, possibly next year.