

**Open-ended Intergovernmental Working Group on the Prevention of Corruption  
Vienna, 8-10 September 2014**

**Session : Good practices and initiatives in the prevention of corruption: thematic  
discussion on the mandates of anti-corruption body or bodies in respect of prevention  
(article 6)**

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## Outline

### **Part 1: ICPC before the new constitution of Morocco (July 2011)**

- **Creation of ICPC**
- **Summary of missions and duties (mandate)**
- **ICPC's strategy: a global and integrated approach**
- **ICPC's mandate: major barriers and difficulties**

### **Part 2: ICPC after the new constitution of Morocco (July 2011): The National Authority for Integrity, Prevention and Fight against corruption**

- **ICPC in the new constitution of July 2011**
- **UNCAC compliance (Art. 5-6)**

## **ICPC before the new constitution of Morocco (July 2011)**

# Creation of ICPC

✓ **Reference** : UNCAC (Art. 6)

✓ **Creation of ICPC** : in 2007 (decree of march 13th) near the Prime Minister and started activities in January 6<sup>th</sup>, 2009

✓ **Structure and governance** :

⇒ Chairman

⇒ SG

⇒ General Assembly (45 members : government – civil society – professional organizations – academia)

⇒ Executive Committee (8 elected)

# I. Summary of ICPC's missions and duties (mandate)



Corruption assessment  
and information  
gathering: Database



Development of national and  
international cooperation



Views and  
recommendations



Complaints and  
denunciations



Supervision and evaluation of  
national A/C policies



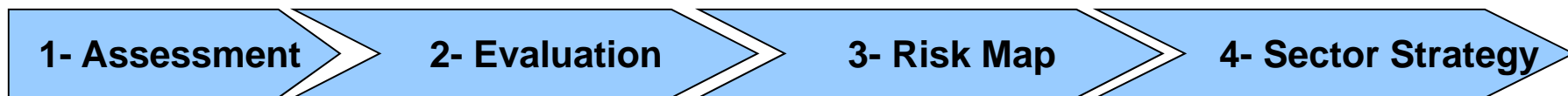
Coordination of national  
A/C policies



## Corruption assessment and Information gathering: Database

- ✓ Preliminary assessment and evaluation of public policies: CPI – Barometer - WB tools – national and international reports/studies – existing data (Annual reports 2009 - 2010-2011)
- ✓ Thematic studies: business climate – governance – public procurement – human rights – private sector – investment – ethics...
- ✓ Statistical analyses: ex. complaints, cases in courts...
- ✓ Sector studies: priority = Health – Transportation – Real Estate – Education ...

**Approach :** Participative - Appropriation - Risks approach



- ✓ **National survey:** perception – real-life experience – level of corruption – priority sectors/institutions/processes – evolution of corruption – causes – impact – reactions – knowledge of anti-corruption measures – level of trust in government and other stakeholders, etc.



## Views and recommendations

**Studies, analyses – assessments, etc.**



### **Strategy and anti-corruption measures :**

- ✓ Main elements of an anti-corruption strategy: assessment – priorities – approach – strategic axes – detailed action plan (113 measures), etc.
- ✓ Evaluation of past anti-corruption policies and recommendations to improve future initiatives
- ✓ Sector anti-corruption strategies (health – transportation – education – real estate, etc.)

### **Legal and regulatory framework :**

- ✓ Detailed analysis and evaluation → recommendations for **UNCAC compliance** → follow-up
- ✓ Law for the protection of whistleblowers (adopted October 2011)
- ✓ Draft law: access to information + participation in work of the national committee + lobbying → in last steps of adoption
- ✓ Draft law: conflict of interest
- ✓ Global assessment of legal and institutional frameworks in Morocco: with COE/GRECO

### **Analyses and views on major national projects/reforms:**

- ✓ Reform of the Judiciary
- ✓ National project for advances regionalization
- ✓ Ethics charter for political parties, etc.

