Law Enforcement and Justice Institution Accountability Assessment Tool

Methodology and Guidelines

I. BACKGROUND AND GOALS

From 2016 to 2020, the United Nations Office on Drugs and Crime (UNODC), in partnership with INTERPOL and Transparency International, will be implementing a project ("Project CRIMJUST") aimed at strengthening criminal investigation and criminal justice cooperation along the cocaine route in Latin America, the Caribbean and West Africa. This joint initiative will be funded by the European Union. The overall objective of Project CRIMJUST is to contribute to fighting organized crime in general, and drug trafficking in particular, along the Cocaine route in those regions, in line with human rights and international legal instruments. The work stream under the project will focus on three pillars: Capacity Building, Interregional Cooperation and Institutional Integrity. Under the third pillar, "Institutional Integrity", the initiative aims at strengthening the integrity and accountability of criminal justice institutions with the active involvement of civil society organizations. As part of this pillar, Transparency International, in coordination with UNODC and other partners, has developed a Law Enforcement and Justice Institution Accountability Assessment Tool to enhance the capacity of civil society organisations to identify, monitor and propose measures to address key accountability challenges in effectively combatting organized crime in law enforcement and the judiciary.

More specifically, the Law Enforcement and Justice Institution Accountability Assessment Tool will improve the effectiveness and performance of criminal justice institutions that target organized crime by: (1) enabling civil society to conduct a contextualized gap assessment of accountability mechanisms of the law enforcement and justice institutions charged with fighting organized crime but that may be susceptible to organized crime infiltration; (2) facilitating the formulation of recommendations and evidence-based advocacy strategies and asks to strengthen accountability mechanisms and reduce infiltration by organized crime into criminal justice institutions through corruption; and (3) creating an on-going dialogue among civil society and criminal justice institutions to continue improvements in accountability and performance.

II. IMPLEMENTATION FRAMEWORK

The Tool has been developed through an in-depth review of international instruments, in particular the United Nations Convention against Corruption (UNCAC) and the United Nations Convention against Transnational Organized Crime (UNTOC); UNODC’s multiple guidance and assessment tools on criminal justice institutions; international and regional guidelines pertaining to the role of law enforcement and justice actors; Transparency International’s principles and guidance on topics such as whistle-blower protection, access to information laws, policing and corruption, and empowering civil society; academic works on comparative criminal justice laws and institutions and organized crime; and the work of civil society organizations in promoting justice reform in the

---

1 These include the UN Guidelines on the Role of Prosecutors; the UN Basic Principles on the Independence of the Judiciary; the UN Code of Conduct for Law Enforcement Officials; INTERPOL’s Global Standards to Combat Corruption in Police; Organisation of American States’ Draft Model Law on the Declaration of Assets; and the African Commission on Human and Peoples’ Rights’ Resolution on Police Reform in Africa.
regions. The Tool was also developed in consultation with experts and practitioners from both regions and from UNODC.

The Tool will be piloted simultaneously by Transparency International Chapters in six countries: Colombia, Dominican Republic, Ghana, Nigeria, Panama, and Peru (the “Chapters”). The implementation framework of the Tool is divided into three phases: (1) the Exploratory Phase, (2) the Assessment Phase and (3) the Advocacy Phase.

1. EXPLORATORY PHASE

During the Exploratory Phase, the Chapters will gather contextual economic, social and political information in their respective countries, as well as information on the legal framework that regulates how criminal justice institutions fight organized crime. The Chapters will also map these criminal justice institutions following the guidelines provided below and, based on the mapping, select three target institutions that will be assessed in the second phase. The Chapters will seek to establish, when possible, a formal arrangement or relationship with those target institutions. The contextual information and information on laws and institutions will be included in an online Fact Sheet for each country. During this phase, the Chapters will also identify stakeholders and champions and meet with them to discuss aims and collaboration. Lastly, the Chapters will identify possible sources of information for the assessment phase including potential interviewees and sources of written documentation.

2. ASSESSMENT PHASE

During this second phase, the Chapters will conduct a focused, in-depth assessment of the three target criminal justice institutions selected during the Exploratory Phase using a set of pre-defined indicators: one institution that focuses on the investigation of organized criminal activity; one institution that focuses on the prosecution of organized crime; and one institution that focuses on the adjudication of organized crime cases. In some criminal justice systems, usually in inquisitorial systems, it is likely that prosecutors and judges will also have investigative powers. To address this variance in roles, the indicators have been divided by “function” and the Chapters will be asked to apply certain “investigative function” indicators when assessing prosecution and adjudication institutions if those institutions also carry out investigations on organized crime.

