



Anti-Corruption Network for Eastern Europe and Central Asia

Istanbul Anti-Corruption Action Plan

Second Round of Monitoring

Azerbaijan

Progress Report

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1. Anti-Corruption Policy

1.1–1.2.–1.3. Political will to fight corruption, anti-corruption policy documents and corruption surveys

New Recommendation 1.1.-1.2.-1.3.

Strengthen political will and practical measures to implement the NSITCC and its Action Plan adopted in 2007. Improve a mechanism for civil society's participation in the assessment. Periodically carry out and publish surveys about levels and trends of corruption in different sectors. Implement measures to improve the quality and the implementation of the actions plans by specific institutions, develop policy and measures to address corruption risks at the municipal level.

Azerbaijan has accomplished its second anticorruption strategy, which provided a framework for a wide range of anticorruption measures in all areas of the society. The Government of Azerbaijan expresses full support and encourages active approach by all the actors. At the present stage, the Government has engaged itself in the dialogue with all segments of civil society, including media and private sector, public institutions and international community, including international organizations and foreign representations, in order to develop the next anticorruption strategy.

President Ilham ALIYEV repeated his anticorruption message at the semiannual and annual meetings of the Cabinet of Ministers, broadcast live on national television. He instructed the ministers with specific actions. He also addressed the citizens with the request to be active in providing information about corruption practices and complain the matter before judicial and law enforcement authorities. This addresses boosted the appeals of citizens, specifically made via hotlines.

The Commission on Combating Corruption held a special meeting with the participation of all the relevant state bodies. Special task and missions were assigned to the state bodies in order to preserve the development tendency in the country and eliminate negative facts to the economic-social development of the country. The Working .Group of the CCC was instructed to launched the elaboration of the draft National Strategy. As a result, the Working Group ran two round tables with the involvement of the civil society, on the 16th January and 7th February 2012. The preliminary draft of the new National Strategy was elaborated on the basis of the proposals of the civil society stakeholders. The ministries and other state agents have also submitted their proposals, which are currently processed by the Working Group of the Commission. The WG is planning to submit the draft National Strategy for first round public consideration, with the involvement of the international experts in the beginning of March 2012.

Simultaneously, the Commission is evaluating the results of the implementation of the National Strategy for Increasing Transparency and Fighting against Corruption 2007-2011. The Information Network of the Anticorruption NGOs has been involved in the process.

The ministries and other agencies of the executive power have been developing their anticorruption action plans in line with the accomplished National Strategy. Currently, the majority of the ministries have submitted their action plans and responsible officials in each ministry are holding consultations with the Secretariat of the Commission to bring their action plans in line with the forthcoming strategy.

1.4-1.5. Public participation in anti-corruption policy work, raising awareness and public education

New Recommendation 1.4.-1.5.

Enhance mechanisms to ensure civil society participation in the work of the Commission on Combating Corruption. Expand civil society participation in the Working Group on Legislation. Develop mechanisms for civil society involvement in sector specific anti-corruption activities as well as in the activities of local authorities. Increase efforts to raise public awareness through comprehensive and sustained campaigns, including for target groups, with the focus on practical skills needed to prevent and fight corruption.

Greater number of NGOs participates in the Working Groups under the Commission. The Commission continues its grant program to finance and support logistically the NGOs, including the Information Network.

Public surveys and study programs have been conducted in 2011, including the surveys of the applications by citizens to the hotlines of ministries and the hot-line of the Anticorruption Department with the Prosecutor General. The Commission has planned its activity in the field of researches and surveys. The Commission has published the results of the evaluation and survey conducted by the Information and Cooperation Network of NGOs. The survey efforts are directed currently to the evaluation of the results of the implementation of the Strategy.

1.6. Specialized anti-corruption policy and coordination institution

New Recommendation 1.6.

Strengthen the role of the Commission in public awareness raising and in anti-corruption training for public administration, and in anti-corruption research. Focus the efforts of the Commission at the implementation of the priority measures of the strategy, such as adoption of legislation and sector specific action plans. Strengthen the capacity of the Commission and its Secretariat to verify asset declarations of public officials. The Commission should collect and analyze information about various violations of anti-corruption provisions gathered by ministries and agencies, including the internal investigative sections within each agency, based on standardized reporting mechanisms.

