

# **GUIDING PRINCIPLES FOR FIGHTING CORRUPTION AND SAFEGUARDING INTEGRITY AMONG JUSTICE AND SECURITY OFFICIALS**

Corruption, dishonesty and unethical behavior among public officials represent serious threats to the basic principles and values of government, undermining public confidence in democracy and threatening to erode the rule of law. The aim of these Guiding Principles is to promote public trust in the integrity of officials within the public sector by preventing, detecting, and prosecuting or sanctioning official corruption and unlawful, dishonest or unethical behavior.

It is anticipated that these guiding principles will be implemented by each government in a manner appropriately tailored to the political, legal, economic and cultural circumstances of the country. Due to the different functions and missions of different judicial, justice, and security officials, not all effective practices are applicable in all categories. This document does not prescribe a specific solution to corruption among justice and security officials, but rather offers a list of potentially effective corruption-fighting practices for consideration. The list of practices, which may apply to other sectors of government in addition to justice and security officials, is intended to help guide and assist governments in developing effective and appropriate means to best achieve their specific public integrity ends.

## **1. Establish and maintain systems of government hiring of justice and security officials that assure openness, equity and efficiency and promote hiring of individuals of the highest levels of competence and integrity.**

Effective practices include:

- Systems for equitable compensation adequate to sustain appropriate livelihood without corruption;
- Systems for open and merit based hiring and promotion with objective standards;
- Systems which provide assurance of a dignified retirement without recourse to corruption;
- Systems for thorough screening of all employees for sensitive positions;
- Systems for probationary periods after initial hiring.

- Systems which integrate principles of human rights with effective measures for preventing and detecting corruption.
2. **Adopt public management measures that affirmatively promote and uphold the integrity of justice and security officials.**

Effective practices include:

- An impartial and specialized institution of government to administer ethical codes of conduct;
- Training and counseling of officials to ensure proper understanding of their responsibilities and the ethical rules governing their activities as well as their own professionalism and competence;
- Training addressed to issues of brutality and other civil rights violations that often correlate with corrupt activity among justice and security officials;
- Managerial mechanisms that enforce ethical and administrative standards of conduct;
- Systems for recognizing employees who exhibit high personal integrity or contribute to the anti-corruption objectives of their institution;
- Personnel systems that include regular rotation of assignments to reduce insularity that fosters corruption;
- Systems to provide appropriate oversight of discretionary decisions and of personnel with authority to make discretionary decisions;
- Systems that hold supervisors accountable for corruption control;
- Positive leadership which actively practices and promotes the highest standards of integrity and demonstrates a commitment to prevent and detect corruption, dishonesty and unethical behavior;
- Systems for promoting the understanding and application of ethical values and the standards of conduct required;

- Mechanisms to support officials in the public sector where there is evidence that they have been unfairly or falsely accused.

**3. Establish ethical and administrative codes of conduct that proscribe conflicts of interest, ensure the proper use of public resources, and promote the highest levels of professionalism and integrity.**

Effective practices include:

- Prohibitions or restrictions governing officials participating in official matters in which they have a substantial direct or indirect financial interest;
- Prohibitions or restrictions against officials participating in matters in which persons or entities with whom they are negotiating for employment have a financial interest;
- Limitations on activities of former officials in representing private or personal interests before their former governmental agency or department, such as prohibiting the involvement of such officials in cases for which former officials were personally responsible, representing private interests by their improper use of influence upon their former governmental agency or department, or using confidential knowledge or information gained during their previous employment as an official in the public sector;
- Prohibitions and limitations on the receipt of gifts or other advantages.
- Prohibitions on improper personal use of government property and resources.

**4. Establish criminal laws and sanctions effectively prohibiting bribery, misuse of public property, and other improper uses of public office for private gain.**

Effective practices include:

- Laws criminalizing the giving, offer or promise by any party (“active”) and the receipt or solicitation by any official (“passive”) of a bribe, and criminalizing or sanctioning the giving or receiving of an improper gratuity or improper gift.
- Laws criminalizing or sanctioning the illegal use by officials of government information;

- Laws affirming that all justice and security officials have a duty to provide honest services to the public and criminalizing or sanctioning breaches of that duty.
- Laws criminalizing improper use of official power or position, either to the detriment of the government or for personal enrichment.