The Assessment Phase will involve the collection of data through primary and secondary sources and scoring against the indicators for each function. The scoring will require an analysis of the data and the contextual information gathered in the Exploratory Phase. The data and scoring, with comments describing the analysis that led to the score, will be inputted into an online dashboard. For each indicator, the dashboard will provide guiding questions, resources for further guidance and possible sources of information. At the end, the Chapter will prepare an online summary of the findings and scoring, highlighting the major areas of strength and weakness, and providing graphics of the findings to promote wider accessibility and interest. The findings will be externally validated by the target institution and/or through consultation with external stakeholders, before being published. The activities in this phase will be divided into: (1) data gathering through primary and secondary sources including laws, regulations, institutional rules, guidelines, manuals and data reports, media searches, and interviews; (2) analysis of data and decisions on scores for each indicator; (3) validation of findings; and (4) preparation of an online summary of findings and scoring.
3. ADVOCACY PHASE

Based on the findings and scores, the Chapters will develop a set of key recommendations to strengthen accountability mechanisms and other elements to make the criminal justice institutions more effective in their mandate to investigate, prosecute and adjudicate organized crime. The Chapters will accompany the key set of recommendations with action plans to implement them. The Chapters will proactively engage and support the target institutions to adopt the recommendations and monitor their progress. The Chapters will also seek support from other appropriate government agencies or policy makers – to increase funding and enact needed legislation or regulations, for example – and build public support through media and outreach work.

III. CONCEPTUAL CONSIDERATIONS

To facilitate the Exploratory and Assessment Phases, this section discusses some relevant and important concepts that underlie the purpose and direction of the assessment.

1. DEFINITION OF ORGANIZED CRIME

A global definition of “organized crime” does not exist. The United Nations Convention on Transnational Organized Crime purposefully does not provide a definition of organized crime to allow applicability of the convention to new types of crime that emerge constantly as global, regional and local conditions change over time. However, it does define “organized criminal group” as:

- a structured group of three or more persons that was not randomly formed
- existing for a period of time
- acting in concert with the aim of committing at least one crime punishable by at least four years of incarceration
- in order to obtain, directly or indirectly, a financial or other material benefit.

A 1990 report of the Secretary General of the United Nations describes the term “organized crime” as usually referring to

“large-scale and complex criminal activities carried out by tightly or loosely organized associations and aimed at the establishment, supply and exploitation of illegal markets at the expense of society. Such operations are generally carried out with a ruthless disregard of the law, and often involve offences against the person, including threats, intimidation and physical violence.”

The description is very broad reflecting the reality that the types of organized crime activities that have the greatest impact on a given community or society are wide-ranging and vary depending on the country and region. Organized group criminal activity can also cross borders and even span several countries to become “transnational organized crime.”

---

3 UNTOC, Art. 2(a)
5 During the 1990s, law enforcement agencies in Europe developed a number of operational definitions of the term “organized criminal group”. Those definitions agreed on the crucial elements included in the UNTOC: that the group be structured, have some permanence and commit serious crimes for profit. In addition, the definitions added the secondary elements that include the organized crime group’s use of violence, corruption of officials, laundering of criminal proceeds
There are a number of criminal activities considered to be organized crime that are cited in law instruments (such as the three protocols to the UNTOC), by international organizations (such as UNODC and INTERPOL), and by practitioners and organized crime experts. The Chapters may find these listings useful in determining what types of activities should be targeted by the criminal justice institutions that will be the subject of the assessment. These activities include: drug trafficking, trafficking in persons, migrant smuggling, trafficking of firearms, trafficking of stolen property, armed robbery, counterfeiting, gambling, money laundering, trafficking in wildlife, extortion and racketeering, fraud and cybercrime. It is also important to remember that disrupting the cocaine traffic routes in Latin America and West Africa is one of the main goals of the Project CRIMJUST. Therefore, drug trafficking should be considered one of the main types of organized crime activities for the purpose of the assessment.

Each Chapter is encouraged to identify the legal definition of organized crime, if any, used in its country and review it to determine whether it encompasses and imposes increased criminal liability on the activities of organized crime groups that have the greatest detrimental impact on their societies.