**+ Several on-demand or specific recommendations + follow-up + lobbying**



## Development of national and international cooperation

**Objective = build a national coalition against corruption + build capacity and expertise**

**National cooperation → strategic alliances with institutions involved in the fight against corruption or with social/sensitive sectors/institutions:**

- ✓ **Ministries:** Health – Transportation – National Education – Real Estate – others in progress
- ✓ **Control/investigation institutions:** General Inspectorate of Finance – General Inspectorate of the Ministry of Interior – Gendarmerie Royale – Police – Customs...
- ✓ **Other institutions:** Foreign Exchange Office – Centre Hospitalier Ibn Sina – Institut National d'Oncologie – AREF (Education Academies)...

**MOU / Sector Study → Action plan → Pilot projects → follow-up/evaluation**

- ✓ Examples of specific measures with partner institutions: ex.
  - ✓ CHIS: complaints system – information display (services – prices – time frames...) – code of ethics
  - ✓ Foreign Exchange Office: complaints system – code of ethics – corruption-risk assessment and control...
  - ✓ IGF: corruption risk map in public procurement...
  - ✓ IGAT: pilot communes (regional districts)

**International cooperation → capacity-building – experience exchange – common projects ...**

- ✓ **UNDP** – UNODC – UNICEF – ONU Femmes
- ✓ **ABA** - World Bank – USAID – ADB – Foreign embassies
- ✓ Interpol – **NATO**
- ✓ EU – **Council of Europe**
- ✓ Transparency – **U4 (Norway)**...





### **Coordination of national A/C policies :**

- Through national partnerships
- Through membership in national committees (ex. CNEA & National strategy)



### **Supervision and evaluation of national A/C policies**

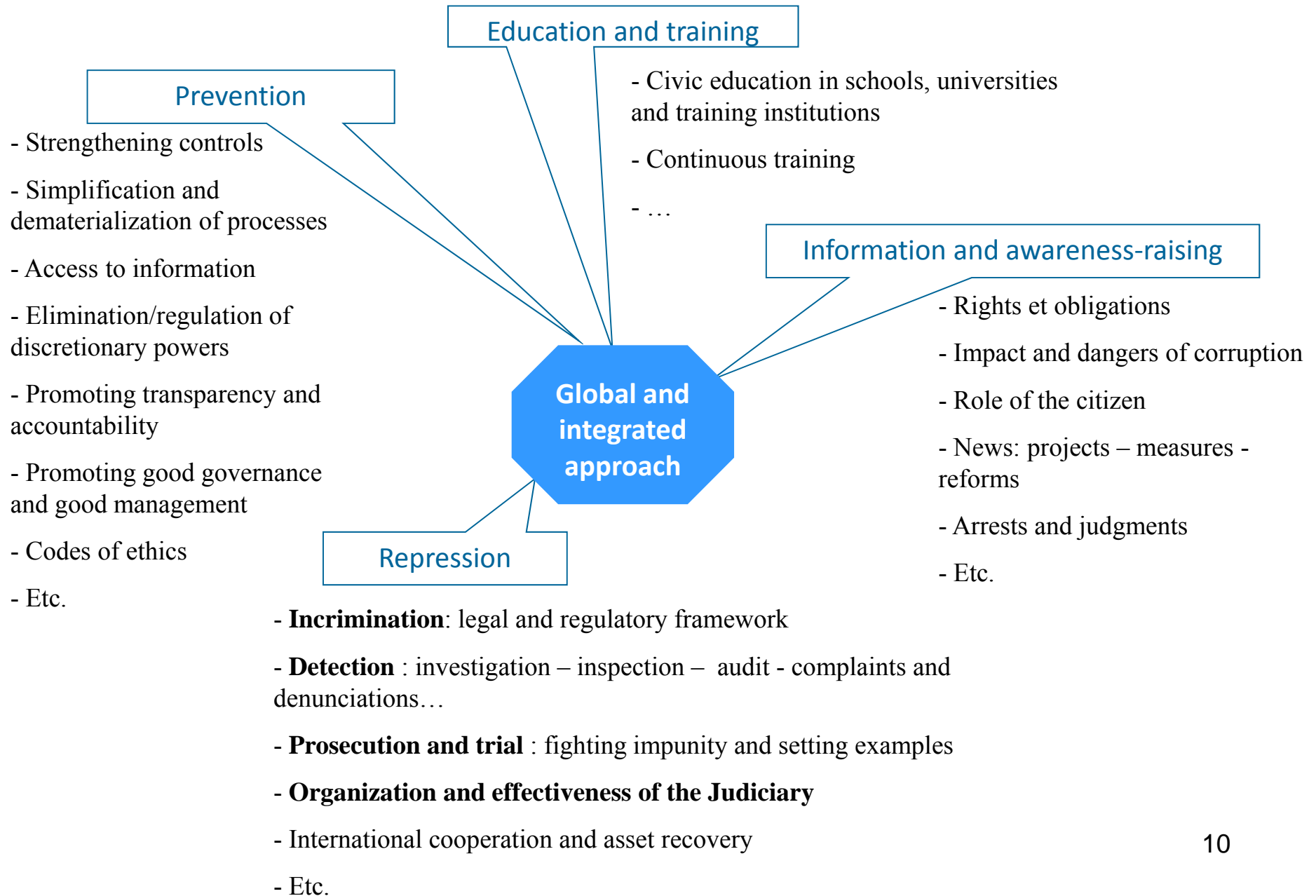
- Through sector and national studies
- Attempts at direct evaluation, but difficulty to access relevant information



