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International and regional integrity standards for the justice system

A compilation

By Victoria Jennett and Sofie Arjon Schütte

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About U4

U4 is a team of anti-corruption advisers working to share research and evidence to help international development actors get sustainable results. The work involves dialogue, publications, online training, workshops, helpdesk, and innovation. U4 is a permanent centre at the Chr. Michelsen Institute (CMI) in Norway. CMI is a non-profit, multi-disciplinary research institute with social scientists specialising in development studies.

www.U4.no

U4@cmi.no

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Justice sector actors can draw on a range of global and regional integrity standards when they seek to design, define, and reform systemic structures and relationships within and between justice sector institutions. Many standards come with additional guidance documents, and self-review and peer review assessment templates are available for some. However, outside the European institutional landscape the publication of assessments is rare, and hence an overview of compliance and enforcement is lacking.

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About the authors

Victoria Jennett

Dr Victoria Jennett has a 20-year career working for and advising governments, international organisations, and NGOs on how to reform justice systems to prevent corruption and promote human rights. She carries out corruption risk assessments, researches and publishes on corruption and justice issues, and co-teaches the U4 course on corruption in the justice sector.

Sofie Arjon Schütte

Dr. Sofie Arjon Schütte leads U4's thematic work on the justice sector, including specialised institutions like anti-corruption agencies and courts. Previously, she worked for the Partnership for Governance Reform in Indonesia and the Indonesian Corruption Eradication Commission and has conducted workshops and short-term assignments on corruption in more than 15 countries. She is editor of the series of U4 publications on anti-corruption courts around the world.

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Integrity standards as an anti-corruption tool

A large majority of the various global, regional, and national integrity standards for justice sector institutions were not developed as anti-corruption instruments per se, but support a broader agenda of the separation of powers and the right to a fair trial.

However, many such standards serve to guide the individual ethical behaviour of justice sector actors in the pursuit of their duty to serve justice.

International and regional integrity standards are typically ‘soft law’ instruments, meaning that they are normative provisions that are not legally enforceable at court (for an explanation of soft law, see the [Oxford Bibliographies](#)). However, since many of these standards have been developed to give expression to ‘hard law’ rights set out in international human, political, and civil rights conventions, such as the right to a fair trial and the obligation of authorities not to discriminate, courts may refer to them in judgements that rule on the appropriate behaviour of justice officials. For example, judgements of the European Court of Human Rights that consider the rights to [a fair trial](#) and to [freedom from discrimination](#), protected by the European Convention on Human Rights under Articles 6 and 14, often draw on and elaborate standards for the justice system that have been developed by justice sector experts under the auspices of the Council of Europe (CoE) as well as other international organisations, notably the United Nations (UN).

International and regional standards can be a valuable point of reference or benchmark, providing leverage for those seeking to reform their countries’ justice sector institutions. For most of these standards, a United Nations agency or a regional entity such as a Council of Europe body, the African Union, or the Organization of American States, is formally ‘in charge’ as the custodian, and provides additional guidance on implementation. There is no enforcement mechanism, but there is an increase in the use of self-review and peer review mechanisms to evaluate countries’ compliance with international integrity standards.

For example, GRECO, the Group of States against Corruption, is the Council of Europe’s anti-corruption body. GRECO has issued concrete recommendations on corruption prevention in respect of judges and prosecutors for all of the 50 states participating in its Fourth Evaluation Round and with respect to law enforcement in its current Fifth Evaluation Round. GRECO’s recommendations are followed up at regular intervals through a compliance procedure that increases their chances of implementation.

The Venice Commission, officially the European Commission for Democracy through Law, is also an advisory body of the Council of Europe. It issues recommendations on a range of rule of law issues, including anti-corruption and integrity efforts to strengthen justice systems. These recommendations carry weight and prompt country efforts to implement them, in part because the Commission is often invited by stakeholders to specifically advise on a law or issue. Such requests may come from governments, from Council of Europe bodies (such as the Secretary General, Committee of Ministers, Parliamentary Assembly, or Congress of Local and Regional Authorities), or from the European Union, Organization for Security and Co-operation in Europe (OSCE), or other international organisations involved in the Venice Commission's work.

Organisation of the document

This U4 Issue compiles international and regional standards in five institutions of the justice system: the police, prosecution authorities, lawyers' associations, the courts, and correctional authorities. For each institution, the relevant international standards are described and reviewed according to several criteria, as outlined below. Regional standards applicable to each institution are also described. Since the European region has a significant body of justice sector standards, we have analysed the European standards in the 'Courts' section under 'Regional standards', using the same criteria outlined below.

Additional guidance documents: How useable and implementable are the standards? For example, is the list of standards accompanied by documents to guide their implementation? This guidance does not necessarily have to be published by the institutional guardian in charge of the standard, but can also be developed by non-governmental organisations (NGOs), by professional organisations, or as part of projects.

Gender and diversity: Are issues of gender and diversity covered in the standards? We included this criterion as part of an effort at U4 to get a better understanding and awareness of these issues across our work, and after initial discussions in the U4 online course on corruption in the justice sector. While this topic merits fuller discussion in a separate paper, we have kept it as part of this Issue because we believe that gender sensitivity and diversity are central to the issue of judicial integrity in this day and age. The more recent standards tend to be more specific and explicit in the way they address gender issues, as well as diversity and protection of minorities.

Available case studies/examples of application of standards: Are further research and case studies available on how standards have been applied in specific contexts? This includes reflection on which elements of a justice sector architecture may help or hinder the fulfilment of a standard.

Compliance reviews: How are the standards enforced, and how is their application measured and reviewed? Is there a review apparatus attached to the standards to facilitate assessment of how they have been met or to advise on how they ought to be applied in a specific context? Are opinions of review bodies adhered to, and what makes it more likely that a review body's opinion will carry weight? In the course of our research, outside the standards supported by the Council of Europe, we found little evidence of anything more than voluntary self-assessments. As self-assessments are usually documents internal to institutions, it has been difficult to identify examples.

The following overview is a living document. Readers are invited to point us to updates, revisions, and new standards to include, as well as examples of their implementation, such as case studies and compliance assessments.

Police

International standards

There are two key UN-brokered sets of standards specifically devoted to delineating good conduct by law enforcement officials. First, the United Nations Code of Conduct for Law Enforcement Officials, drafted in 1979, sets out eight articles describing particular responsibilities of police officers in discharging their duties, including commentary on humane law enforcement principles. Second, the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials cover the 'qualifications, training and counselling' relevant for police officers as well as 'reporting and review procedures' related to the use of firearms.

In 2002 Interpol produced Global Standards to Combat Corruption in Police Forces/ Services. This is a short document with five articles detailing 'several principles and numerous measures designed to improve the resistance to succumbing to corruption as well as the efficacy in combating it'.

Beyond these documents, a series of UN treaties and principles, though not solely focused on the police, refer to prohibited police behaviours and desirable police

priorities. Examples include the International Covenant on Civil and Political Rights, the Convention on the Rights of the Child, the International Convention on the Elimination on All Forms of Racial Discrimination, and the Convention on the Elimination of All Forms of Discrimination against Women.

Professional police organisations have also developed codes of ethics and standards for police officers. For example, the International Association of Chiefs of Police (IACP), which claims membership of over 31,000 police officers in over 165 countries, has developed a corruption prevention strategy for the police, the Standards of Conduct. It goes into detail about the expected standards of police behaviour in three categories that may pose ethical and legal dilemmas: (1) the ‘conduct’ of police, including their conduct towards the public and other officers and co-workers; (2) ‘public statements, appearances, and endorsements’ made by police officers, including their conduct on social media; and (3) police officers’ participation and engagement in ‘political activity’.

The International Code of Conduct for Public Officials, agreed in 1996 by the UN General Assembly, applies to police officers, prosecutors, and judicial and correctional officials.

Regional standards

Africa

The African Commission on Human and Peoples’ Rights adopted in 2006 a Resolution on police reform, accountability and civilian police oversight. It urges States Parties to the African Charter to adopt police accountability mechanisms, including civilian police oversight agencies.

Europe

The 2001 European Code of Police Ethics adopted by the Committee of Ministers of the Council of Europe is ‘the most elaborate such code in the world’, according to the Handbook on Police Accountability, Oversight and Integrity published by the United Nations Office on Drugs and Crime (UNODC). It provides recommendations on the legal basis of the police under the rule of law, with reference to the wide range of international obligations and standards to which police are subject. Also included are guidelines and recommendations on the structure of police forces, police action and interventions, and accountability and control of the police. The Declaration on the Police of the CoE Parliamentary Assembly (Resolution 690 of 1979) provides

guidelines on the ethics and status of the police as well as a police officer's obligations in 'war and other emergency situations, and in the event of occupation by a foreign power'. Also of relevance to the police is the case law of the European Court of Human Rights and the Council of Europe's Recommendation No. R (2000) 10 on Codes of Conduct for Public Officials. The European Partners Against Corruption (EPAC) and European contact-point network against corruption (EACN) together have produced Police Oversight Principles.

Additional guidance documents

The UN Code of Conduct's usability is enhanced by the 1989 Guidelines for the Effective Implementation of the Code of Conduct for Law Enforcement Officials. The above-mentioned UNODC Handbook on Police Accountability, Oversight and Integrity details key elements of an effective police accountability system, including consideration of the legislation required to back up such a system, the working culture requirements that should be in place, and the necessary external monitoring.

