

## Regional Expert Group on the Integrity of the Justice System

(Amman, 31 July 2016)

### English Summary of Dossier

#### Concept

1. This regional expert group meeting is part of a broader initiative that is supported by UNDP's regional project on "Anti-Corruption and Integrity in Arab Countries" (ACIAC) and the Arab Anti-Corruption and Integrity Network (ACINET), and in collaboration with the UN Office on Drugs and Crime (UNODC). In the context of this initiative, the justice system is understood to comprise not only the judiciary and the prosecution, but also quasi-judicial bodies, the police and other law enforcement bodies. It is seen a system that performs a core function of the State and ultimately provides a valuable service to societies, which is the delivery of justice, be it in relation civil and commercial matters, administrative matters or criminal matters.

2. Arab countries and the international development community have made significant investments in justice reforms since the 1990s. Most of related efforts focused on promoting judicial independence, introducing ICT capacities and enhancing the technical skills of judges and police personnel, with significant attention dedicated to human rights issues. Actual progress, however, seem to have been relatively limited as evidenced by data generated by the World Justice Project, the Global Integrity Report the World Bank, and Transparency International among others. In the absence of adequate reporting generated by the countries themselves, the data generated by those international indications reveal a number of challenges mainly related to the *de facto* independence of the judiciary, the effectiveness of the justice systems in promoting the rule of law, and the levels of perceived corruption and dwindling trust in concerned institutions.

3. Stakeholders in government and civil society acknowledge that more support is needed to strengthen justice systems in Arab countries. While some continue to prioritize requests for better infrastructure, i.e. the hardware of the system, others are highlighting the need to pay closer attention to the software. This includes the rules and the values that shape the culture of concerned institutions, namely the police and the judiciary. In this context, corruption is perceived to be one of the main viruses that is infecting this software, and undermining the achievement of further progress towards better justice systems, not only in the Arab countries, but also across the world. It is one of the main reasons the diminish the trust of investors and regular citizens in government giving rise to a variety of challenges that undermine development and security.

4. As much as they are needed, specialized efforts to prevent and combat corruption in justice systems in the Arab region are generally rare and sporadic, and are usually introverted and exclusive of external stakeholders such as parliamentarians, lawyers, civil society activists and independent experts. Enhancing those efforts would require a shift in the paradigm towards more inclusion and openness, and innovative thinking on how to adapt international standards to the specificities of each country. Stakeholders are invited to draw on comparative experiences in this regard, and related international and regional standards, namely the Bangalore Principles and the Sharjah and Riyadh Documents.

5. Ultimately, addressing risks of corruption in the justice system is a sensitive matter, often intertwined with national security and deep-rooted political and economic interests. It also gives rise to a number of challenges emanating from the nature of justice institutions themselves, especially the judiciary, which, is one of the three constitutional powers, and in the case of corruption claims, is both the adversary and the arbiter. Making progress

on this front requires strong political support and competent technical capacities so that adequate measures may be adopted and implemented to strengthen the integrity of justice systems. While this requires a continued focus on strengthening institutional and individual judicial independence and promoting professionalism across the concerned institutions, it also requires specific measures to incentivize ethical behavior, ensure accountability, and improve communication and cooperation with key stakeholders and the public.

## **Background**

6. Drawing on the fourth ACINET Ministerial Conference, held in Beirut on 14-16 April 2013, and the High-level Regional Consultation, held in Morocco on 19-20 November 2014, ACINET is collaborating with UNDP and other partners to facilitate an exchange of experiences and expertise towards enhanced integrity of judicial systems in the region, with a focus on judges and prosecutors, and to develop a regional framework that may be used to advocate and monitor concrete actions in this regard. Such a framework gains particular importance as States Parties to the UN Convention against Corruption (UNCAC) prepare to review the implementation of Chapter II, which includes article 11 calling for “measures to strengthen integrity and to prevent opportunities for corruption among members of the judiciary [and prosecution]”.

7. UNDP and ACINET conducted initial research and informal consultations with experts from the Arab region and beyond to establish a starting point for discussions towards the development of the proposed regional framework. Afterwards, around 30 senior officials and experts were convened in Tunis on 1-3 June 2016 to formulate ideas that would inform the design and content of the regional framework. Based on the findings of this meeting, the Regional Support Unit of ACINET developed the elements outlined below for further discussion towards the fifth Ministerial Conference that is expected to take place in 5-7 September 2016, where the Framework will be presented for broader discussion.

## **Possible Elements of the Regional Framework for Advocacy and Monitoring**

8. The Regional Framework shall focus on the judiciary, inclusive of prosecution, while also seeking to address key linkages that exist with quasi-judicial and law enforcement institutions.

9. The Regional Framework shall be composed of a series of recommendations, with specific indicators, that would serve the dual purpose of advocating specific measures in line with international and regional standards on the one hand, and enabling ACINET to develop evidence-based analysis on the implementation of article 11 of the UNCAC on the other.

10. The analysis conducted in line with the Regional Framework shall be transparent, efficient, non-intrusive, non-adversarial, inclusive and impartial, and shall not produce any form of ranking.

11. The analysis shall determine the good practices and existing challenges in relation to each of the recommendations of the Regional Framework, using the relevant indicators.

12. The analysis shall be conducted on an annual basis by the ACINET Regional Support Unit under the supervision of the Chairmanship of the Network and in collaboration with the concerned institutions in the Arab countries selected for study.

13. The findings of the analysis shall be made public unless otherwise requested by the representatives of the country in the Network.

14. The Regional Framework shall include a limited set of recommendations that is not necessarily comprehensive but rather reflective of a prioritization of critical and common issues that are likely to enhance the integrity of justice systems in the Arab countries, potentially inclusive of the following:

- a. Independence of judiciary (composition of governing body, decision-making process, checks and balances)
- b. Independence of judges/prosecutors (appointment, career development, discipline, protections, remuneration)
- c. Transparency (clarity of responsibilities, reporting on results, access to documents, communication with public, declaration of assets and interests)
- d. Accountability (oversight on judicial officers, code of conduct, advisory services, performance evaluation, inspection, immunities, enforcement)

## Agenda

Sunday, 31 July 2016			
Time	Session	Objective	Speakers
09.00 – 10.45	1	Introduce the event, its relevance to regional and global developments and the findings of the preparatory work	Yakup BERIS Jason REICHEL Mayssam NOUERI
10.45 – 11.00	2	Present, discuss and fine-tune the updated concept of the Regional Framework and its overall structure	Arkan EL SEBLANI
11.00 – 12.00	3	Identify indicators for “independence of judiciary”	Roundtable
12.00 – 13.00	4	Identify indicators for “independence of judges/prosecutors”	Roundtable
13.00 – 14.00	Lunch		
14.00 – 15.00	5	Identify indicators for “transparency”	Roundtable
15.00 – 16.00	6	Identify indicators for “accountability”	Roundtable
16.00 – 17.00	7	Other issues to be considered	Roundtable