### **Complaints and denunciations**

- Received on site or by mail or phone → analysis → transfer to the Ministry of Justice or to the relevant institution for administrative measures or firther investigation

# ICPC's strategy: a global and integrated approach



## ICPC's mandate: major barriers and difficulties

- ✓ **Independence:** functional Vs operational → attached to the Prime Minister for all administrative purposes → difficulties in financial management and HRM (recruitment)
- ✓ **Positioning:** attached to the Prime Minister – at the same level as all ministries – below other control/investigation institutions → no power to enforce recommendations or policies
- ✓ **Powers of the institution:** power to enforce recommendations – power to penalize non-compliant institutions – power to access information – power to arrest suspects...
- ✓ **Budget:** very limited compared to mandate + pre-set budget entries (sections) + complex public purchasing procedures: several operational difficulties (ex. Regional offices, large scale, national projects – multiple sector studies – investment in technology, etc.)

*Dilemma = Doing Vs making other institutions do → need to reduce ICPC's dependence on the good will of other institutions and on political and social circumstances*

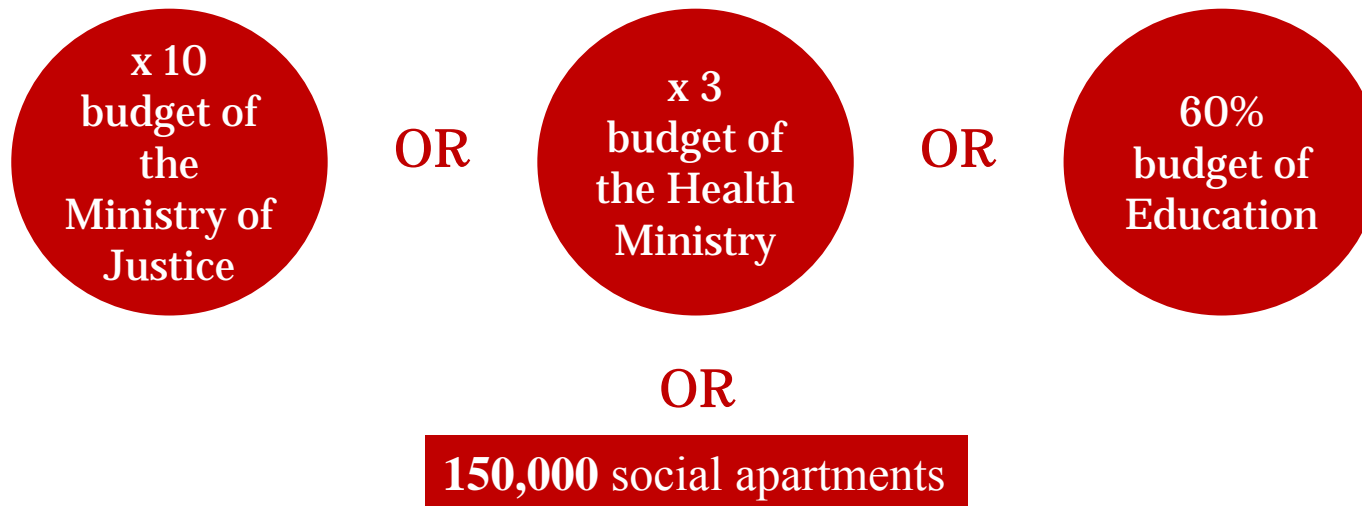
- ✓ **Access to information:** major obstacle to all missions of ICPC → need for a specific law and for specific non-exclusive and obligatory provisions in the new law of INPLC.
- ✓ **Prevention Vs fight against corruption: need for a good balance:** prevention alone is not sufficient to reduce corruption in countries where it is endemic → need for a stronger institution with both prevention and fight powers → National Authority for Integrity, Prevention and Fight against corruption