The 2001 European Code of Police Ethics was complemented by an Explanatory Memorandum. The IACP Standards of Conduct document is accompanied by an explanatory Concepts and Issues Paper.

The OSCE POLIS Knowledge and Learning Platform is a comprehensive source of information related to transnational threats and security. The Guidebook on Democratic Policing by the Senior Police Adviser to the OSCE Secretary General serves as a reference to international standards. It 'articulates the objectives of democratic police services and forces; the importance of their commitment to the rule of law, policing ethics, and human rights standards; the essential nature of police accountability to the law and to the society they serve; as well as the need for their co-operation with the communities, recognizing that effective policing requires partnership with the communities being served. Furthermore, the Guidebook elaborates on structural and managerial aspects within the police which are considered necessary to achieve and sustain democratic policing.'

Gender and diversity

Neither the UN Code of Conduct for Law Enforcement Officials nor the accompanying Guidelines mention gender and diversity in the recruitment, selection, election, or appointment of law enforcement officers. The Guidelines stipulate that the Code of

Conduct should be made available to all law enforcement officials and competent authorities in their own languages. Both the Code and the Guidelines refer to the duty of law enforcement officials to protect human rights identified in a range of international human rights instruments.

However, the UNODC Handbook goes further and refers to procedures in accountability mechanisms that are sensitive to both gender and minorities, as well as to other vulnerable groups. It also discusses appropriate representation of women and other underrepresented groups in police structures and in the bodies that hold them to account.

The IACP Concepts and Issues paper that accompanies the IACP Standards of Conduct does not refer explicitly to gender and diversity issues. However, the paper consistently encourages respect for the values that prevent discrimination and harassment in the workplace and that promote fairness, tolerance, and diversity in the recruitment and treatment of police officers, as well as in their conduct towards the public. Indeed, it makes reference to a suite of IACP policies concerning gender and diversity promotion and protection, including IACP Law Enforcement Policy Center documents on harassment and discrimination, employee drug policy, investigation of employee misconduct, addressing sexual offences and misconduct by law enforcement, family and medical leave, grievance procedures, grooming and appearance, personal appearance, off-duty conduct, and free speech, nepotism and employee fraternisation, off-duty arrests, secondary employment, retaliatory conduct by employees, and social media.

It is notable, however, that the IACP Standards of Conduct – unlike UN-negotiated standards – does not explicitly reference and draw on the already existing, and universally acknowledged, body of human rights standards. These human rights standards consolidate all of the standards developed by intergovernmental or professional bodies for justice sector officials, including the police as well as other branches of the system. Explicit reference to them would help IACP policies comprehensively cover the gender and diversity dimensions of police conduct.

Available case studies/examples of application of standards

The UNODC Handbook on Police Accountability, Oversight and Integrity offers examples and good practices related to a range of police accountability, oversight, and integrity matters. For example, Chapter III illustrates good practices related to the institutionalisation of police complaints procedures and systems.

In addition, UNODC's Education for Justice (E4J) initiative has developed university teaching modules on crime prevention and criminal justice. Module 5 on Police Accountability, Integrity and Oversight provides a wealth of information about the main international and regional standards on police accountability, integrity, and oversight as well as explanations of the key police oversight mechanisms at the national and international levels. In addition, gender and diversity in policing and the role of whistle-blowers in police accountability are discussed.

Box 1. Police accountability in South Africa

The African Policing Civilian Oversight Forum (APCOF) works with bilaterals and NGOs to implement policing standards across Africa. Currently, in South Africa, they are working with the Open Society Foundation to support a rights-based approach to remand detention, develop a model law on use of force, strengthen the Independent Police Investigative Directorate, and promote police and civil society dialogues on human rights and on policing that is compliant with continental and international obligations. Current and previous projects on police accountability in South Africa and throughout the African continent can be found on the APCOF website.

Compliance reviews

The UN Code of Conduct Guidelines require governments to inform the UN Secretary-General at 'appropriate intervals of at least five years' on the extent of implementation of the Code. Such self-reporting compliance exercises are coordinated and supported by different UN agencies and are usually publicly accessible.

UNODC is the custodian of UN standards and norms on crime prevention and criminal justice, which are non-binding instruments. The agency acts as a focal point for Member States' police forces and reform efforts. Through its field offices around the world and headquarters in Vienna, UNODC fulfils Member States' requests to carry out technical assessments of their implementation of police standards.

In the case of the Code of Conduct for Law Enforcement Officials, countries initially committed to report on its implementation to the Committee (now Commission) on Crime Prevention and Criminal Justice. Reporting did not take place. In the early 2000s a centralised reporting system was established to bring together reporting on the various standards on crime prevention and criminal justice through a set of questionnaires on

topics such as, for example, the prevention of crime. However, countries, through the Commission, decided to also end that process.

An effort to review the implementation by countries of the International Code of Conduct for Public Officials, as requested by the UN Secretary-General, was carried out through a questionnaire sent to countries in 1999. The results were published three years later, in 2002.

In sum, there is no robust monitoring and evaluation or compliance system at the UN level to review compliance by national police forces with the Code of Conduct for Law Enforcement Officials, the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, or the International Code of Conduct for Public Officials.

With respect to Europe, countries' efforts to promote integrity and prevent corruption in law enforcement are part of GRECO's Fifth Evaluation Round. As of May 2021, 22 out of 50 countries have been evaluated. Recommendations have been made on issues such as risk assessments and anti-corruption policies for the police, codes of conduct, awareness (training and advice), recruitment, promotion, transfers, dismissals, vetting, conflicts of interest, incompatibilities, gifts, misuse of confidential information, financial declarations, internal and external oversight mechanisms, whistle-blower protection, public complaints, enforcement, and sanctions, among others. At various points in these evaluations, GRECO draws on the European Code of Police Ethics as well as on Rec R(2000)10 on codes of conduct for public officials. For example, the documents underpin the recommendations on a code of conduct for Spain, Belgium, and the Slovak Republic. In the evaluation of Croatia the documents supported advice on the civil and political rights of police officers. In Estonia they gave weight to the need for an independent investigation into police complaints.

In terms of how GRECO's recommendations have been implemented, as of May 2021 only 11 of the above-mentioned 22 countries have had a compliance (i.e., follow-up) report issued (of which seven are public so far). It is still early, but from these reports it can be noted that Estonia has taken further measures to increase the representation and integration of women at all levels within the police (para. 57), increased control over secondary activities of police officers (para. 67), and strengthened the autonomy and transparency of the follow-up given to complaints of police misconduct (para. 79). Finland has adopted a code of conduct for the border guard and has started to develop a code of conduct for the police, complemented by practical measures for their implementation (para. 53). Finland has also taken measures to strengthen internal control and risk management in the police (para. 78). North Macedonia has taken steps

to increase the transparency of police (para. 65) and has substantially revised its code of conduct for the police (para. 79).

Prosecution authorities

International standards

In 1990 the Guidelines on the Role of Prosecutors were adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held in Havana. The Guidelines promote the effectiveness, impartiality, and fairness of prosecutors in criminal proceedings. Issues covered include qualifications, selection, and training; status and conditions of service; freedom of expression and association; role in criminal proceedings; discretionary functions; alternatives to prosecution; relations with other government agencies or institutions; and disciplinary proceedings.

Article 11.2 of the United Nations Convention against Corruption (UNCAC) requests measures to strengthen integrity and to prevent opportunities for corruption among members of the prosecution service ‘where it does not form part of the judiciary but enjoys independence similar to that of the judicial service’. (On the available guidance and assessment material, see the discussion of Article 11.1 under ‘Courts’ below.)

In 1999 the International Association of Prosecutors (IAP) adopted the Standards of Professional Responsibility and Statement of the Essential Duties and Rights of Prosecutors. These apply to both individual prosecutors and prosecution services and cover professional conduct, independence, impartiality, role in criminal proceedings, cooperation, and empowerment. The United Nations promoted these Standards among its Member States in 2008. The Standards elaborate on the 1990 Guidelines on the Role of Prosecutors, mentioned above, and provide more fulsome guidance on prosecutors’ conduct and role in criminal proceedings. The IAP adopted in 2008 a Declaration on Minimum Standards Concerning the Security and Protection of Public Prosecutors and Their Families.

Regional standards

Europe

The Council of Europe encompasses several bodies with a remit to strengthen and review prosecutorial authorities throughout its Member States. In 2000 the Committee of Ministers, the governing body of the Council of Europe, adopted Recommendation Rec(2000) 19 on the role of prosecution in the criminal justice system. It sets out benchmarks concerning the relationship between public prosecutors and the executive and legislative powers, their relationship to judges and the police, and their duties towards individuals. The Role of Public Prosecution Outside the Criminal Justice System, Recommendation CM/Rec(2012) 11 of 2012, provides guidance for prosecutors on how to manage integrity and behaviour outside of the criminal justice system. The recommendation explains that that in many Member States, ‘because of their legal traditions, public prosecutors also play a role outside the criminal justice system’. It notes that ‘this role varies considerably between different national legal systems ... this role may include representing the general or public interest, providing legal support to individuals in the protection of their human rights and fundamental freedoms, representing the State before the courts, supervising public bodies and other entities, and an advisory role to courts and that, moreover, the nature of this role may vary in private and public law.’