While elaborating the new strategy, the Commission aiming to intensify its role in the public awareness raising and coordinating anti-corruption training for public administration and anti-corruption research.

2. Criminalization of Corruption

2.1.-2.2. Offences and Elements of Offence

New Recommendation 2.1.-2.2.

Consider amending the Criminal Code to include a separate provision criminalizing illicit enrichment. Ensure criminalization of “promising” or “offering” a bribe, including making these provisions applicable to Article 312-1, Trading in Influence. Develop cases based on non-material benefits as an object of bribery. Introduce into the legal system the concept of responsibility of legal persons for corruption-related criminal offences.

Azerbaijan is in the process of considering amending the Criminal Code to include a separate provision criminalizing illicit enrichment and introducing into the legal system the concept of responsibility of legal persons for corruption-related criminal offences. Both measures have been included in the draft strategy as targets.

With Criminal Law (Amendment) Act 2011, the recommendation on the criminalization of “promising” or “offering” a bribe and application of similar provisions to Section 312-1 (Trading in Influence) of the Criminal Code was implemented.

2.3. Definition of Public Official

New Recommendation 2.3.

Ensure a proper criminalization of bribery of foreign public officials by introducing a separate criminal offence in the Criminal Code or by expanding the definition of official in Note 1 to Section 308 to clearly include foreign public officials.

Azerbaijan has fully implemented this recommendation through Criminal Law (Amendment) Act 2011 (24.06.2011) by introducing amendments to the Note to Section 308 of the Penal Code.

2.4.-2.5.-2.6 Sanctions, Confiscation, Immunities and Statute of Limitations

New Recommendation 2.4.-2.6.1.

Amend the Note to Section 312 of the Criminal Code so that the person who pays a bribe and then reports it to the authorities is only exempt from criminal prosecution if that person reports the crime to the authorities before it is discovered by them. Also, make clear in the legislation that this exemption cannot be applied to bribery of foreign or international public officials. Consider amending the statutory and constitutional provisions regarding immunity for public officials to limit such immunity to acts committed in the performance of official duties. Alternatively, amend these same provisions to apply only when a criminal case is ready to be filed to court or when the arrest of an official is requested. Lift the prohibition on using special investigative measures (SIMs), allowing detective activities (SIMs) and criminal investigations of officials with immunity to be conducted

confidentially, as are all other criminal investigations. (See also New Recommendation 3.8. regarding immunity of judges which is consistent with this recommendation).

The investigation of corruption-related crimes has been concentrated in the Anticorruption Department. The Anticorruption Department is conducting a research on the instances of the application of the note to Section 312. Preliminary results show that there have been only few cases when this provision was applied. The Results of this research could be supplied additionally.

New Recommendation 2.4.-2.6.2.

Analyze the practice of application of confiscation provisions to identify deficiencies and develop measures to ensure their more effective application. Collect and analyze accurate statistics on what property is being confiscated, how the property is being disposed of, and the amount of money deposited into the government treasury. Consider adopting civil provisions for confiscation of the proceeds of crime.

The General Prosecutor's Office is conducting analysis of the practice of application of confiscation provisions to identify deficiencies and develop measures to ensure their more effective application. There is an established mechanism for the collection and analysis of the pertaining information. According to the statistical data, ACD seized property and means worth 7,000,000.00 Manats (1Euro = 1.04 Manats) and in 2010, and 6,880,787.00 Manats in 2011. The process of establishment of an independent body charged with the abovementioned issues near the State Committee on Property Affairs is under consideration. In the Report Period, the General Prosecutor's Office held consultations with all the stakeholders.

2.8. Application, Interpretation and Procedure

New Recommendation 2.8.

Introduce measures to ease the proceedings for the access of the prosecutor's office and, particularly of the ACD, to bank, financial and commercial records. Consider amending the C.P.C. to allow these activities to be performed by order of a prosecutor, without authorization from a court. Amend the actual laws on SIMs or draw up methodologies in order to ensure full and direct control of the case- prosecutor to the operative activity and SIMs performed by law enforcement agents, by the direct participation of the prosecutor in such operations or by simultaneous access in the course of conducting detective operations and using special investigative measures (SIMs) and remote coordination by the case prosecutor.