2. DEFINITION OF CORRUPTION

Corruption is the abuse of entrusted power for private gain. This definition covers a broad array of corrupt acts that are defined in various countries under headings such as grand corruption, extortion, petty corruption, political corruption, bribery, nepotism, clientelism, patronage, collusion, revolving doors, conflict of interest, solicitation, embezzlement, trading in influence and state capture. The risks of organized crime infiltration in criminal justice institutions through corruption described below show that many of these types of corruption can come into play to undermine the effective investigation, prosecution and adjudication of organized crime cases.

3. RISKS OF ORGANIZED CRIME INFILTRATION THROUGH CORRUPTION

Research has confirmed a very strong level of association between the index for levels of organized crime and the index for public sector corruption. Organized crime infiltrates government agencies and institutions through corruption, thereby undermining governance and democracy by empowering those who operate outside the law. With these groups’ increased power comes increased criminal activity – creating a vicious cycle where corruption and organized crime feed off each other.

Buscaglia and van Dijk identified five levels of infiltration of the public sector by organized crime:

- **Level 1:** Sporadic acts of bribery or abuse of public office occur at low levels of government agencies by organized crime.
- **Level 2:** Acts of corruption occur on a frequent basis by having low-ranking state officials on the organized criminal payroll.
- **Level 3:** Organized crime infiltrates the managerial domain of public agencies in an attempt, for example, to bias the hiring of state personnel in order to favour the operations of criminal groups.


*Transparency International’s Definition of Corruption*

• Level 4: The infiltration compromises the heads of agencies responsible directly or indirectly for fighting organized crime-related activities (for example, drug enforcement agencies) or may involve cases of agencies providing potential long-term benefits to a criminal group (for example, customs). This level represents an increased perniciousness with long-term negative effects on the capacity of the State to eradicate corruption and organized crime.

• Level 5: The infiltration by organized crime encompasses the capture of the State’s policies by criminal groups who are then able to bias law making, law enforcement and the judicial decisions themselves. This level involves high-level officials such as senators, ministers or even presidents of countries usually compromised by organized criminal groups. At this level, organized crime is involved in the campaign financing of politicians or through other more common types of extortion and family links to high-level officials. Such state capture represents the highest level of corruption in the public sector, which paves the way for the expansion and consolidation of transnational organized crime.9

With respect to criminal justice institutions, organized crime groups often use the following infiltration devices:10

• corrupt payments or other benefits, or extortion or threats of harm in exchange for protection from or to undermine an investigation, prosecution and adjudication
• corrupt payments or other benefits, or extortion or threats of harm in exchange for on-going preferential treatment from the institution
• corrupt payments or other benefits, or extortion or threats of harm in exchange for actions on the part of the institution’s personnel that pro-actively facilitate an organized crime group’s criminal activities
• corrupt payments or other benefits, or extortion or threats of harm to a higher-level agency or individual to exert pressure on the institution’s personnel to undermine an investigation, prosecution, or adjudication
• close family, political or other personal ties with decision-makers within the institutions that undermine the impartiality of investigations, prosecutions and adjudications of organized crime cases

4. ACCOUNTABILITY

Accountability is defined as a system of internal and external checks and balances aimed at ensuring that a public institution’s officials can carry out their duties properly. It requires such officials to adhere to high standards of integrity and to be held responsible if they fail to do so.11 Effective accountability of public sector institutions involves different actors including the legislators that enact oversight and public integrity laws and carry out inquiries on specific oversight issues, the government institutions themselves, the public, other criminal justice institutions, civil society organizations, the media, and independent oversight bodies.

IV. DIMENSIONS

To assess comprehensively the accountability mechanisms of a criminal justice institution to prevent and address the risks of infiltration of criminal justice institutions by organized crime, we

have developed indicators that focus on seven dimensions: Internal Oversight, Protections, External Oversight, Transparency, Civil Society Participation, Capacity and Independence.