In addition, in 2014 the Consultative Council of European Prosecutors (CCPE), which reports to the CoE Committee of Ministers, produced and adopted the Rome Charter on European norms and principles concerning prosecutors. According to a CoE news release, the Rome Charter ‘contains twenty principles incorporating all aspects concerning the status, tasks and operations of the public prosecution in the strict respect of human rights and fundamental freedoms: the prosecutors’ respect of the Rule of Law, independence, autonomy, transparency in their actions, their careers, professional ethics, the handling of proof of evidence, [and] the means put at their disposal’. The CCPE also produces opinions on specific themes for prosecutors, such as Opinion No. 13 on the independence, accountability, and ethics of prosecutors (among other opinions).

Two other relevant standards have been produced by the Council of Europe: (1) European Guidelines on Ethics and Conduct for Public Prosecutors (Budapest Guidelines) of 2005; and (2) Standards of Professional Responsibility and Statement of the Essential Duties and Rights of Prosecutors, annex to CCPCJ Resolution 17/2, Strengthening the Rule of Law through Improved Integrity and Capacity of Prosecution Services, in Report of the Commission on Crime Prevention and Criminal Justice, 17th session, pages 15–21.

In 2010 the Venice Commission adopted a general report on the most important European standards applicable to the prosecution: Report on European Standards as Regards the Independence of the Judicial System: Part II – The Prosecution Service. At the same time in 2010, the Venice Commission also adopted a general report on the most important European standards applicable to the judiciary, which is set out in the section below on the judiciary.

In addition, in 2017 the Venice Commission developed a compilation of all its opinions and reports concerning prosecutors. This is an excellent resource that covers all aspects of prosecutorial services, from advice on the use of specialised prosecutors to the status and appointment of prosecutors. It provides settled interpretations of the standards, drawing on examples from real cases and issues analysed by expert teams from the Venice Commission in a range of countries over the years.

Additional guidance documents

In 2014, UNODC and the International Association of Prosecutors produced The Status and Role of Prosecutors, which provides examples of how to implement the international standards and norms set out in the UN Guidelines on the Role of Prosecutors and the IAP Standards of Professional Responsibility and Statement of the Essential Duties and Rights of Prosecutors.

The 2004 United Nations Handbook on Practical Anti-Corruption Measures for Prosecutors and Investigators details the forms that corruption may take in the prosecution service and provides examples of how to identify and combat it. The handbook is part of a wider package of materials designed to help countries develop anti-corruption strategies.

Gender and diversity

The UN Guidelines on the Role of Prosecutors, in section 2 on ‘qualifications, selection and training’, require states to ensure that selection criteria for prosecutors exclude discrimination based on ‘race, colour, sex, language, religion, political or other opinion, national, social or ethnic origin, property, birth, economic or other status, except that it shall not be considered discriminatory to require a candidate for prosecutorial office to be a national of the country concerned’. Section 2 specifically requires that prosecutors’ education and training include learning on ‘human rights and fundamental freedoms recognized by national and international law’.

The 1999 IAP Standards of Professional Responsibility and Statement of the Essential Duties and Rights of Prosecutors do not specifically state that prosecutor selection processes should exclude discrimination on the grounds listed above. They say, rather, that prosecutors should be subject to ‘recruitment and promotion based on objective factors, and in particular professional qualifications, ability, integrity, performance and experience, and decided upon in accordance with fair and impartial procedures’. The IAP Standards are, however, peppered with references to respect for human rights, and the preamble calls for adherence to already existing human rights conventions and instruments. Nonetheless, it is appropriate to underline that standards are stronger in promoting respect for gender and diversity when they specifically spell out how anti-discrimination practices are to be incorporated in selection processes (as well as in other aspects of a judicial system). This makes it easier for users of the standards to understand precisely what is meant by respect for human rights in prosecutor selection.

Both the 1990 Guidelines on the Role of Prosecutors and the 1999 IAP Standards explain how prosecutors should conduct themselves in criminal proceedings. Principle 13 of the 1990 guidelines states that ‘in the performance of their duties, prosecutors shall: (a) Carry out their functions impartially and avoid all political, social, religious, racial, cultural, sexual or any other kind of discrimination; (b) Protect the public interest, act with objectivity, take proper account of the position of the suspect and the victim, and pay attention to all relevant circumstances, irrespective of whether they are to the advantage or disadvantage of the suspect ...’.

By contrast, the IAP Standards refer more obliquely to prosecutors’ duty to carry out their functions in criminal proceedings in line with anti-discrimination principles. For example, standard 4 stipulates in 4.2(b): ‘when supervising the investigation of crime, [prosecutors] should ensure that the investigating services respect legal precepts and fundamental human rights.’ Again, while the IAP obviously intends to guide prosecutors to conduct themselves in accordance with anti-discrimination and human rights principles, it is nevertheless important that this obligation to respect gender and diversity norms be clearly stated.

The 2014 Council of Europe Rome Charter elaborates, more fully than Council of Europe Recommendation (2000) 19, the anti-discrimination obligations in dealing with selection and promotion of prosecutors, as well as the duties of prosecutors in the conduct of criminal proceedings. Section 51(a) of the Charter advises that Member States should take measures to ensure that ‘the recruitment, the promotion and the transfer of prosecutors are carried out according to fair and impartial procedures and excluding discrimination on any ground such as gender, race, colour, language, religion,

political or other opinion, national or social origin, association with a national minority, property, birth, or other status’.

Principle VIII of the Rome Charter states, ‘In performing their tasks, prosecutors should respect the presumption of innocence, the right to a fair trial, the equality of arms, the separation of powers, the independence of courts and the binding force of final court decisions. They should focus on serving society and should pay particular attention to the situation of vulnerable persons, notably children and victims.’ Section 92 of the Explanatory Note adds that ‘prosecutors should carry out their functions impartially and act with objectivity. They should also treat people as equal before the law and should neither favour anyone nor discriminate against anyone.’

Recommendation (2000) 19 standards do not mention duties to exclude discrimination on gender and diversity grounds in selecting prosecutors. Nor do they refer to the obligation, in carrying out criminal proceedings, to give special consideration to the gender and diversity identities of victims and accused persons. However, they state that prosecutors should respect human rights standards in their work.

Available case studies/examples of application of standards

UNODC provides examples of country assessments and case studies that the agency has been requested to undertake in partnership with Member States. One example from 2006 that covers the justice sector as a whole, including prosecutors, is the Assessment of Justice Sector Integrity and Capacity in Two Indonesian Provinces.

Venice Commission opinions explain the application of the European standards on the prosecution to particular country issues. These issues include the powers of prosecutors, the legal framework for the organisation and operation of the public prosecutor’s service, and the organisation and powers of prosecutorial councils as well as specialised anti-corruption prosecution bodies. Opinions on prosecutorial authorities are found together with opinions on the judiciary and may be accessed on the Venice Commission website.

Countries’ efforts to prevent corruption in respect of prosecutors was part of GRECO’s Fourth Evaluation Round, which drew on all the Council of Europe instruments (including Venice Commission practices/compilations) mentioned in this paper. So far, 49 out of 50 GRECO Member States have been evaluated. The recommendations issued focus on such matters as frameworks, tools, and mechanisms for promoting integrity in the prosecution service, independence and recruitment, transparency and case

management, codes of conduct, awareness and advice, conflicts of interest, and supervision, monitoring, and enforcement. GRECO's Fourth Evaluation Round sets out the main conclusions (see section 4 on prosecutors).

In terms of where and how standards have been dealt with, we provide here some examples of GRECO recommendations that have been implemented. Albania (para. 67) adopted a clear set of ethical standards for prosecutors, providing further guidance, counselling, and training. Armenia amended its constitution so it is no longer the president of the Republic who proposes a candidate for prosecutor general, instead providing clear criteria for selection of that official (para. 62). Armenia also increased the number of prosecutors on the Ethics Committee and made sure they are elected by their peers (para. 66). Croatia (para. 37) adopted new legislation on the State Attorney's Office to increase the transparency of the process for selection of the state attorney, even if GRECO considers that some shortcomings remain. Cyprus (para. 81) revised its method of allocating cases to prosecutors. France (para. 141) further regulated the procedure by which the Ministry of Justice can ask or obtain information from prosecutors on a particular case. Georgia (para. 55) took measures to reduce the influence of the government on the procedure for appointment of the chief prosecutor and on the activities of the Prosecutorial Council (para. 55). Georgia also revised its procedures for assigning cases to prosecutors (para. 65), adopted a new code of ethics for prosecutors (para. 72), and increased the efficacy of the monitoring of assets declarations provided by certain prosecutors (para. 87). Later, Georgia improved procedures for recruitment and selection of prosecutors (para. 56 of the Second Compliance Report).

Ireland (para. 58) reviewed its mechanism for bringing complaints against the prosecution service to provide for more independence and enhanced oversight. Montenegro (paras. 63 and 70) amended its Law on the Public Prosecutor's Office to strengthen the objectivity of the disciplinary framework for prosecutors (although some shortcomings remained) and increased transparency in the work of the prosecution service. Norway (para. 28) adopted a code of ethics for prosecutors. Slovenia (paras. 48 and 52) transferred authority over the prosecution service from the Ministry of the Interior to the Ministry of Justice in response to the concerns raised and adopted general instructions for the prosecution service on the use of discretion, plea bargaining, and other topics. Later, Slovenia developed guidelines for prosecutors on conflicts of interests (para. 56, with further discussion in the Second Interim Compliance Report). Switzerland (para. 90) adopted rules of conduct for federal prosecutors, accompanied by practical guidance.