The Detective-Search Activity Act (1999) is the law which provides all possible special investigative measures (SIMs) available for the law enforcement agencies. Section 10 of the Act establishes the following SIMs: interviews of people; informal inquiries; wiretapping of telephone conversation; surveillance of post and other communications; extraction of information from technical electronic communication channels; checking the letters of convicts; examination of vehicles; entrance and examination of dwellings and other premises as well as

other closed buildings; monitoring of buildings, including dwelling premises, as well as other closed buildings, construction sites and land plots; surveillance of persons; person's identification; controlled purchase of goods; examination of objects and documents; collection of samples for comparative analysis; controlled delivery; undercover penetration of criminal groups or marginal association; incorporation of a legal person; conducting investigatory experiments- i.e. application of model simulating the criminal behavior.

According to the Detective-Search Activity (Amendment) Act 2011 (18.03.2011) the Anti Corruption Department near the General Prosecutor, which used to be empowered only with the criminal investigational (pre-trial) powers, has been vested with the authority to carry out all types of special investigation means (SIM) in respect of the corruption offences. The amendments go beyond this to exclude all other law enforcement agencies from carrying out SIMs in respect of the corruption offences, except the cases when ACD issues to them mandatory written instructions to carry out such measures. The appropriate changes was reflected in the Prosecutor's Office (Amendment) Act 2011(18.03.2011), which defined the ACD as a body specialized in the investigation and operative detection of corruption offences.

Since the establishment of the Detective Units in the ACD, 176 communications was received through the hotline. 11 communications were received from citizens. Out of all the communications, the ACD Detective Units took actions and committed operations in 18 cases. The sting operations conducted by the ACD Detectives under supervision of the prosecutors allowed launching 18 criminal cases. 8 out of these 18 cases were referred to court. Among officials arrested in sting operations are the Director of the Regional Transport Corporation under Ganja (Second biggest city in Azerbaijan) Transport Auto Transport Department of the Ministry of Transport, Chairman of the Medical Social Commission under the Ministry of Labour and Social Security, Chief of Staff of the Lachin Department of the Ministry of Education, Assistant to the Chief of the Children's Surgery Department of the Azerbaijani Medical University, Chief of Circuit in the Sabunchu District Gas Supply Department in Baku, tax officer, Chief of the Labour Union of Tafakkur University, Mayor of Masally city, Executive director of the Tourism Company, Chairman, lawyer and chief of commission of the central municipality of Baku, etc.

2.9. Specialized Anti-Corruption Law-Enforcement Bodies

New Recommendation 2.9.1.

Establish criteria for defining the investigational jurisdiction of the Anti-Corruption Department.

Continue efforts to strengthen the ability of the ACD to detect, investigate and prosecute corruption. To enable the ACD to detect high-level corruption, empower the ACD with full scale detection of corruption functions. Ensure direct access for the ACD to all public data bases kept by the public authorities. Consider reducing the role

of other law-enforcement agencies in detection and investigation of corruption, improve inter-agency cooperation and exchange of information. Review the role of all law enforcement bodies, including the Ministry of Internal Affairs and Ministry of National Security, in detection of corruption offenses to ensure that corruption detection and investigation are carried out by a specialized anti-corruption body.

Building up on the work implemented by the analytical division of the ACD to date, consider further strengthening analytical support for detection, investigation and prosecution of corruption, e.g. through provision of information which enables comparison among institutions, and/or development of typologies and identifying high risk areas, where detection and investigation, and other anti-corruption measures should be focused.

Provide a legal basis and establish a special unit in the ACD empowered to perform all SIMs, composed of specialized personnel who are competent to perform these tasks.

National Corruption Database continues its operation since January 1, 2009. It provides a proper mechanism for the monitoring of corruption and corruption related offences.