1. INTERNAL OVERSIGHT

Internal oversight refers to the policies, procedures and safeguards that an institution – in this case an investigative agency, a prosecutor’s office or a court – has in place to self-regulate and prevent their own personnel from misusing their powers and abusing their rights and privileges. The internal oversight indicators address the existence of clear rules of conduct and ethics, and their implementation through an effective internal complaints and disciplinary process to address misconduct, and through a system of “internal checks” on internal functions, such as prosecutorial discretion. It is essential that criminal justice institutions have a strong internal system of checks and a complaint and disciplinary mechanism to prevent and address corruption and infiltration risks. Such a system of internal oversight must apply to the most senior public officials who manage and head the institutions as well as to lower level public officials to address effectively the different levels of infiltration.

2. PROTECTIONS

As the UN Secretary General noted, organized crime groups operate with disregard for the law and often through the use of violence.\textsuperscript{12} It is not uncommon for witnesses, whistleblowers, and the public officials themselves, or their families, to be threatened with physical harm should they be involved in the investigation, prosecution or adjudication of an organized crime case. Our indicators under this dimension therefore assess the processes and mechanisms that exist to provide essential protections for those key actors.

3. EXTERNAL OVERSIGHT

External oversight mechanisms are those that enable an outside independent entity, such as anti-corruption agencies, ombudsmen, independent commissions, legislative committees and civil society organizations, to investigate effectively allegations of misconduct by an institution’s personnel and recommend disciplinary sanctions or refer cases for criminal prosecution. The external oversight indicators examine the accessibility of external complaint channels, and the powers, responsiveness and independence of the external oversight body. The existence of an effective independent external oversight body is especially crucial when the infiltration of corruption has reached the highest levels in an institution, thereby rendering its own internal oversight mechanisms ineffective, or when internal oversight is weak because of lack of support, policies, procedures and resources. The indicators in this dimension also assess whether the institution’s senior personnel are required to submit asset declarations and whether those asset declarations are effectively reviewed.

4. TRANSPARENCY

Transparency, a cornerstone of accountability, involves the availability and accessibility of information that enables the public and external bodies to assess the performance and internal functions of an institution. The indicators examine pro-active transparency, meaning the information that the institution publishes or makes readily accessible, its quality and whether it is systematically collected and updated. In addition, the indicators assess responsive transparency – in other words, whether the institution meets basic requirements of transparency in responding to requests for information. An added benefit of transparency, other than allowing for the assessment of performance and internal functions, is that providing accurate and reliable information to the public in and of itself increases the level of trust the public has in the institution.

5. CIVIL SOCIETY PARTICIPATION

Civil Society Participation is another key contributor to accountability. It provides an avenue for citizens and civil society organizations to voice their concerns, raise questions, and provide input on policy-making to better meet the needs of communities and society. Furthermore, it paves the way to a greater collaboration that incentivizes cooperation, including increased reporting of crimes. Civil Society, when it perceives that the government-run accountability mechanisms are highly deficient, has in many instances created oversight bodies to monitor the performance and functions of criminal justice institutions through, for example, civilian review boards for the police and judicial observatories for the judiciary. In some cases, representatives from civil society sit in oversight bodies that also include representatives from government institutions. The indicators look at whether the institutions actively engage with the public and civil society organization to improve internal decision-making processes and develop or improve security or crime fighting policies. They also look at the institution’s acceptance and collaboration with external civilian oversight, if it exists. Thirdly, they assess whether the institution has sound policies for engagement with the media that allow for important information to be disseminated to the public but at the same time safeguard the integrity, independence and impartiality of criminal investigations, prosecutions and adjudications.

6. CAPACITY

In addition to examining whether the institutions have the tools and infrastructure necessary to facilitate internal oversight, the indicators examine whether they have the necessary financial and human resources to carry out their respective mandates to investigate, prosecute and adjudicate organized crime cases. The indicators also examine the level of specialized training and technical support provided to public officials with investigative and prosecutorial functions to be able to carry out those investigations and prosecutions. The investigation and prosecution of organized crime often requires multi-disciplinary teams with expert knowledge in forensic accounting, tracking movements of funds and goods within countries and across borders, data-sharing, surveillance technology, and other sophisticated investigative techniques. UNODC has created a program specifically aimed at providing technical support and training to strengthen institutional capacity to fight organized crime. If such capacity is lacking, the integrity of the individual public officials and the institutions alone will be insufficient to enable the institutions effectively to fight organized crime.