Compliance reviews

Two CoE bodies, GRECO and the Venice Commission, both undertake compliance reviews – both on a general systemic level and on particular issues. For an example, see Box 2.

Box 2. Applying Venice Commission standards to specialised anti-corruption prosecutors

In Ukraine, Montenegro, and Albania, the Venice Commission has advised legislators and prosecutorial authorities on how best to devise and implement rules and procedures concerning specialised prosecutors who focus solely on prosecuting corruption. In an opinion on Ukraine's Draft Law on the Public Prosecutor's Office, the Commission recommended the establishment of specialised anti-corruption prosecutors 'with procedural guarantees ensuring that the same level of protection of individual's rights applies as for ordinary prosecutors'.

When advising on Montenegro's Draft Law on Special State Prosecutor's Office, the Venice Commission asserted that international standards 'clearly define an international obligation for states to ensure institutional specialisation in the sphere of corruption, i.e. to establish specialised bodies, departments or persons (within existing institutions) in charge of fighting corruption through law enforcement'. Acknowledging that the choice of whether to institute a special prosecutor is a policy decision for authorities in Montenegro, the Venice Commission nonetheless advised that experience across countries demonstrates that specialised offences such as 'corruption, money laundering, trade of influence' can be more successfully investigated and prosecuted by specialised staff. The Commission notes, 'Provided that the special prosecutor is subject to appropriate judicial control, there are many benefits to and no general objections to such a system.' To protect the independence of specialised prosecutors as well as maintain appropriate accountability, 'special anti-corruption departments or units within the police or the prosecution service could be subject to separate hierarchical rules and appointment procedures'. Furthermore, 'police officers dealing with corruption cases, although institutionally placed within the police, [could] report in individual cases only and directly to the competent prosecutor'.

In Albania, the Venice Commission noted that the special prosecutor to be established there should enjoy at least the same independent status as ordinary prosecutors.

Source: Compilation of Venice Commission Opinions and Reports Concerning Prosecutors, section 2.1.3.

Lawyer associations

International standards

In 1990, the UN Congress on the Prevention of Crime and the Treatment of Offenders adopted the Basic Principles on the Role of Lawyers. The principles provide guidance on access to lawyers and legal services, special safeguards in criminal justice matters, qualifications and training, duties and responsibilities, guarantees for the functioning of lawyers, freedom of association and expression, professional associations of lawyers, and disciplinary proceedings.

In 2011 the International Bar Association (IBA) updated and reissued its International Principles on Conduct for the Legal Profession. Ten core values are set out and explored, with commentary on how they can be developed in codes of conduct for lawyers in different jurisdictions: (1) independence; (2) honesty, integrity, and fairness; (3) conflicts of interests; (4) confidentiality and professional secrecy; (5) clients' interest; (6) lawyers' undertaking; (7) clients' freedom; (8) property of clients and third parties; (9) competence; and (10) fees.

Regional standards

Europe

The Council of Europe adopted Recommendation No. R(2000) 21 of the Committee of Ministers on the freedom of exercise of the profession of lawyer. The CoE is also working on a new instrument on the profession of lawyer, but this work is still ongoing (a feasibility study was adopted recently).

The Council of Bars and Law Societies of Europe (CCBE) has adopted two texts related to the conduct of lawyers. One is the 1998 Code of Conduct for European Lawyers (with explanatory memorandum). The other is the 2006 Charter of Core Principles of

the European Legal Profession (with commentary attached), which outlines 10 core principles related to the national and international rules governing the legal profession.

Additional guidance documents

The IBA Bar Issues Commission includes a Regulation Committee that develops resources and guidelines for the regulation of lawyers around the world. The Regulation Committee has produced a Directory of Regulators of the Legal Profession as a resource for practising lawyers and bar associations. The directory enables bars to check on the qualifications and disciplinary records of lawyers, which is particularly helpful for lawyers and law firms seeking to work across borders with professionals from other jurisdictions, where legal professionals may be regulated according to different standards. ‘The directory divides the regulatory functions governing legal practice into three stages: Admission, practice and discipline. It also indicates the body responsible for each function and how it may be contacted. Where possible, links to the relevant organisations’ websites are also included.’

As mentioned above, the 1998 Code of Conduct for European Lawyers and the 2006 Charter of Core Principles of the European Legal Profession have explanatory memoranda and commentary attached.

Gender and diversity

In May 2020 the IBA Human Rights Institute produced a manual on incorporating a gender perspective into the administration of justice. It is intended support training programmes for judges, prosecutors, lawyers, court staff, legal aid providers, ministry officials, and policymakers on how to consider the specific needs and experiences of women in criminal justice systems.

The IBA Women Lawyers’ Interest Group has produced a webinar, Aspiring to gender Diversity – Practical Suggestions Every Law Firm Should Implement.

Available case studies/examples of application of standards

In 2016 the IBA collected some experiences from around the world on the operation of the legal regulators’ directory. The 2016 report Findings from the Directory of Regulators of the Legal Profession analyses trends in the regulation and discipline of lawyers around the world (see Box 3).

Box 3. Handling complaints and disciplinary procedures against lawyers

The 2016 IBA report Findings from the Directory of Regulators of the Legal Profession notes that there has been a trend away from exclusive professional body oversight of complaints about and disciplinary systems for lawyers. ‘Complaints commissioners’ or separate disciplinary agencies have been established in several jurisdictions, including Ireland, Northern Ireland, and three territories in Australia (Queensland, Victoria, and New South Wales).

In 2015 the Legal Services Regulatory Authority in Ireland was established to receive and investigate complaints against barristers and solicitors. Its 11 members are appointed by the government following nomination by professional legal bodies as well as state agencies and non-governmental organisations, including the Irish Human Rights and Equality Commission and the Consumers’ Association of Ireland.

In Kenya, complaints against advocates may be made to the Advocates Complaints Commission, a department within the Attorney General’s Chambers. The Disciplinary Tribunal that deals with serious complaints consists of the attorney general and six advocates, and since 2002 three laypersons may be appointed to the tribunal. Three to five of the Tribunal’s members are selected as a panel for each disciplinary proceeding.

Compliance reviews

The Venice Commission has been requested to review laws governing lawyers and lawyers’ associations and evaluate their compliance with international standards. For example, the Commission has issued opinions on the compliance of Turkish and Ukrainian laws on lawyers, the bar, and the practice of law.

Courts

International standards

In 1985 the UN adopted the Basic Principles on the Independence of the Judiciary to assist states in securing the independence of the judiciary. The 20 principles cover six

areas: (1) independence of the judiciary; (2) freedom of expression and association of judges; (3) qualifications, selection, and training of judges; (4) conditions of service and tenure of judges; (5) professional secrecy and immunity of judges; and (6) discipline, suspension, and removal of judges.

Fifteen years later, the Judicial Integrity Group, whose members include the chief justices of various countries, drafted the Bangalore Principles of Judicial Conduct with input from judges of the International Court of Justice. These principles were unanimously approved at the April 2003 meeting of the UN Commission on Human Rights. The Bangalore Principles consist of six values that should be reflected in any judicial code of conduct: independence, impartiality, integrity, propriety, equality, and competence and diligence. Value 3 is described as follows: ‘Integrity is essential to the proper discharge of the judicial office. A judge shall ensure that his or her conduct is above reproach in the view of a reasonable observer.’ The Bangalore Principles have since informed many judicial codes of conduct and have been used as a reference by international bodies.

The July 2006 plenary meeting of the UN Economic and Social Council (ECOSOC) unanimously affirmed the need for Member States to take measures to address judicial corruption. It urged that Member States, ‘when reviewing or developing rules with respect to the professional and ethical conduct of members of the judiciary’, should take into consideration the Bangalore Principles.

In 2005, the Judicial Integrity Group (JIG) also formally adopted Principles of Conduct for Court Personnel, applicable to all court personnel including, for example, clerks. The same year, the United Nations Convention against Corruption entered into force. UNCAC details actions to be taken by States Parties to prevent and mitigate corruption throughout state institutions and societies. UNCAC Article 11 consists of two short paragraphs setting out, in 11.1, States Parties’ obligation to ‘take measures to strengthen integrity and to prevent opportunities for corruption among members of the judiciary’. Para. 11.2 provides that where the prosecution service enjoys independence ‘similar’ to the judiciary, States Parties ‘may’ introduce and apply similar measures to it.

Additional guidance documents for international standards

In 1989 the UN further elaborated on how to implement the 1985 Basic Principles on the Independence of the Judiciary by passing Resolution 1989/60, Procedures for the Effective Implementation of the Basic Principles on the Independence of the Judiciary.

In 2007 ECOSOC unanimously adopted a resolution urging UNODC to translate the Commentary on the Bangalore Principles of Judicial Conduct into all official languages of the United Nations and to disseminate it to Member States, international and regional judicial forums and appropriate organizations' (see the [website of the Judicial Integrity Group](#) for a historical account). The Commentary was developed under the auspices of UNODC, involving the JIG and other international experts. It provides references to relevant court cases and international legal documents, as well as suggestions for implementation and definitions of terms.