**5. Adopt laws, management practices and auditing procedures that make corruption more visible and thereby promote the detection and reporting of corrupt activity.**

Effective practices include:

- Systems to promote transparency, such as through disclosing the financial circumstances of senior officials.
- Measures and systems to ensure that officials report acts of corruption, and to protect the safety, livelihood and professional situation of those who do, including protection of their identities to the extent possible under the law;
- Measures and systems that protect private citizens who, in good faith, report acts of official corruption;
- Government revenue collection systems that deter corruption, in particular by denying tax deductibility for bribes or other expenses linked to corruption offenses;
- Bodies responsible for preventing, detecting, and eradicating corruption, and for punishing or disciplining corrupt officials, such as independent ombudsmen, inspectors general, or other bodies responsible for receiving and investigating allegations of corruption;
- Appropriate auditing procedures applicable to public administration and the public sector;
- Appropriately transparent procedures for public procurement that promote fair competition and deter corrupt activity.
- Systems for conducting regular threat assessments on corrupt activity.

**6. Provide criminal investigators and prosecutors sufficient and appropriate powers and resources to effectively uncover and prosecute corruption crimes.**

Effective practices include:

- Empowering courts or other competent authorities to order that bank, financial or commercial records be made available or be seized, and that bank secrecy not prevent such availability or seizure;
- Authorizing use under accountable legal supervision of wiretaps or other interception of electronic communication, or recording devices, in investigation of corruption offenses;
- Authorizing, where appropriate, the admissibility of electronic or other recorded evidence in criminal proceedings relating to corruption offenses;
- Employing where appropriate systems whereby persons charged with corruption or other corruption-related criminal offenses may secure more advantageous treatment in recognition of assisting in the disclosure and prosecution of corruption offenses;
- The development of appropriate information gathering mechanisms to prevent, detect and deter official corruption and dishonesty.

**7. Ensure that investigators, prosecutors and judicial personnel are sufficiently impartial to fairly and effectively enforce laws against corruption.**

Effective practices include:

- Personnel systems to attract and retain high quality corruption investigators;
- Systems to promote the specialization and professionalization of persons and organizations in charge of fighting corruption;
- Establishment of an independent mechanism within judicial and security agencies with the duty to investigate corruption allegations, and with the power to compel statements and obtain documents from all agency personnel;

- Codes of conduct or other measures that require corruption investigators, prosecutors, and judges to recuse themselves from any case in which their political, financial or personal interests might reasonably raise questions about their ability to be impartial;
  - Systems that allow for the appointment, where appropriate, of special authorities or commissions to handle or oversee corruption investigations and prosecutions;
  - Standards governing the initiation of corruption investigations to ensure that public officials are not targeted for investigation for political reasons.
- 8. Ensure that criminal and civil law provide for sanctions and remedies that are sufficient to effectively and appropriately deter corrupt activity.**

Effective practices include:

- Laws providing substantial criminal penalties for the laundering of the proceeds of public corruption violations;
  - Laws providing for substantial incarceration and appropriate forfeiture of assets as a potential penalty for serious corruption offenses;
  - Provisions to support and protect whistleblowers and aggrieved private parties.
- 9. Ensure that the general public and the media have freedom to receive and impart information on corruption matters, subject only to limitations or restrictions which are necessary in a democratic society.**

Effective practices include:

- Establishing public reporting requirements for justice and security agencies that include disclosure about efforts to promote integrity and combat corruption;
- Enacting laws or other measures providing a meaningful public right of access to information about corrupt activity and corruption control activities.

**10. Develop to the widest extent possible international cooperation in all areas of the fight against corruption.**

Effective practices include:

- Systems for swift and effective extradition so that corrupt public officials can face judicial process;
- Systems to enhance international legal assistance to governments seeking to investigate and prosecute corruption violations;
- Systems to facilitate and accelerate international seizure and repatriation of forfeitable assets associated with corruption violations
- Inclusion of provisions on combating corruption in appropriate bilateral and multilateral instruments.