According to the Prosecutor's Office Amendment Act (Implementation) Presidential Decree 2011, the instruments detailing the implementation of the appropriate Act, the Cabinet of Ministers was commissioned with taking necessary measures in order to ensure the Access of the ACD to the databases of state institutions. Currently, ACD has already joined to the AMAS integrated database covering several ministries. Joining the databases of the ministries has been included in the targets of the new strategy.

According to the ACD Charter Presidential Decree 2011, seven divisions were established within the ACD. The number of the employees (prosecutors and investigators) was raised to 100, with 45 detectives/specialists and technical staff. Whereas the detectives are recruited from the law enforcement bodies with SIM powers, the specialists are recruited from among the experienced specialists the economic, finance, banking, municipal and other areas.

At the Stage of the [pre-trial] criminal investigation the jurisdiction of the Anticorruption Department covers all corruption offences and the offence of the money laundering. According to the established practice, only in the case of low profile of the case and overload of the department, the case is referred to the territorial prosecutor's office. The statistics speaks for itself: **in 2011, the ACD has instituted 287 criminal cases/investigations, of which 142 criminal cases in respect of 229 persons were submitted to courts.** The criminal cases cover the investigation bribery, trade in influence, abuse of office, excess of authority, official fraud, misappropriation, swindle, money laundering, etc. For comparison only **104 criminal cases in respect of 188 persons were submitted to court throughout entire year of 2010.**

At the stage of the detective activity, including application of the SIMs, the ACD has an exclusive competence, excluding all other agencies, such as police and security bodies, which is clearly stated in the new version of the Detective Search Activity ACT 1999.

The Ordinance of the Prosecutor General 10/5 of 18.01.2012 delineated jurisdiction of the Anticorruption Department in pre-investigation and investigation areas, as well as legal assistance in criminal matters. ACD is the principal investigative authority in corruption cases, including all forms of bribery, abuse of office, embezzlement, trade in influence, money laundering, fraud by officials in public and private sector. Offences related to corruption shall be investigated by the ACD if committed by the law enforcement officials of all levels, officials of the central executive authority. In case if the offence is committed by an official even at a local level, but the case is of great public importance or large amount of damage was inflicted.

New Recommendation 2.9.2.

Take measures to design a normative base for improving inter-linkage efforts to fight organized crime and corruption. Enhance cooperation with international organizations and NGOs dealing with both organized crime and corruption in order to ensure a holistic view about common areas of concern of both organized crime and corruption.

New Recommendation 2.9.3.

Continue the establishment of the FMS in accordance with international standards and ensure its operational autonomy. Continue with the implementation of FATF Recommendation 6 that deals with politically exposed persons. FMS should work with ACD to develop a mechanism to identify appropriate criminal cases from the relevant suspicious activity reports.

The Anti-Corruption Department under General Prosecutor's Office of the Republic of Azerbaijan established within consistent and systematically implemented anti-corruption measures in the country is a law-enforcement body directly involved in AML/CFT field. Thus, pursuant to the Code of Criminal Procedure of the Republic of Azerbaijan, preliminary investigations on criminal cases related to anti-money laundering and combating the financing of terrorism shall be handled by prosecution bodies.

The Memorandum of Understanding on mutual cooperation in AML/CFT sphere was signed between the Financial Monitoring Service and the Anti-Corruption Department under General Prosecutor's Office in February 2010. Thus, the Anti-Corruption Department was identified as the prosecution body responsible for AML/CFT activities.

In accordance with the AML/CFT legislation and the mentioned Memorandum of Understanding, both agencies share information on facts of legalization of criminally obtained funds or other property and investigation of such facts.

Moreover, based on the Curriculum jointly developed by the Financial Monitoring Service and the Scientific-Education Center of the General Prosecutor's Office, employees of the General Prosecutor's Office continue to receive training on specific features of preliminary investigations of AML/CFT-related criminal cases.

3. Prevention of corruption

New Recommendation 3.2.

Pursue the implementation of civil service reform to streamline the legal framework and cover those sectors which are not yet covered. Provide clear delineation between professional and political officials. Continue reforms of recruitment and promotion to ensure that all vacancies are open for merit-based competitive and transparent appointments and promotions.

Establish a reasonable limit to the share of additional wages; introduce measures to reduce discretion; and improve transparency related to granting of additional wages.