In 2011 UNODC published a comprehensive [Resource Guide on Strengthening Judicial Integrity and Capacity](#). Like the Commentary, the Resource Guide provided follow-up to ECOSOC Resolution 23/2006, which endorsed the Bangalore Principles of Judicial Conduct and requested UNODC to convene an open-ended intergovernmental expert group, in cooperation with the Judicial Integrity Group and other international and regional judicial forums, to develop a technical guide on approaches to the provision of technical assistance aimed at strengthening judicial integrity and capacity.

The same year the Judicial Integrity Group itself published [Measures for the Effective Implementation of the Bangalore Principles of Judicial Conduct](#), distinguishing between the responsibilities of the state and of the judiciary itself in applying the principles. The UNCAC Implementation Guide and Evaluative Framework for Article 11, published in 2014 by UNODC, amplifies this discussion of responsibilities. The guide distinguishes between measures to be taken by the judiciary itself and those to be taken by, or with the support of, the executive and legislative branches. In the last part, recommendations are made for strengthening the integrity of public prosecutors. The guide is clearly structured and refers to good practices and other international frameworks. For each sub-topic there is a list of questions that are primarily intended to stimulate and support self-evaluation by those responsible in the judiciary and the state. The Implementation Guide and Evaluative Framework for Article 11 does not offer any special method or approach for answering the questions. It does contain illustrative text with examples and references.

In its [Practitioners' Guide No. 13 on judicial accountability](#) (2016), the International Commission of Jurists provides a brief and accessible overview of the existing international standards mentioned above and provides the text of key standards in an annex. The guide also details forms of judicial accountability, stakeholders of judicial accountability, and mechanisms to be used in exceptional circumstances, such as transitions from undemocratic or authoritarian regimes.

In 2018, UNODC launched the Global Judicial Integrity Network as a platform for judges and judiciaries to share experiences and knowledge and jointly address existing and emerging judicial integrity issues. To date, the network has published several knowledge products on various judicial integrity–related issues, including Non-Binding Guidelines on the Use of Social Media by Judges and How to Develop and Implement Codes of Judicial Conduct.

The network has also developed a comprehensive package of judicial ethics training tools aimed at providing newly appointed and serving members of the judiciary with a solid understanding of the Bangalore Principles and the requirements of UNCAC Article 11. The network’s website also maintains an extensive online library of resources on judicial integrity, featuring over 2,000 documents from nearly all countries in the world.

Gender and diversity in international standards

Gender and diversity are mentioned under the equality principle of the Bangalore Principles. The Commentary goes into some detail on ethical and unethical behaviour, including discrimination based on gender, ethnic or national origin, religion, sexual orientation, and so on, of judges and court personnel towards court clients and the other way around.

The Implementation Measures mention neither gender nor diversity issues. The Evaluative Framework for Article 11 mentions gender and diversity in one question regarding access to justice, but otherwise these issues are dealt with in footnotes.

In 2019, the Global Judicial Integrity Network published a paper titled Gender-related Judicial Integrity Issues. The paper considers judges, judiciaries, and practitioners and provides an overview of various gender-related issues, including sextortion, sexual harassment, gender bias, and inappropriate sexual conduct. It also examines how these are being addressed in international, regional, and national standards. The paper addresses the adequacy of the existing safeguards, followed by some practical considerations to ensure the implementation of standards through clear procedures and training for all those serving and receiving services in the justice sector.

Available case studies/examples of application of international standards

The Judicial Integrity Group has compiled examples of the application and impact of the Bangalore Principles on its website. The principles have been a reference for many judicial codes of conduct around the world, and countries as disparate as Jordan, Serbia, the Philippines, Scotland, and Belize have developed codes of conduct substantially informed by them. However, we have been unable to find any systematic comparative analysis of the impact of the Bangalore Principles or of the measures in the Implementation Guide and Evaluative Framework for Article 11, nor any in-depth case study. On its website, the JIG also provides the 2009 ruling on the removal from office of the chief justice of Gibraltar for inability to discharge the functions of his office. The Bangalore Principles provisions relating to impartiality and propriety were cited as being of particular relevance by the Judicial Committee of the Privy Council (the court of final appeal for UK overseas territories and Crown dependencies).

Compliance reviews for international standards

Article 11 of UNCAC is part of Chapter II, Preventive Measures, and is one of the two chapters covered by the second review cycle of the Convention. Due to the nature of the review mechanism, only executive summaries need to be made public, and these typically contain minimal information. Fortunately, an increasing number of states agree to publish their full country report. While the Evaluative Framework for Article 11 is reportedly the most frequently downloaded document from the Global Judicial Integrity Network's website, there is no reporting mechanism, and no assessments guided by the Evaluative Framework have been publicly shared or systematically collected. Among others, Indonesia, Ecuador, and Tunisia have reportedly conducted self-assessments using the Evaluative Framework.

German Development Cooperation developed the Judicial Integrity Scan, an assessment tool based on the Implementation Measures of the Bangalore Principles and the Evaluative Framework for Article 11. It was used in five countries between 2012 and 2016. The Judicial Integrity Scan contains a desk study with 182 questions, of which about 60% are identical to those of the Evaluative Framework. The desk study is typically done by local legal experts and followed up by stakeholder interviews in the country. The resulting reports, unfortunately, have not all been published. One that has is the 2015 report on Bhutan, where the scan was initiated by the Royal Court of Justice in cooperation with the Bhutan National Legal Institute and the Anti-Corruption Commission (see Box 4).

Box 4. Results of the Judicial Integrity Scan in Bhutan

In Bhutan the scan confirmed the image of the country as progressive in the fight against corruption, especially in regional comparison. All essential prerequisites for an independent and modern judiciary are (constitutionally) secured by law.

According to the report, the recommendations of the Bangalore Principles and the Implementation Measures are fully met in the following areas: binding code of conduct for the judiciary, business distribution, legal opinions for the executive and legislative branches, judicial immunity, and constitutional guarantee for the independence of the judiciary. At the lower court level, however, there have been complaints about arbitrary behaviour. This impression is reinforced by a lack of understanding of judicial processes among the population.

The main recommendations of the experts are a proactive opening of the judiciary to civil society, the media, and other state institutions as well as more detailed regulations and guidance on conflicts of interests, gratuities, and income reports. There are also suggestions to improve the mechanisms for registering and tracking complaints and to provide more statistical transparency on disciplinary measures. In addition, various reforms of the judicial process are proposed to make it simpler and more understandable, as well as various capacity-enhancing measures. Due to the high standard of judicial independence and integrity in Bhutan, the recommendations sometimes go into great detail, and some go beyond the original scope of the Judicial Integrity Scan. By the time of the report's publication, some of the suggested recommendations were already being implemented, demonstrating once more that ownership of compliance reviews by the concerned institutions is decisive for prompt reforms.

In 2020, the International Commission of Jurists published an Adaptation of Practitioners' Guide No. 13 for Zimbabwe. The original text of the 2016 Practitioners' Guide is reproduced and complemented by information, analysis, and recommendations specific to Zimbabwe.

In June 2021, the International Bar Association published a study of disciplinary and criminal processes and sanctions for misconduct or corruption of judges in five countries with different legal traditions: Costa Rica, France, Ghana, the Philippines, and the United Kingdom. Based on a specifically devised questionnaire, the IBA assessed formal and informal compliance with international integrity benchmarks, most importantly those defined by UNCAC and the Bangalore Principles. None of the countries was found to fully comply with UNCAC Articles 5, 7, 10, 11, 13, and 38, but other optional UNCAC provisions were met.

Recommendations of the study called for more comprehensive guidance on and clear definition of key concepts, e.g., conduct that gives rise to disciplinary versus criminal sanctions, and the interrelationship between criminal and judicial authorities in addressing corruption.

Regional standards

Commonwealth

Standards on judicial independence and the protection of judges from executive interference have been developed by the Commonwealth Magistrates' and Judges' Association (CMJA). They are applicable to members of the former British Commonwealth in six regions recognised by the CMJA: the Caribbean; East, Central, and Southern Africa; West Africa; Indian Ocean; Atlantic and Mediterranean; and the Pacific Ocean. One set of standards is embodied in the Limassol Conclusions, resulting from the Commonwealth Judicial Colloquium on Combating Corruption within the Judiciary held in Limassol, Cyprus, 25–27 June 2002. The other is the Commonwealth Latimer House Principles, including a practitioners' handbook, on the accountability of and relationship between the three branches of government, as agreed by law ministers and endorsed by the Commonwealth Heads of Government Meeting in Abuja, Nigeria, in 2003.

Latin America

The Ibero-American Judicial Summit adopted the Ibero-American Code of Judicial Ethics in 2006. The organisation is composed of 23 countries in Europe (Spain, Portugal, and Andorra) and the Americas (Argentina, Bolivia, Brazil, Colombia, Costa Rica, Chile, Cuba, Dominican Republic, Ecuador, El Salvador, Guatemala, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, Puerto Rico, Uruguay, and Venezuela). The code has been adopted for direct application in certain countries, such as Uruguay, and it has inspired the adoption of new ethical codes applicable to judges, particularly the Spanish Code of Judicial Ethics. In addition, in 2001 the Statute of the Ibero-American Judge was developed to 'identify the values, principles, institutions, processes and minimum resources necessary to guarantee that the jurisdictional function develops independently, determines the judge's role in the context of a democratic society and stimulates the efforts developed in this sense by the Judiciaries of the region'.