7. INDEPENDENCE AND INTEGRITY

Lastly, the dimension “independence and integrity” examines certain elements necessary to enable an institution to protect its integrity and carry out its mandate free from undue external influence. This last dimension focuses on elements such as whether the institution has selection, appointment and recruitment processes that are based on merit and are transparent, especially in the selection of the head of the institution and the head of the specialized units. The dimension also assesses whether the performance evaluation and promotion processes promote independence and adherence to ethical rules. Additionally, it examines whether the institution has unencumbered access to and management discretion over its budget; whether removal processes of public officials have been misused, to undermine the investigation, prosecution or adjudication of organized cases; whether the institution’s personnel have fallen victim to interference by organized crime groups; and whether the principle of limited immunity is implemented to prevent undue external influence by organized crime groups, allowing public officials to be held accountable for wrongdoing, including criminal acts. Independence and integrity of the institution are especially important when organized crime infiltration has reached high levels of seniority in other government institutions that could use their power to undermine the investigation, prosecution and adjudication of organized crime cases.
V. GUIDELINES

1. EXPLORATORY PHASE

   a. FACT SHEET

Through the online Fact Sheet, the Chapters will gather economic, social and political contextual information; gather information on the legal framework that empowers criminal justice institutions that target organized crime; and map the target institutions and their external oversight bodies.

_Economic, Social and Political Background_

Through a desk review of existing governmental and non-governmental reports, newspaper articles, research conducted by international organizations, the Chapters will answer the questions posed in the Fact Sheet. The Fact Sheet will provide possible sources of information to assist in this endeavour.

_Legal Framework_

Assuming the country is a State Party to UNCAC and UNTOC, through a desk review of the UNTOC database and UNCAC review mechanism, Chapters will assess whether the laws listed have been enacted in their country. (Please note that all of the pilot countries are State Parties to both Conventions – Ghana acceded to UNTOC, which has the same effect as ratification.) The answers will not purport to analyse whether the laws enacted fully implement the provisions of the Conventions as that would be beyond the scope and resources of the project. Rather, the aim is to identify whether there are serious gaps in the legislation in view of the commitments made under the Conventions. Outreach to the government agency charged with monitoring the implementation of the treaties may be necessary to obtain the information or a way to validate the information collected through the desk review.

_Mapping of Criminal Justice Institutions that Investigate, Prosecute or Adjudicate Organized Crime_

The Fact Sheet provides a table to facilitate the mapping of the criminal justice institutions that investigate, prosecute or adjudicate organized crime. At this time, the focus of the assessment will be criminal justice institutions that operate at the national level rather than state, provincial or local institutions. Thus, the types of institutions that will be included in the table are the national police forces that investigate organized crime, the prosecutors’ offices that prosecute (and perhaps also investigate) organized crime and the criminal courts that adjudicate (and perhaps also investigate) organized crime.¹³

---

¹³ It is worth noting that the detection (for example, border control, customs, local police, drug enforcement agencies, coast guard agencies) and penitentiary functions (prisons) within criminal justice systems are also indispensable to the fight against organized crime. At present, those functions, because of their different nature and dispersed locations, are beyond the scope of this project. However, tailored assessment tools could be developed to assess the accountability of those institutions as well.
Internal Coordination

Because of the scale and impact of organized crime and corruption within a country, inter-agency coordination is paramount. Agencies with different mandates, such as customs and border control, oversight and protection of the banking and financial systems, security (armed forces), and drug enforcement, and agencies operating at various levels (national, provincial, local) have to join forces to fight against those crimes. The Fact Sheet therefore asks that Chapters conduct research – we recommend desk research and interviews when appropriate – to assess whether the country has an effective coordinating agency/mechanism that brings together the knowledge and resources of those institutions to work effectively and efficiently.

International Collaboration

Because the activities of powerful organized crime networks cross borders, both UNCAC and UNTOC call for international collaboration among Member States to exchange knowledge, join resources, and engage in joint investigations and mutual legal assistance. In addition, countries may be party to regional agreements for international collaboration in investigations and legal assistance targeting organized crime. Because fighting transnational organized crime requires joint effort among the authorities of different countries, the Fact Sheet includes questions calling for research – again through desk research and interviews when appropriate – into existing arrangements and mechanisms for international collaboration.

b. SELECTION OF TARGET INSTITUTIONS

The Chapters will select three target criminal justice institutions at the national level that carry out the investigative, prosecutorial and adjudicative functions with respect to organized crime cases. As mentioned above, under the country’s criminal justice system, some institutions may serve two functions, usually prosecution/investigative and adjudication/investigative. Guidance is provided below under "Assessment Phase" in choosing the appropriate indicators for an institution that has a dual role.