## Need to think outside of the box...

Estimated impact of corruption (World Bank) = 5% of GDP =  
around 39 BMAD

(Illustrative numbers based on budget of 2011)

≈



Budget of ICPC = 0.035% of this amount → think ROI instead of  
budget loss

## **ICPC after the new constitution of Morocco (July 2011): The National Authority for Integrity, Prevention and Fight against corruption**

## ICPC in the new constitution of July 2011

ICPC enshrined in the constitution along with other institutions and bodies in charge of the protection of rights and liberties, good governance, sustainable human development and participative democracy.

ICPC will become: The National Authority for Integrity, Prevention and Fight against Corruption:

- ✓ **Extended mandate**: integrity, prevention and fight against corruption : **investigation** powers → problem of separation of powers = risk of limited effectiveness and coordination difficulties;
- ✓ **Improved independence**: independent administrative authority with own budget and personnel code → risk of stronger administrative control procedures → limited flexibility and responsibility;
- ✓ **Narrower scope** of action: only corruption crimes described in the penal code (VS the global approach encouraged in the UNCAC)
- ✓ **Sufficient human and financial resources** → budget still to be negotiated

## UNCAC compliance (Art. 5-6)

### *Article 5. Preventive anti-corruption policies and practices*

1. Each State Party shall, in accordance with the fundamental principles of its legal system, develop and implement or maintain effective, coordinated anti-corruption policies that promote the participation of society and reflect the principles of the rule of law, proper management of public affairs and public property, integrity, transparency and accountability → National anti-corruption strategy + national Committee + INPLC BUT still efforts to make for more effectiveness and efficiency.
2. Each State Party shall endeavour to establish and promote effective practices aimed at the prevention of corruption → Compliant.
3. Each State Party shall endeavour to periodically evaluate relevant legal instruments and administrative measures with a view to determining their adequacy to prevent and fight corruption → Done by ICPC and as part of UNCAC review mechanism.
4. States Parties shall, as appropriate and in accordance with the fundamental principles of their legal system, collaborate with each other and with relevant international and regional organizations in promoting and developing the measures referred to in this article. That collaboration may include participation in international programmes and projects aimed at the prevention of corruption → Compliant.

### *Article 6. Preventive anti-corruption body or bodies*

1. Each State Party shall, in accordance with the fundamental principles of its legal system, ensure the existence of a body or bodies, as appropriate, that prevent corruption by such means as:
  - (a) Implementing the policies referred to in article 5 of this Convention and, where appropriate, overseeing and coordinating the implementation of those policies → ref. barriers and difficulties
  - (b) Increasing and disseminating knowledge about the prevention of corruption → done by ICPC and MFPMA BUT still insufficient according to surveys.
2. Each State Party shall grant the body or bodies referred to in paragraph 1 of this article the necessary independence, in accordance with the fundamental principles of its legal system, to enable the body or bodies to carry out its or their functions effectively and free from any undue influence. The necessary material resources and specialized staff, as well as the training that such staff may require to carry out their functions, should be provided → Compliant BUT with difficulties
3. Each State Party shall inform the Secretary-General of the United Nations of the name and address of the authority or authorities that may assist other States Parties in developing and implementing specific measures for the prevention of corruption → Compliant.