Africa

The African Commission on Human and Peoples' Rights developed in 2003 the Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa.

This document sets out principles on fair and public hearings and on the independence and impartiality of tribunals; it also provides standards on judicial training, the role of prosecutors, the independence of lawyers, the right of civilians to not be tried by military courts, and guarantees of independence and impartiality of traditional courts.

Europe

Within Europe an extensive body of international standards on judicial integrity and judicial independence has been developed by groups of judges and experts under the auspices of international organisations such as the Council of Europe and the Organization for Security and Co-operation in Europe.

In 1998 the Directorate of Legal Affairs of the Council of Europe drafted the European Charter on the Statute for Judges, which was adopted by the countries of the CoE after a meeting of justices from Member States. The statute aims to ensure the competence, independence, and impartiality of judges and focuses on recruitment and initial training, appointment and irremovability, career development, liability, remuneration and social welfare, and termination of office.

Four bodies that operate under the Council of Europe have developed a sophisticated collection of standards that provide guidance on how to build and calibrate judicial systems. The Venice Commission provides legal advice to CoE Member States. The Consultative Council of European Judges is tasked with strengthening the role of judges across Member States. The European Commission for the Efficiency of Justice (CEPEJ) supports improvements in the efficiency and quality of justice, such as evaluations of judicial systems, mediation, and enforcement of court decisions. Finally, the Group of States against Corruption (GRECO) evaluates Member States' compliance with CoE legal instruments that are aimed at improving the capacity of states to fight corruption domestically as well as at international level.

In addition, the Committee of Ministers of the Council of Europe issued a key European standard on judges in 2010. Recommendation CM/Rec(2010)12 on the independence, efficiency, and responsibilities of judges has eight chapters that provide guidance to Member States on developing and protecting the 'external' and 'internal' independence of judges. There is a chapter on the structure and development of councils for the judiciary as well as a chapter on improving the efficiency of the judiciary and guidance on what constitutes adequate resources. Chapter VI deals with the status of judges, with guidance on their selection and career, tenure and irremovability, remuneration, training, and assessment. Additional chapters deal with the duties and responsibilities of judges and the ethics of judges.

In 2010 the Venice Commission adopted the Report on the Independence of the Judicial System, Part I: The Independence of Judges. This followed the 2007 adoption of standards on judicial appointments. The 2010 report gives a detailed analysis of the requirements for judicial independence, covering the following topics: the level at which judicial independence is guaranteed; basis of appointment or promotion; appointing and consultative bodies; tenure – period of appointment; tenure – irremovability and discipline/transfers; remuneration of judges; budget of the judiciary; freedom from undue external influence; final character of judicial decisions; independence within the judiciary; and allocation of cases and right to a lawful judge.

In 2010 the Consultative Council of European Judges (CCJE) drafted the Magna Carta of European Judges, summarising, updating, and codifying the main conclusions of CCJE opinions. A selection of significant CCJE opinions is found in the next section on ‘additional guidance documents for regional standards’.

The OSCE organised the adoption of standards regarding judicial councils, which have been a common reform focus of many OSCE Member States as they transition towards democracy. The OSCE Office for Democratic Institutions and Human Rights has issued the Kyiv Recommendations on Judicial Independence in Eastern Europe, South Caucasus and Central Asia, which deal with three aspects of judicial independence: judicial administration by judicial councils, the selection of judges, and judicial accountability.

The work of GRECO includes but is not limited to evaluation of the operation of judges and courts in Member States of the Council of Europe. Most of the standards (with the exception of those specifically on integrity or ethics) related to the judiciary were not drawn up as anti-corruption standards, but are rather intended to underpin the separation of powers and guarantee the right to a fair trial. They are often enforced from that perspective by the European Court of Human Rights. For example, the case of *Xero Flor v. Poland* (2021) on the composition of the Polish Constitutional Tribunal makes reference to the following standards, in addition to UN documents: CM/Rec(2010)12 on the independence, efficiency, and responsibilities of judges, the Venice Commission opinion of 2016 on the Polish Constitutional Tribunal, the Venice Commission’s Rule of Law Checklist, and CCJE Opinion 18/2015 on the position of the judiciary and its relation with the other powers of state in a modern democracy.

In its Fourth Evaluation Round, which examined the prevention of corruption with respect to judges in each of 50 Member States, GRECO made extensive use of the available Council of Europe standards and reference documents (cross-referencing this also to Venice Commission opinions in respect of certain countries, such as Georgia).

Additional guidance documents for regional standards

A practitioners' handbook accompanies the Commonwealth Latimer House Principles.

African countries have built on the CMJA Latimer House Principles to develop the Plan of Action for Africa on the Commonwealth (Latimer House) Principles on the Accountability of and the Relationship between the Three Branches of Government (2005).

In 2019, the Venice Commission developed Compilation of Venice Commission Opinions and Reports Concerning Courts and Judges. As stated in the document's introduction, it focuses on 'the status of judges, on the internal organisation of the judiciary, its relations with other branches of the Government, guarantees of independence and accountability of the judges.' The Compilation is intended as a frame of reference for 'drafters of constitutions and of legislations on the judiciary, researchers, as well as the Venice Commission's members'. It includes both 'general lines adopted by the Venice Commission on various issues' in *opinions involving different countries* as well as *general standards drawn from Venice Commission reports and studies*. The extracts from opinions relate to individual countries and, as the Compilation states, are 'not necessarily ... applicable in other countries' but can 'be of relevance for other systems'. The Compilation also emphasises that the selection of extracts does not 'prevent members of the Venice Commission from introducing new points of view or diverg[ing] from earlier ones, if there is a good reason for doing so'.

The Consultative Council of European Judges has issued a series of significant opinions on aspects of judicial independence and integrity that are relevant to anti-corruption reform in the judiciary, available in a compilation of all its opinions. A recent opinion, CCJE Opinion No. 21 (2018), provides guidelines on preventing corruption among judges. Other key CCJE opinions include Opinion No. 1 (2001), on standards concerning the independence of judges and their irremovability; Opinion No. 2 (2001), on the funding and management of courts with reference to the efficiency of the judiciary and to Article 6 of the European Convention on Human Rights; Opinion No. 7 (2005), on justice and society; Opinion No. 10 (2007), on the Council for the Judiciary at the service of society; and Opinion No. 17 (2014), on the evaluation of judges' work, the quality of justice, and respect for judicial independence.

Gender and diversity in regional standards

The Latimer House Principles, including the plan of action for Africa, specifically refer to commitments to ensure that women are represented in political and governance decision-making positions and that men and women are treated equally in all three branches of government.

The Venice Commission's standards on the judicial branch do not include specific references to gender parity and diversity, but its opinions draw on international standards on gender parity and respect for diverse groups, including national minorities. For example, the compilation of Venice Commission opinions and studies refers to CDL-AD(2007)028, Report on Judicial Appointments by the Venice Commission, which recalls that 'Point 10 of the UN Basic Principles on the Independence of the Judiciary requires that judges are appointed without discrimination based on the ground of "national origin"'. The Compilation includes an opinion on the composition of courts and judicial bodies in Bosnia and Herzegovina, CDL-AD(2014)026, Opinion on the Seven Amendments to the Constitution of 'the former Yugoslav Republic of Macedonia' Concerning, in Particular, the Judicial Council, the Competence of the Constitutional Court and Special Financial Zones (paras. 58, 60–63, 65). The Compilation states, 'The Venice Commission strongly supports policies aimed to ensure gender balance in public institutions and believes they should be welcomed and that all efforts in this direction should be praised. However, an inflexible legal provision setting a quota along ethnic and gender lines over those of professional competence – taking the country's size and population into account – may undermine the effective functioning of the system.'

Available case studies/examples of application of regional standards

The Venice Commission regularly is requested by Member States to provide advice on a range of legal reform issues in justice sector institutions. Expert teams comprising senior justice sector officials from other Member States typically visit countries, investigate the situation, and write opinions that apply the standards to the facts on the ground. Opinions and studies on the justice sector in a range of countries may be found [here](#).

Every authoritative set of standards on the operation of the judiciary includes measures to give effect to the principle that judges should recuse themselves from cases in which

they have an interest. Judges in such cases cannot adjudicate impartially because their interests will be affected positively or negatively by the outcome of the case.

This standard is expressed in Article 8 of UNCAC. At the European level, both the Council of Europe Committee of Ministers Recommendation No. R(2000)10 on codes of conduct for public officials and GRECO outline a duty of public officials to declare their assets.

Meeting the standard involves at least three steps. First, a duty is imposed on judges to declare, to appropriate authorities, their and their families' assets as well as outside any activities, investments, employment, and substantial gifts from which a conflict of interests could arise in their official duties. The second step requires the appropriate authority to check that the declaration has been submitted and then verify the declared assets, that is, assess their completeness and accuracy. The third step is the creation of internal court procedures to guide judges in recusing themselves from cases in which they have a conflict of interests. For an example from Ukraine, see Box 5.

Box 5. Applying UNCAC and European standards to the issue of judges' conflicts of interest and failure to recuse in a case brought before the Constitutional Court in Ukraine

In Ukraine, a controversial case arose in October 2020 when the judges of the Constitutional Court were petitioned by 47 Members of Parliament to rule on the legality of the operation of two anti-corruption bodies. The National Agency for Corruption Prevention (NACP) is tasked with verifying public officials' declarations of assets, while the National Anti-Corruption Bureau (NABU) carries out criminal investigations of corruption.