In selecting the target institutions for the assessment, please use the following questions as guidance:

- Which institutions have the legal mandate to investigate, prosecute, or adjudicate organized crime?
- Which institutions have or should have the highest impact in targeting organized crime?
- Which institutions are targeting the most pervasive and harmful types of organized crime for the country?
- Which institutions have the highest risk of infiltration by organized crime groups?

15 UNCAC, Arts. 43-50, and UNTOC Arts. 13, 16-21.
16 For examples of regional collaboration agreements see: the Esquema Hemisférico de Cooperación Contra la Delincuencia Organizada Transnacional y Plan de Acción; the Red de Fiscales contra el Crimen Organizado de Centroamérica y República Dominicana; the Inter-governmental Action Group against Money Laundering in West Africa; and the UN African Institute for the Prevention of Crime and Treatment of Offenders.
• Which institutions are perceived to be the most corrupt?

The Chapters will also need to select the level at which the institution will be assessed – in other words, whether the Chapter will be assessing the whole investigative institution (for example, the national police force), a unit or department charged with investigating a specific type of organized crime (for example, the narcotics unit within the national police institution) or some level in-between (for example, the department in charge of serious types of felonies that include organized crime cases). The selection will be made considering the following factors:

• The breadth of the mandate for that level: The mandate should not be too narrow (for example, covering drug trafficking in a small region) or too broad (for example, covering all crime and providing all security).
• The resources under its control: It is advised that the assessment be conducted at a level where institution has a significant budget and a degree of control over that budget so that it will have the capacity to implement recommendations for reform.
• The decision-making power: The level should also depend on the power to implement any recommended reforms and/or on the likely impact of such reforms.
• The will to collaborate: The Chapters should consider the existing willingness to collaborate at the different levels to enable access to personnel and information.

Once the three target institutions have been identified, the Chapters should invite each of the target institutions to collaborate and coordinate with the assessment, if possible, through a formal agreement that establishes the mutual objectives and the terms of the relationship.

c. SELECTION OF EXTERNAL OVERSIGHT BODIES

For each target institution, the Chapters will identify one or two oversight bodies to be evaluated. External oversight bodies can serve a number of functions including audit, evaluation, inspection, monitoring and investigation. There has been a great deal of attention given to external oversight bodies for police agencies, in large part due to growing concerns in many societies of human rights abuses and use of excessive force. Common types of external review body for police are human rights commissions/ombudsmen and independent police oversight commissions. Common oversight bodies for prosecutors also include independent commissions made up of prosecutors and other actors such as judges and civil society representatives. Less has been written about external oversight mechanisms for the judiciary in part perhaps because of concerns over infringement on the independence and impartiality of the courts. However, civil society organizations, especially in Latin America, have created monitoring bodies such as judicial observatories to monitor, assess, and scrutinize the performance of the courts, and to provide input for reform and modernization intended to improve their transparency, effectiveness and accessibility. Please note that the external oversight body need not be a public institution but could also be a non-public institution or a hybrid public/private entity.

UNCAC also provides for the establishment of independent anti-corruption agencies to enforce, implement and promote anti-corruption principles and policies. Today, there are more than one hundred anti-corruption agencies around the world but their powers and actual realization of their

---


mandate vary from country to country.\textsuperscript{20} If an anti-corruption agency exists in the country, it is likely that its oversight powers extend to all of the institutions that have been chosen for assessment. In addition, many countries have created independent prosecutor’s offices that specialize in targeting corruption in the public sector. These too could be considered external independent oversight bodies.

The Chapters should first identify the different external oversight bodies that have the mandate and accompanying powers to investigate allegations of corruption on the part of officials of the target institutions. From these external agency bodies, the Chapter will choose at least one for each target institution following the guiding question below:

- Which external (public or non-public) oversight body is the most likely to be able to investigate allegations of corruption on the part of officials of the target institutions and/or ensure that appropriate action is taken if violations are found either by the imposition of sanctions or referral to an independent authority for criminal investigation and prosecution if there are indications that a criminal law was violated?