**11. Promote, encourage and support continued research and public discussion in all aspects of the issue of upholding integrity and preventing corruption among justice and security officials and other public officials whose responsibilities relate to upholding the rule of law.**

Effective practices include:

- Appointment of independent commissions or other bodies to study and report on the effectiveness of efforts to combat corruption in particular agencies involved in justice and security matters;
- Supporting the efforts of multilateral and non-governmental organizations to promote public integrity and prevent corruption;
- Promoting efforts to educate the public about the dangers of corruption and the importance of general public involvement in government efforts to control corrupt activity.

**12. Encourage activities of regional and other multilateral organizations in anti-corruption efforts.**

Effective practices include:

- Becoming parties, as appropriate, to applicable multilateral legal instruments containing provisions to address corruption;
- Cooperating in carrying out programs of systematic follow-up to monitor and promote the full implementation of appropriate measures to combat corruption, through mutual assessment by governments of their legal and practical measures to combat corruption, as established by pertinent international agreements;
- Participating actively in future international conferences on promoting integrity and combating corruption among justice and security officials.

# **GUIDING PRINCIPLES FOR FIGHTING CORRUPTION AND SAFEGUARDING INTEGRITY AMONG JUSTICE AND SECURITY OFFICIALS**

NOTE: Annotated Version. In this document, each of the practices is followed by a parenthetical letter or letters indicating from which source or sources the statement of the practice was derived, including agreements, documents and other sources in existing international literature or experience regarding corruption, public integrity or related matters of crime. Sources are identified in the listing at the end of this document.

Corruption, dishonesty and unethical behavior among public officials represent serious threats to the basic principles and values of government, undermining public confidence in democracy and threatening to erode the rule of law. The aim of these Guiding Principles is to promote public trust in the integrity of officials within the public sector by preventing, detecting, and prosecuting or sanctioning official corruption and unlawful dishonest, or unethical behavior.

It is anticipated that these guiding principles will be implemented by each government in a manner appropriately tailored to the political, legal, economic and cultural circumstances of the country. Due to the different functions and missions of different judicial, justice, and security officials, not all effective practices are applicable in all categories. This document does not prescribe a specific solution to corruption among justice and security officials, but rather offers a list of potentially effective corruption-fighting practices for consideration. The list of practices, which may apply to other sectors of government in addition to justice and security officials, is intended to help guide and assist governments in developing effective and appropriate means to best achieve their specific public integrity ends.

## **1. Establish and maintain systems of government hiring of justice and security officials that assure openness, equity and efficiency and promote hiring of individuals of the highest levels of competence and integrity.**

Effective practices include:

- Systems for equitable compensation adequate to sustain appropriate livelihood without corruption (J, N);
- Systems for open and merit based hiring and promotion with objective standards (C,I);

- Systems which provide assurance of a dignified retirement without recourse to corruption (J, N);
- Systems for thorough screening of all employees for sensitive positions (N);
- Systems for probationary periods after initial hiring (N);
- Systems which integrate principles of human rights with effective measures for preventing and detecting corruption. (N).

**2. Adopt public management measures that affirmatively promote and uphold the integrity of justice and security officials.**

Effective practices include:

- An impartial and specialized institution of government to administer ethical codes of conduct (C, D, I, J);
- Training and counseling of officials to ensure proper understanding of their responsibilities and the ethical rules governing their activities as well as their own professionalism and competence (C );
- Training addressed to issues of brutality and other civil rights violations that often correlate with corrupt activity among justice and security officials (N, substantial international literature relating to human rights issues);
- Managerial mechanisms that enforce ethical and administrative standards of conduct (B, D, H, I, J);
- Systems for recognizing employees who exhibit high personal integrity or contribute to the anti-corruption objectives of their institution (N);
- Personnel systems that include regular rotation of assignments to reduce insularity that fosters corruption (B,D, I, J, N);
- Systems to provide appropriate oversight of discretionary decisions and of personnel with authority to make discretionary decisions (B, D, I, J, N);
- Systems that hold supervisors accountable for corruption control (B, D, I, J, N);

- Positive leadership which actively practices and promotes the highest standards of integrity and demonstrates a commitment to prevent and detect corruption, dishonesty and unethical behavior (N);
- Systems for promoting the understanding and application of ethical values and the standards of conduct required (N);
- Mechanisms to support officials in the public sector where there is evidence that they have been unfairly or falsely accused. (N)