Fifteen Constitutional Court judges heard the case and decided to annul the articles of the Criminal Code that stipulate criminal liability for inaccurate asset declarations. They also decided to invalidate some important powers of the NACP. Several of the judges hearing the case, including the judge-rapporteur, had possible conflicts of interests since at the time the case was brought before them, the NACP had identified irregularities with these judges' own financial declarations. As a result of the Constitutional Court decision, NABU dropped criminal investigations into inaccurate financial declarations, and NACP announced that it could not undertake inspections of certain state-owned enterprises and institutions.

In addition to the issue of judges' conflicts of interests in hearing the case, there were procedural irregularities in how they handled the case. It was expedited in an unusually speedy manner, there was no public hearing, and the court decided on issues beyond those in the petition brought before them.

The president of Ukraine, Volodymyr Zelenskyy, requested that the Venice Commission provide an opinion on the constitutional crisis created by the decision, since the government assessed the decision as having damaged the operation of the anti-corruption infrastructure in Ukraine. The court itself had referred to – and incorrectly applied – international standards pertaining to judicial independence and the judiciary. Therefore, the Venice Commission, in its 'urgent opinion', explained the requirements of the 'hard and soft law standards' that should be taken into account by the Verkhovna Rada (the parliament) when interpreting the Constitutional Court decision.

In explaining and applying UNCAC and the European standards to the case, the Venice Commission also referred to CCJE Opinion No. 21 (2018) and to its own opinion on Armenia in 2019 (CDL-AD(2019)024). These two opinions grapple with the issue of which body should have the authority to verify the financial declarations of judges and whether it should be separate from the body – often the judicial council – that has responsibility for bringing disciplinary proceedings against judges. The Ukrainian Constitutional Court judges had made claims that their judicial independence was compromised by being subject to investigation by the NABU and NACP. The Venice Commission states in its opinion that there is not a settled view in international standards on the organisation of the body that investigates financial declarations of judges. But it goes on to examine possible solutions for Ukraine, drawing on other opinions as well as examples from surrounding regional jurisdictions. At the time of writing this paper (2021), Ukrainian authorities are using the Venice Commission opinion to address the constitutional crisis.

This example of suspected judicial corruption in Ukraine illustrates three benefits of the system developed around international standards. First, the international standards, developed by experts outside of any one state tradition or jurisdiction, can be authoritative sources accepted by all parties in a country to guide judicial reform. Second, there is value in having international, independent, 'disinterested' parties assist countries in interpreting and applying the standards. Third, the body of opinions applying the standards provides detailed advice on how to handle the often very contentious issue of judicial reform. The standards and opinions are powerful tools not only of judicial system design and reform, but also of conflict mediation to address constitutional crises and maintain peace.

Source: Venice Commission, Urgent Joint Opinion of the Venice Commission and the Directorate General of Human Rights and Rule of Law (DGI) of the Council of Europe, Opinion No. 1012/2020).

Compliance reviews for regional standards

GRECO regularly evaluates countries' justice systems for compliance with anti-corruption standards. The most important reference documents are listed here, and the main conclusions of GRECO's Fourth Evaluation Round in respect of judges can be found here. The recommendations focused on frameworks, tools, and mechanisms for promoting integrity in the judicial system; independence and recruitment; transparency and court administration; codes of conduct; awareness and advice; conflicts of interest; supervision, monitoring, and enforcement; and immunities.

In terms of where and how standards have been dealt with, there are a number of countries where GRECO recommendations have been implemented. Albania (para. 44) took measures to regulate the intervention of the minister of justice in the functioning of the High Judicial Council; it did so as part of a larger justice reform that also responded to a number of Venice Commission opinions. Armenia (para. 33) amended its constitution – on which it also received advice from the Venice Commission – to establish, *inter alia*, a Supreme Judicial Council, which was assigned a substantial role in the selection of judicial candidates. Belgium (para. 60) adopted a law amending the Judicial Code to ensure that the relevant ethical principles would apply to all members of the judiciary. The Czech Republic (para. 39) regulated in more detail the recruitment of judges in order to provide for precise, objective, and transparent criteria (notably merit). Estonia (para. 53) improved the system for appraisal of judges. Finland (para. 24) further regulated secondary activities of judges and provided more transparency around them. France (para. 59) reformed the industrial tribunals and commercial courts; although GRECO found that some shortcomings remained, these were later addressed to a large extent. Georgia (para. 35) introduced a system for the random assignment of cases to judges and improved recruitment procedures of judges, even though – as also highlighted by the Venice Commission – shortcomings remained, especially when it came to the High Council of Justice procedures. Ireland set up a Judicial Council. It is also worth noting in respect of Ireland (para. 35) that European standards on the selection and appointment of judges were highlighted in discussions on the Judicial Appointments Bill, a bill that has since fortunately lapsed. Lithuania raised awareness among judges of ethical issues, including conflicts of interests. The Slovak Republic

(para. 33) amended its constitution to change the composition of the Judicial Council (increasing the representation of the judiciary) and took measures to improve the transparency of the work of this council.

CEPEJ undertakes regular evaluations of the judicial systems of the Council of Europe's Member States.

Correctional authorities

International standards

The 2017 UNODC Handbook on Anti-Corruption Measures in Prisons acknowledges corruption as a 'severe security risk to prisoners, prison staff and prison management alike ... [that is] often identified as one of the main obstacles to the practical application of international standards and norms related to the management of prisons and the treatment of prisoners'. Nevertheless, corruption is not explicitly addressed in the few comprehensive international standards on prison management and treatment of prisoners.

UN Standard Minimum Rules for the Treatment of Prisoners were first adopted in 1957, and in 2015 they were revised and adopted as the Nelson Mandela Rules. Inspired by former political prisoner and later South African president Nelson Mandela, the 122 rules outline the agreed minimum standards for the treatment of prisoners, whether pre-trial or convicted. They provide guidance on all aspects of prison management, from admission and classification to the prohibition of torture and limits on solitary confinement. There is guidance on health care, recruitment, and training of prison staff, as well as disciplinary sanctions.

The Mandela Rules set norms of conduct for correction officers and prison management. They stress that when recruiting correction officers, administrators should pay special attention to the personal integrity of candidates. The rules provide that all correctional staff are to 'conduct themselves and perform their duties as to influence the prisoners for good'. And to ensure that both correction officers and prison administrators comply with these rules, regular inspections are to be conducted by internal auditors and by a body independent of the prison administration.

The rules for treatment of prisoners were complemented in 1990 by the UN Standard Minimum Rules for Non-custodial Measures (the Tokyo Rules).

Regional standards

The International Penal and Penitentiary Foundation has compiled the legal instruments on incarceration from the UN, the African Union, the Association of Southeast Asian Nations, the Organization of American States, the Council of Europe, and the World Health Organization. All have a human rights lens in common and, like the UN Nelson Mandela Rules, do not explicitly address corruption.

Approved by the Committee of Ministers of the Council of Europe in 2012, the European Code of Ethics for Prison Staff applies to all officers responsible for holding people in custody, whether in a jail, prison, or other correctional facility. They are required to ‘maintain and promote high standards of personal honesty and integrity’ and must ‘not allow their private, financial or other interests to conflict with their position’. The code further directs all staff to ‘oppose all forms of corruption within the prison service [and to] inform superiors and other appropriate bodies of any corruption’ they observe.

Additional guidance documents

Produced by the OSCE Office for Democratic Institutions and Human Rights and Penal Reform International, the undated Guidance Document on the Nelson Mandela Rules advises on implementation of the UN Revised Standard Minimum Rules for the Treatment of Prisoners, providing context to the specific rules and some country examples. Corruption risks are acknowledged as an aspect of staff accountability but are not a focus.

In 2020, the Council of Europe updated a compendium of European conventions, recommendation and resolutions relating to prisons and community sanctions and measures. However, corruption risks and their mitigation are not explicitly elaborated upon beyond the above-mentioned normative requirement to oppose all forms of corruption.

To date, the only international work discussing corruption and anti-corruption measures in prisons in depth and providing some guidance as to their mitigation is the above-mentioned Handbook on Anti-Corruption Measures in Prisons, published by UNODC in 2017.

Gender and diversity

While not explicit in regard to corruption, the international standards on prison management and treatment of prisoners go into quite some detail on issues of gender and diversity, treating this topic more fully than do the international standards on other justice sector institutions. The UN Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules) were already adopted in 2010, prior to the revision of the UN Standard Minimum Rules for the Treatment of Prisoners (the Mandela Rules).

Available case studies/examples of application of standards

The Australian Capital Territory (ACT) has developed its own ACT Standards for Adult Correctional Services. These draw on the above-mentioned international standards, but also on the Council of Europe's prison rules as well as on national Australian legislation, standards, and recommendations. The ACT Standards contain indicators that may show whether the standard/outcome has been achieved and examples of possible sources of evidence that the inspectorate may use to assist in determining whether it has been achieved. The standards do not address corruption explicitly, but the ACT Inspector of Correctional Services also manages a risk register that covers risks relating to fraud and corruption, and publishes its reviews on its website.