**Thank you**

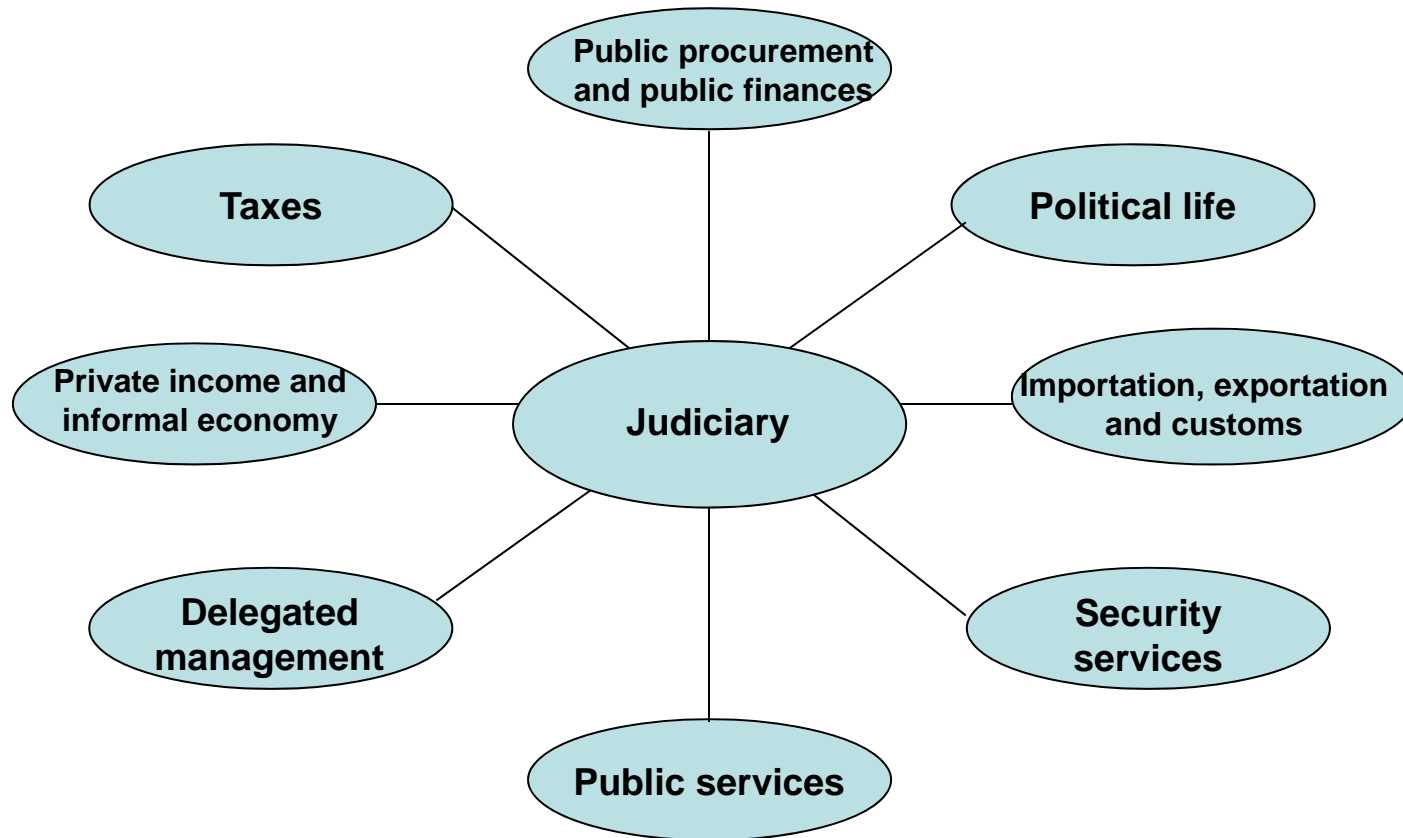
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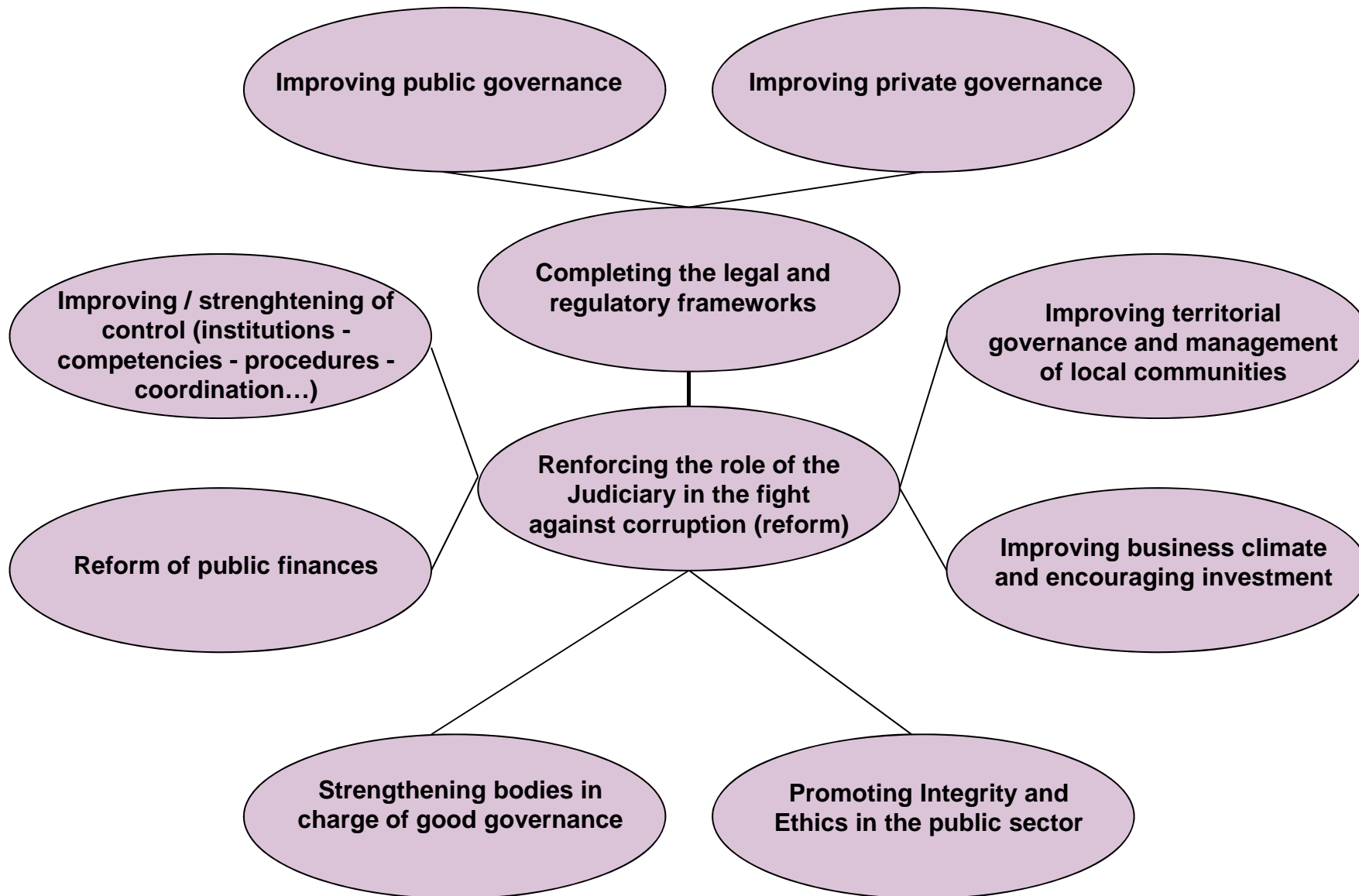
# National Strategy: priorities and urgencies

## Main Corruption Risks :



# National Strategy : priorities and urgencies

## Main fields of improvement:



## **New constitution: Chapter 12 dedicated to Good Governance → Strong principles regarding good governance, moralization of public life and rule of law**

- ✓ Linking public servants' responsibilities and mandates to accountability
- ✓ Enshrining the principle of public finances equilibrium in the Constitution
- ✓ Strengthening of the fundamental principles of social market economy and economic rule of law
- ✓ Strong measures to improve transparency, access to information and fight against corruption
- ✓ Formal ban of parliamentary transhumance
- ✓ Regulation of parliamentary immunity
- ✓ Good governance in the security sector: creation of the Superior Council for Strategic Security as a consultation authority in matters of local and external security

# National Strategy : Sector Approach

Sectors chosen according to national priorities as well as potential impact on citizens



Health



Education :  
primary and  
higher



Professional  
training



Unions and  
professional  
organizations



Transportation



Real estate



Private  
sector



Civil  
society