The Secretariat of the Global Judicial Integrity Network submits the following responses to the questionnaire transmitted on 1 April 2020.

Questions 1, 2, 3 (part 2) and 4 are not applicable to the Secretariat as it does not formally collect data about specific incidents. In response to question 3 (part 1), the Secretariat takes this opportunity to submit guidance from Network and UNODC publications regarding judicial integrity.

1. **Apart from disciplinary proceedings, are there any other measures that may be used to interfere with the capacity of a judge to adjudicate cases before him or her in full independence?** Are you aware of any case in which a judge has been promoted, transferred to another court, forced to take a training course, a vacation or medical leave, or coerced or pressured in similar ways in order to abandon a case pending before him or her? If yes, please provide information on the case(s).

***Global Judicial Integrity Network***

***Strengthening the Global Judiciary: A Framework for Judicial Protection and the Role of Judicial Immunities in Safeguarding Judicial Integrity***

Measures which interfere with the capacity of a judge to adjudicate cases before him or her in full independence, apart from disciplinary proceedings, are highlighted throughout the discussion paper **Strengthening the Global Judiciary: A Framework for Judicial Protection and the Role of Judicial Immunities in Safeguarding Judicial Integrity**, a forthcoming knowledge product being prepared by the Secretariat of the Global Judicial Integrity Network. The paper demonstrates that judges who lack certain protections are susceptible to various types of non-disciplinary interference, such as financial insecurity; career instability; lack of physical safety; or undue pressures arising from other institutions or within the judiciary itself. All may be considered forms of “disguised” measures against judges.

Primarily, the doctrine of judicial immunity protects judges from civil and criminal liability over their actions taken within the scope of their work. This doctrine helps to ensure the independence and impartiality of the judiciary by alleviating fears that parties may use litigation as a retaliatory or coercive tactic, and confines review of judicial decisions to the established system of appeals or judicial review. Absent this doctrine, litigation could be used to severely erode independent and impartial decision-making while diverting the court’s time and resources from the execution of regular duties.

In addition, the discussion paper proposes that a “framework of judicial protection” should be implemented to remove improper external burdens on the independence of judges and maintain high standards of performance. Such a framework includes strategies to protect judges from numerous types of interference of a non-disciplinary nature. Such a framework may include:

* An explicit guarantee by the State of the independence of the judiciary from political interference by the executive branch and legislature.
* Agreed procedures and qualifications for the appointment of judges and general criteria for judicial office.
* Guarantees relating to judges’ security of tenure either until a mandatory retirement age, or the expiry of their term of office.
* Clear conditions governing the promotion, transfer, suspension and cessation of judicial functions.
* Judicial salaries commensurate with the status and responsibility of the work of a judge.
* The security and physical protection of judges and their families in the event of threats being made against them.
* Adequate working conditions and administrative support services for judges.
* Adequate judicial pensions.
* Establishment of independent fora capable of defending judges against inaccurate and malign criticism from the media including social media.
* Reduction in the opaque complexity of procedures that can be used to mask corrupt behaviour.
* Systems to ensure the independence of state prosecution services.
* Discouragement of an overly closed group mentality of judges that might generate incentives to protect one another improperly.

***UNODC***

***United Nations Convention against Corruption: Implementation Guide and Evaluative Framework for Article 11***

The following paragraphs are relevant to the issue of “disguised” measures against judges.

59. The transfer of judges has been addressed in several international instruments, since transfer can be used to punish an independent and courageous judge, and to deter others from following his or her example. Among the principles enunciated are the following:

* A judge should not be transferred from one jurisdiction or function to another without his or her freely given consent, except pursuant to a system of regular rotation or promotion formulated after due consideration by the judiciary; and
* Such a system may include provision for transfers to be made in exceptional circumstances such as by way of a disciplinary sanction, in the case of a lawful alteration of the court system, in the case of a temporary assignment to reinforce a neighbouring court, or where a judge in his or her early years is transferred from post to post to enrich his or her judicial experience, the maximum duration of such transfers being strictly limited.

77. So as to prevent the removal of a judge through the abolition of the court on which they sit, the abolition of a court of which a judge is a member should not be accepted as a reason or an occasion for the removal of the judge. Where a court is abolished or restructured, States should seek to ensure that measures are in place to facilitate, in consultation with the judiciary, the reassignment of all existing members of the court to another judicial office of equivalent status and tenure. Where there is no such judicial office of equivalent status or tenure, the judge concerned may be provided with full compensation for loss of office.

90. Central to the question of integrity is the ability of the judiciary to act without interference from other branches of government. While this may be considered primarily a question of independence, measures taken to protect the judiciary from such pressure are also directly relevant to the question of integrity. If a judge makes a decision based on the concerns of a government, Minister or another outside party and not purely on the merits of the case, it is clear that, through the lack of independence, the judge is unable to carry out the judicial functions with full integrity.

91. Consequently, States parties, when considering the measures they have taken to enhance integrity, may also wish to reflect on the legal framework and practical measures that have been put in place to ensure that the judiciary is able to operate with independence from other branches of government. Specifically, the State party should seek to ensure, through constitutional or similar means that:

* The judiciary shall be independent of the executive and the legislature, and that no power shall be exercised as to interfere with the judicial process.
* In the decision-making process, judges are able to act without any restriction, improper influence, inducement, pressure, threat or interference, direct or indirect, from any quarter or for any reason, and are able to exercise unfettered freedom to decide cases impartially, in accordance with their conscience and the application of the law to the facts as they find them.
* A person exercising executive or legislative power shall not exercise, or attempt to exercise, any form of pressure on a judge or judges, whether overt or covert.
* Legislative or executive powers that may affect judges in their office, their remuneration, conditions of service or their resources, shall not be used with the object or consequence of threatening or bringing pressure upon a particular judge or judges.
* With the exception of decisions on amnesty, pardon or similar exercise of powers, the executive shall refrain from any act or omission that preempts the judicial resolution of a dispute or frustrates the proper execution of a court decision.
* A judge or a court shall not be required to render an advisory opinion to the executive or the legislature except under an express constitutional or statutory provision permitting that course. Allegations of misconduct against a judge shall not be discussed in the legislature except on a substantive motion for the removal or censure of a judge of which prior notice has been given.
* While exercising functions as a judge, the judge should not be involved in executive or legislative activities at the same time.
* No offer of post-judicial employment is made to a judge by the executive authorities while he or she is still functioning in a judicial capacity.