Compliance reviews

Rule 83 of the Nelson Mandela Rules provides for a two-fold system of regular inspections: those external and internal to the institutions. In 2017 UNODC published Assessing Compliance with the Nelson Mandela Rules: A Checklist for Internal Inspection Mechanisms. The checklist is formulated as outcomes for each rule, and its achievement is assessed by three grades: yes, no, and partly, with a possibility to add comments.

Statements that refer indirectly to corruption risks/practices include the following:

- 1.1.3. Prison management has in place a zero-tolerance policy as regards staff misconduct and ill treatment.
- 5.3.5. No work programme involves prisoners working for the personal or private benefit of staff.
- 7.1.1. Recruitment of prison staff is based on an active and transparent recruitment policy, with clear criteria of and procedures for selection.

And directly naming corruption:

- 7.3.6. Systems are in place to effectively address behaviour that is not in line with professional conduct of prison staff, including corruption.

The checklist document also contains a template questionnaire for prisoners. The UNODC Handbook (p. 33, note 47) points out that anonymity must be granted in surveying prisoners and staff, as internal inspectors might be complicit in misconduct: ‘Confidential interviews with prisoners in the course of internal inspections would naturally pose professional and ethical dilemmas if the interview were to be conducted by an official from within the prison administration, including for instance a potential lack of trust and a risk of reprisals.’

Overview matrix of main integrity standards for justice sector institutions

Standard	Institutional custodian	Scope of content	Regional scope	Self-assessment tool available?	Institutionalised external monitoring?	Gender and diversity addressed?
United Nations Code of Conduct for Law Enforcement Officials	United Nations Office on Drugs and Crime	Responsibilities of police officers in discharging their duties, including commentary on humane law enforcement principles.	Global	No	No	No, but the Handbook that followed addresses this topic
2001 European Code of Police Ethics	Council of Europe	A general organisational framework for the police, their place in the criminal justice system, and their objectives, performance, and accountability. Some parts of the text are intended to serve as model provisions for national legislation and codes of conduct as well as principles for ethical policing.	47 Council of Europe Member States + non-Member States including the United States, Belarus, Kazakhstan, Tunisia, and Morocco. The Venice Commission also has arrangements with Kosovo, Korea, Kyrgyzstan, and Peru to review their systems in line with the standards used by CoE bodies.	No	No	No
IACP Standards of Conduct	International Association of Chiefs of Police	Expected standards of police behaviour in three categories that may pose ethical and legal dilemmas: (1) the 'conduct' of police, including their conduct towards the public and other officers and co-workers; (2) 'public statements, appearances, and endorsements' made by police officers, including their conduct on social media; (3) police officers' participation and engagement in 'political activity'.	Global	No	No	No

Standard	Institutional custodian	Scope of content	Regional scope	Self-assessment tool available?	Institutionalised external monitoring?	Gender and diversity addressed?
Guidelines on the Role of Prosecutors	UN Office of the High Commissioner for Human Rights	Qualifications, selection, and training; status and conditions of service; freedom of expression and association; role in criminal proceedings; discretionary functions; alternatives to prosecution; relations with other government agencies or institutions; disciplinary proceedings.	Global	No	Yes	Yes
Standards of Professional Responsibility and Statement of the Essential Duties and Rights of Prosecutors	International Association of Prosecutors	Professional conduct; independence and impartiality; role in criminal proceedings; cooperation (with domestic and international institutions); empowerment.	Global	No	Yes	Yes
Rome Charter on European Norms and Principles Concerning Prosecutors	Council of Europe (Consultative Council of European Prosecutors)	Twenty principles incorporating all aspects of the status, tasks, and operations of the public prosecution, including strict respect for human rights and fundamental freedoms; respect for the rule of law, independence, autonomy, and transparency of prosecutors' actions; their careers and professional ethics; the handling of evidence; the resources put at their disposal, etc.	47 Council Of Europe Member States + non-Member States including the United States, Belarus, Kazakhstan, Tunisia, and Morocco. The Venice Commission also has arrangements with Kosovo, Korea, Kyrgyzstan, and Peru to review their systems in line with the standards used by CoE bodies.	No	Yes	Yes

Standard	Institutional custodian	Scope of content	Regional scope	Self-assessment tool available?	Institutionalised external monitoring?	Gender and diversity addressed?
Basic Principles on the Role of Lawyers	UN Office of the High Commissioner for Human Rights	Focus on arrested and accused persons' access to lawyers and legal services; the duties, responsibilities, qualifications, and training of lawyers; freedom of expression and association of lawyers; and disciplinary proceedings by the legal profession.	Global	No	No	Yes
IBA International Principles on Conduct for the Legal Profession	International Bar Association	Ten core values in codes of conduct for lawyers in different jurisdictions: independence; honesty, integrity, and fairness; conflicts of interests; confidentiality and professional secrecy; clients' interests; lawyers' undertaking; clients' freedom; property of clients and third parties; competence; and fees.	Global	No	No	No
Basic Principles on the Independence of the Judiciary	UN Office of the High Commissioner for Human Rights	Independence of the judiciary; freedom of expression and association of judges; qualifications, selection, and training of judges; conditions of service and tenure of judges; professional secrecy and immunity of judges; discipline, suspension, and removal of judges.	Global	Annual reports by UN Special Rapporteur	Yes	No
Bangalore Principles of Judicial Conduct	Judicial Integrity Group	Independence, impartiality, integrity, propriety, equality, competence, diligence.	Global	Not specifically, but Evaluative Framework for Art. 11 is applicable	No	Yes

Standard	Institutional custodian	Scope of content	Regional scope	Self-assessment tool available?	Institutionalised external monitoring?	Gender and diversity addressed?
Principles of Conduct for Judicial Personnel	Judicial Integrity Group	Fidelity to duty, confidentiality, conflict of interest, performance of duties.	Global	No	No	No
Limassol Conclusions	Commonwealth	Conclusions and recommendations to secure the independence of judicial officers and a judicial system free from corruption. The recommendations are directed at the judiciary, government, and the legal profession as well as international organisations and NGOs.	Commonwealth	No	No	No
Commonwealth Latimer House Principles	Commonwealth	Relationship between parliament, the judiciary, and the executive in Commonwealth member countries; separation of powers as a fundamental principle of the Commonwealth. Mechanisms for safeguarding ethical governance and accountability and combating corruption.	Commonwealth	No	No	No
Ibero-American Code of Judicial Ethics	Ibero-American Commission for Judicial Ethics	For individual judges: independence, impartiality, motivation and grounds, knowledge and skills, justice and equality, institutional responsibility, courtesy, integrity, transparency, professional secrecy, caution, diligence, professional honesty. Includes the establishment of a commission.	23 Spanish- and Portuguese-speaking countries	No	No	No

Standard	Institutional custodian	Scope of content	Regional scope	Self-assessment tool available?	Institutionalised external monitoring?	Gender and diversity addressed?
Council of Europe Recommendation CM/Rec(2010)12 of the Committee of Ministers to Member States: 'Judges: Independence, Efficiency and Responsibilities'	Venice Commission	External and internal independence of judges; councils for the judiciary; independence, efficiency, and resources; status of judges; duties and responsibilities of judges; ethics of judges.	47 Council Of Europe Member States + non-Member States including the United States, Belarus, Kazakhstan, Tunisia, and Morocco. The Venice commission also has arrangements with Kosovo, Korea, Kyrgyzstan and Peru to review their systems in line with the standards used by CoE bodies.	No	Yes	Yes
Report on the Independence of the Judicial System, Part I: The Independence of Judges	Venice Commission	Specific aspects of judicial independence; the level at which judicial independence is guaranteed; basis of appointment or promotion; the appointing and consultative bodies; tenure – period of appointment; tenure – irremovability and discipline/ transfers; remuneration of judges; budget of the judiciary; freedom from undue external influence; final character of judicial decisions; independence within the judiciary; allocation of cases and right to a lawful judge.	47 Council Of Europe Member States + non-Member States including the United States, Belarus, Kazakhstan, Tunisia, and Morocco. The Venice commission also has arrangements with Kosovo, Korea, Kyrgyzstan and Peru to review their systems in line with the standards used by CoE bodies.	No	Yes	Indirectly

Standard	Institutional custodian	Scope of content	Regional scope	Self-assessment tool available?	Institutionalised external monitoring?	Gender and diversity addressed?
Consultative Council of European Judges opinions on aspects of judicial independence and integrity	Venice Commission	There is a compilation of all its opinions . Key opinions relevant to strengthening integrity include Opinion No. 1 (2001) , on standards concerning independence of judges and their irremovability; Opinion No. 2 (2001) , on funding and management of courts with reference to efficiency of the judiciary and to Article 6 of the European Convention on Human Rights; Opinion No. 7 (2005) , on justice and society; Opinion No. 10 (2007) , on the Council for the Judiciary at the service of society; and Opinion No. 17 (2014) , on evaluation of judges' work, quality of justice, and respect for judicial independence.	47 Council Of Europe Member States + non-Member States including the United States, Belarus, Kazakhstan, Tunisia, and Morocco. The Venice commission also has arrangements with Kosovo, Korea, Kyrgyzstan and Peru to review their systems in line with the standards used by CoE bodies.	No	Yes	Indirectly
UN Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules)	United Nations Office on Drugs and Crime	All aspects of prison management, from admission and classification to prohibition of torture and limits on solitary confinement. There is guidance on health care, recruitment, and training of prison staff, as well as disciplinary sanctions.	Global	Yes	External to institution, not external to country	Yes