If the external oversight functions are disaggregated between more than one external body, it may be necessary to assess more than one for each target institution.

d. IDENTIFYING POSSIBLE INTERVIEWEES

The data for the indicators will be collected in part through in-depth interviews with key actors that will likely include:

- public officials in the target institutions
- contacts in external oversight bodies
- contacts in other appropriate governmental agencies such as the National Police Authority, the Ministry of Justice, the Chief Prosecution Authority or the Head Judicial Authority, and the office in charge of review of asset declarations
- contacts in civil society organizations that monitor criminal justice institutions and that protect whistleblowers, witnesses and victims
- journalists
- donor organizations working on the criminal justice sector

We estimate that the collection of data will involve at least 10 interviews – at a minimum one for each target institution, one or two for the external oversight body(ies), at least one for media representatives, and four more for other stakeholders such as civil society organizations and experts in the field.

e. IDENTIFYING DATA SOURCES

Written sources of statistical information may include: Reports from the institutions; reports from Ministry of Justice, Chief Prosecuting Authority, and Chief Judicial Authority; reports from the Ministry of Interior/National Police Authority; and reports from non-governmental organizations on the criminal justice system.

Written sources on institutional mechanisms may include: The rules and regulations that govern the institution, and institutional rules, reports, manuals, and guidelines.

Written sources on incidence of infiltration of organized crime may include media coverage by investigative journalists.

Written sources on failures of oversight mechanisms may include media coverage and reports by civil society organizations or international organizations.

Please note that the Chapters will need to conduct field tests of requests of information for both collecting important data and assessing the responsiveness and transparency of the target institution. In addition, a few site-visits will be needed to assess notices of complaints channels, equipment and access to public hearings or case-files.

2. ASSESSMENT PHASE

Since the Chapters will have collected information on the existence of pertinent legislation in the Exploratory Phase, the assessment carried out through the indicators will focus on the existence of institutional mechanisms – including institutional rules, guidelines and procedures for oversight – and on whether those mechanisms are implemented in practice.

The 75 indicators are divided as follows:

<table>
<thead>
<tr>
<th>Category</th>
<th>Investigative</th>
<th>Prosecution</th>
<th>Adjudication</th>
</tr>
</thead>
<tbody>
<tr>
<td>Internal Oversight</td>
<td>5</td>
<td>5</td>
<td>5</td>
</tr>
<tr>
<td>Protections</td>
<td>3</td>
<td>3</td>
<td>3</td>
</tr>
<tr>
<td>External Oversight</td>
<td>4</td>
<td>4</td>
<td>4</td>
</tr>
<tr>
<td>Transparency</td>
<td>4</td>
<td>4</td>
<td>5</td>
</tr>
<tr>
<td>Civil Society Part.</td>
<td>3</td>
<td>3</td>
<td>3</td>
</tr>
<tr>
<td>Capacity</td>
<td>3</td>
<td>3</td>
<td>2</td>
</tr>
<tr>
<td>Independence</td>
<td>3</td>
<td>3</td>
<td>3</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>25</strong></td>
<td><strong>25</strong></td>
<td><strong>25</strong></td>
</tr>
</tbody>
</table>

a. ASSESSMENT

The indicators will guide the Chapters by providing a scoring question, guiding questions, three possible answers reflecting **YES/GREEN**, **PARTIAL/YELLOW**, and **NO/RED**, and possible sources of data. In collecting the data and answering the questions, please follow the guidelines below:

- The online dashboard will open up the list of guiding questions. An answer area will be provided for each guiding question where the evaluator will enter a description of the data gathered and sources. The guiding questions should not be treated as a checklist of elements to be met to receive a certain score, but simply as guidance that allow the Chapters to carry out a targeted and well-founded qualitative evaluation.
- Whenever quantitative information is factored into the answers to the guiding questions, the data should be included in the online answers.
- Direct reference to official documents and other supporting documentation should be included in the answers.
- Information from interviews should be validated with documentary evidence or validation from the target institution.
- Unless special or unforeseen circumstances require an “unable to verify” answer, such as when there is no civilian oversight body in the question under the second indicator for Civil Society Participation, the Chapter should mark **NO/RED** as the answer. This is especially true when the information is not made available that would allow assessment of the
indicator. The information requested by indicators should be made available as part of the public’s right to know and to oversee their public institutions. A “NO/RED” score, in this case, indicates that the institution is failing to make important information available to the public.