**3. Establish ethical and administrative codes of conduct that proscribe conflicts of interest, ensure the proper use of public resources, and promote the highest levels of professionalism and integrity.**

Effective practices include:

- Prohibitions or restrictions governing officials participating in official matters in which they have a substantial direct or indirect financial interest (I, N);
- Prohibitions or restrictions against officials participating in matters in which persons or entities with whom they are negotiating for employment have a financial interest (I, N);
- Limitations on activities of former officials in representing private or personal interests before their former governmental agency or department, such as prohibiting the involvement of such officials in cases for which former officials were personally responsible, representing private interests by their improper use of influence upon their former governmental agency or department, or using confidential knowledge or information gained during their previous employment as an official in the public sector (N);
- Prohibitions and limitations on the receipt of gifts or other advantages (F, I, N);
- Prohibitions on improper personal use of government property and resources (C, F, N).

**4. Establish criminal laws and sanctions effectively prohibiting bribery, misuse of public property, and other improper uses of public office for private gain.**

Effective practices include:

- Laws criminalizing the giving, offer or promise by any party (“active”) and the receipt or solicitation by any official (“passive”) of a bribe, and criminalizing or sanctioning the giving or receiving of an improper gratuity or improper gift. (A, C, E, F, G, I, others).
  - Laws criminalizing or sanctioning the illegal use by officials of government information (C, F);
  - Laws affirming that all justice and security officials have a duty to provide honest services to the public and criminalizing or sanctioning breaches of that duty (I).
  - Laws criminalizing improper use of official power or position, either to the detriment of the government or for personal enrichment.
5. **Adopt laws, management practices and auditing procedures that make corruption more visible and thereby promote the detection and reporting of corrupt activity.**

Effective practices include:

- Systems to promote transparency, such as through disclosing the financial circumstances of senior officials. (C, I, J).
- Measures and systems to ensure that officials report acts of corruption, and to protect the safety, livelihood and professional situation of those who do, including protection of their identities to the extent possible under the law (F, I);
- Measures and systems that protect private citizens who, in good faith, report acts of official corruption (C, D, E, F, I, L);
- Government revenue collection systems that deter corruption, in particular by denying tax deductibility for bribes or other expenses linked to corruption offenses. (B, C, D, J);
- Bodies responsible for preventing, detecting, and eradicating corruption, and for punishing or disciplining corrupt officials, such as independent ombudsmen, inspectors general, or other bodies responsible for receiving and investigating allegations of corruption (B, D, I);

- Appropriate auditing procedures applicable to public administration and the public sector (D, I, J);
- Appropriately transparent procedures for public procurement that promote fair competition and deter corrupt activity (B, C, D, F, J).
- Systems for conducting regular threat assessments on corrupt activity (N).

**6. Provide criminal investigators and prosecutors sufficient and appropriate powers and resources to effectively uncover and prosecute corruption crimes.**

Effective practices include:

- Empowering courts or other competent authorities to order that bank, financial or commercial records be made available or be seized, and that bank secrecy not prevent such availability or seizure (C, E, J, K, L);
- Authorizing use under accountable legal supervision of wiretaps or other interception of electronic communication, or recording devices, in investigation of corruption offenses (E, F, J, L);
- Authorizing, where appropriate, the admissibility of electronic or other recorded evidence in criminal proceedings relating to corruption offenses (E, F, J, L);
- Employing where appropriate systems whereby persons charged with corruption or other corruption-related criminal offenses may secure more advantageous treatment in recognition of assisting in the disclosure and prosecution of corruption offenses (E, F, K, L);
- The development of appropriate information gathering mechanisms to prevent, detect and deter official corruption and dishonesty (N).

**7. Ensure that investigators, prosecutors and judicial personnel are sufficiently impartial to fairly and effectively enforce laws against corruption.**

Effective practices include:

- Personnel systems to attract and retain high quality corruption investigators (N);

- Systems to promote the specialization and professionalization of persons and organizations in charge of fighting corruption (D, E, J);
  - Establishment of an independent mechanism within judicial and security agencies with the duty to investigate corruption allegations, and with the power to compel statements and obtain documents from all agency personnel (N);
  - Codes of conduct or other measures that require corruption investigators, prosecutors, and judges to recuse themselves from any case in which their political, financial or personal interests might reasonably raise questions about their ability to be impartial. (N);
  - Systems that allow for the appointment, where appropriate, of special authorities or commissions to handle or oversee corruption investigations and prosecutions (N);
  - Standards governing the initiation of corruption investigations to ensure that public officials are not targeted for investigation for political reasons (N).
- 8. Ensure that criminal and civil law provide for sanctions and remedies that are sufficient to effectively and appropriately deter corrupt activity.**

Effective practices include:

- Laws providing substantial criminal penalties for the laundering of the proceeds of public corruption violations (A, C, E, J, L);
  - Laws providing for substantial incarceration and appropriate forfeiture of assets as a potential penalty for serious corruption offenses (A, C, E, G, others);
  - Provisions to support and protect whistleblowers and aggrieved private parties (B, D, J).
- 9. Ensure that the general public and the media have freedom to receive and impart information on corruption matters, subject only to limitations or restrictions which are necessary in a democratic society.**

Effective practices include:

- Establishing public reporting requirements for justice and security agencies that include disclosure about efforts to promote integrity and combat corruption (D, H, I, J);
- Enacting laws or other measures providing a meaningful public right of access to information about corrupt activity and corruption control activities (D, H, I, J).

**10. Develop to the widest extent possible international cooperation in all areas of the fight against corruption.**

Effective practices include:

- Systems for swift and effective extradition so that corrupt public officials can face judicial process (A, C, E, G, L, others);
- Systems to enhance international legal assistance to governments seeking to investigate and prosecute corruption violations (A, C, E, G, L, others);
- Systems to facilitate and accelerate international seizure and repatriation of forfeitable assets associated with corruption violations (A, C, E, F, G, L, others)
- Inclusion of provisions on combating corruption in appropriate bilateral and multilateral instruments (N).

**11. Promote, encourage and support continued research and public discussion in all aspects of the issue of upholding integrity and preventing corruption among justice and security officials and other public officials whose responsibilities relate to upholding the rule of law.**

Effective practices include:

- Appointment of independent commissions or other bodies to study and report on the effectiveness of efforts to combat corruption in particular agencies involved in justice and security matters (N);
- Supporting the efforts of multilateral and non-governmental organizations to promote public integrity and prevent corruption (N);

- Promoting efforts to educate the public about the dangers of corruption and the importance of general public involvement in government efforts to control corrupt activity (C, I, J, N).

**12. Encourage activities of regional and other multilateral organizations in anti-corruption efforts.**

Effective practices include:

- Becoming parties, as appropriate, to applicable multilateral legal instruments containing provisions to address corruption;
- Cooperating in carrying out programs of systematic follow-up to monitor and promote the full implementation of appropriate measures to combat corruption, through mutual assessment by governments of their legal and practical measures to combat corruption, as established by pertinent international agreements. (A, E, L, M);
- Participating actively in future international conferences on promoting integrity and combating corruption among justice and security officials.

### Listing of Sources

- A. OECD Convention on Combatting Bribery of Foreign Public Officials in International Business Transactions.
- B. OECD Council Recommendations Against Corruption, May 1997.
- C. OAS Inter-American Convention Against Corruption.
- D. Council of Europe Committee of Ministers 20 Recommendations Against Corruption, November 1997
- E. Council of Europe Criminal Law Convention on Corruption.
- F. Council of Europe Conclusions of the Second European Conference of Specialized Services in the Fight Against Corruption, October 1997
- G. European Union Convention on Corruption of EU or Member Officials, May 1997
- H. European Parliament Resolution on Combating Corruption in Europe, December 1995
- I. United Nations Secretariat Manual: Practical Measures Against Corruption, July 1990
- J. United Nations Commission on Crime Prevention and Criminal Justice: Report of Expert Group on Action Against Corruption and Bribery, March 1997
- K. United Nations Convention Against Illicit Trafficking in Narcotic Drugs or Psychotropic Substances
- L. United Nations Draft Convention Against Transnational Organized Crime
- M. Financial Action Task Force, 40 Recommendations
- N. Observed experience of governments (“common sense”).