- When the target institutions carries out two functions, prosecution/investigation, or adjudication/investigation, the Chapter should add 3 investigative function indicators the prosecution or adjudication assessments, respectively: **I.1.3** Checks on Internal Investigative Function; **I.4.1**. Publication of Information on Criminal Investigations in General and Organized Crime Investigations in Particular; and **I.6.2**. Organized Crime Training and Technical Support.

b. **VALIDATION OF UNDERLYING FINDINGS/FACTS**

The underlying findings (that is, the answers to the guiding questions with the facts and sources) should be externally validated. The validation can be obtained from, for example, written feedback from institutions, through a workshop or focus groups, and/or a targeted questionnaire for specific areas most in need of validation (for example, because data is limited or weak). The external validation will be of the underlying findings but not of the overall analysis of the underlying factors leading to the score.

c. **ANALYSIS LEADING TO FINDINGS AND SCORES – BRINGING IT ALL TOGETHER**

In determining whether a standard is met fully or partially or none at all for each indicator, the Chapters should analyse the validated underlying factors based on a review of the data collected and the contextual information gathered at the Exploratory Phase. Based on a review of the facts, the Chapters will select one of the three answers that best fits the findings. Further, the Chapters will include in the comment a summary of analysis of the facts and the contextual information gathered at the Exploratory Phase that form the basis of the scoring decision. Whenever quantitative information is factored into the analysis, the data should be included in the online comment. The Chapters should also include observations on the causes of weaknesses and potential areas for improvements: Are there any recent changes in policy and legislation identified in the Exploratory Phase that could positively or negatively impact the score? Are there serious gaps in legislation that need to be addressed first – for example, adoption of witness/whistleblower protection laws or access to information laws – to enable the institutions to adopt the necessary institutional mechanisms and practices? Is it possible to determine whether the failure to meet the standard is due to a lack of resources, weak institutional processes, institutional cultural factors and/or an overall lack of political will? How do the identified weaknesses increase the risk of corruption/infiltration or the inability of the institution to investigate, prosecute or adjudicate organized crime? Is a standard met solely because of buy-in from the head of the institution or is it because of something more engrained such as the adoption legislation accompanied with strong institutional mechanisms that will be more permanent?

d. **SUMMARY OF FINDINGS AND SCORES**

The Chapters will prepare a brief online summary of the findings and scores with a table or graphic showing the scores and a list of at least 10 areas of strengths and weaknesses.
3. ADVOCACY PHASE

Based on the findings and scores, the Chapter will develop a set of key recommendations to strengthen accountability mechanisms and other elements that would make the criminal justice institutions more effective in investigating, prosecuting and adjudicating organized crime. The Chapter will develop the recommendations based on the findings and analysis described above. First the Chapter will identify the areas where improvement is most needed (where the institutions scored “RED”), the actions that are the most realistic and feasible in view of the institutional and political environment, and the actions that will likely be most impactful. From these it will choose at least 10 key recommendations for reforms, which will form the basis for the advocacy phase.

As part of the advocacy phase:

- The Chapters will include action plans to implement the recommendations.
- The Chapters will conduct outreach to media outlets and organize at least one event to publicize the recommendations.
- The Chapters will also seek support from other appropriate government agencies or policy makers (to increase funding and enact needed legislation or regulations, for example), civil society organizations and international organizations.
- The Chapters will proactively engage and support the target institutions to adopt the recommendations and monitor their progress.

During the advocacy phase, it may be useful for the Chapters to emphasize how the adoption of reforms will also contribute to fulfilling the country’s commitment to the UN Sustainable Development Goals – in particular Goal 16 on Peace, Justice and Strong Institutions.

VI. TIMELINE

<table>
<thead>
<tr>
<th>Activity</th>
<th>Duration</th>
</tr>
</thead>
<tbody>
<tr>
<td>Recruitment of Research Team</td>
<td>2 weeks</td>
</tr>
<tr>
<td>Exploratory Phase (Fact Sheet and Research Planning and Stakeholder relationship)</td>
<td>2 weeks</td>
</tr>
<tr>
<td>Assessment Phase</td>
<td>3 months</td>
</tr>
<tr>
<td>Preparation of Summary Report and Advocacy Planning</td>
<td>1 month</td>
</tr>
<tr>
<td>Advocacy Phase</td>
<td>1 month and on-going</td>
</tr>
</tbody>
</table>