Speed up measures needed to enforce the provision of the Law on Combating Corruption which requires public officials to submit asset declarations. Strengthen the capacity of the Commission on Combating Corruption to verify the declarations. Start a process for reviewing the provision which prohibits public disclosure of the declarations filed by public officials while still maintaining the private, personal and sensitive information of those officials.

Speed up measures to adopt the Law on Prevention of Conflict of Interests to establish a clear definition of conflict of interest and rules on compatibility, and institutional mechanism for application of these rules.

Clarify obligation for public officials to report corruption related crime, and adopt measure to protect whistleblowers in public administration.

Establish permanent system for education of public officials ethics, integrity and prevention of conflicts of interest; and on other anti-corruption issues, such as criminal liability corruption related crime; identification of corruption risks and internal corruption prevention measures in institutions, obligation to report crime and to protect whistleblowers.

Azerbaijan continued to pursue the implementation of civil service reform to streamline the legal framework and cover even wider scope of public officials. Appointment persons to the public officials became a rule, effective for all the executive bodies, now even the judicial branch with judicial employees, ACD detectives and specialists being recruited through a competitive process. In practice, the entire judicial corpse and half of the Prosecutor's Office have been employed through the multi stage competition.

In the area of transparency and competition based recruitment and promotion of civil servants, the CSAC is running the competition-based transparent recruitment procedures on an on-going basis. The commission has completed its work to obtain the applications of the citizens electronically.

The Commission, in cooperation with the appropriate public institutions constantly updates questions database and specific examination software related to the initial stage of the competition. At the second stage for the competitive examination, which is the Interview, the CSAC set up the panel for independent experts. The panel was set up also through the

competition. Interview with the candidate is video-recorded and archived and the Commission arranges all necessary conditions for the participation of observers from among civil society and media in this process. The CSAC has developed a software which contains the topics for questions, as well as the sources of information for replies to these questions.

The Appellate Commission (AC) was established in order to Review the appeals by the unsatisfied failing candidates in an expedient manner.

The Commission initiated the amendment to the legislation, according to which the Head of the Institution is bound to choose one of the CSAC candidates provided to him/her and appoint this candidate to the vacant position.

With regard to the promotion of the civil servants, a civil servant is entitled to the advancement in service through promotion by the management, interview or competition, according to Section 32.1 of the Civil Service Act. The interview is run by the Interview Commission, which shall include the representative of the CSAC. The Interview is conducted based on the same rules as the Interview as the second stage of the Recruitment Examination Process, mentioned above. The civil servants occupying the 6-9 categories of the civil service, the promotion is possible according to the results of the mandatory interview or other competition process. To this end, competition group shall be established to carry out this competition. The representative of CSAC shall be included in this group. The measures applied at the second stage of the competition, the interview are also applicable in this process.

Establishment of the limits to variable part of the wage of civil servants, rules for mandatory continuous training in the area of code of ethics, integrity, conflict of interests are included into the targets of the draft National Strategy against Corruption, Action Plan 2011-2015 for the Implementation of the National Strategy for Reduction of Poverty and Development 2008-2015.

At the beginning of each year, the Commission requests information from all central and local public institutions concerning the measures, which they plan to arrange trainings in the areas of combating corruption, prevention of conflict of interests, enforcement of ethical and unbiased behavior by civil servants, and issues its recommendations on how to establish principles and arrange continuous trainings in this area. The CSAC requests these bodies to provide it with quarter reports on the taken measures (not mandatory). Based on their replies, the CSAC issues recommendations to them, which propose to carry out continuous mandatory trainings.

CSAC ran joint trainings in central and local executive institutions covering such issues as the ethical behavior of the civil servants, integrity, fairness, requirements of the Civil Servants Ethic Behavior Rules Act and significance of compliance with these Rules.

3.3. Promoting transparency and reducing discretion in public administration

New Recommendation 3.3.

Launch as soon as possible the process of drafting a legal act regulating the evaluation of legal acts as a way to strengthen the review of laws as regard anti-corruption compliance. Pay careful attention to streamlining the methodology, allocating clear competencies to the relevant government bodies involved, specifying which anti-corruption international standards shall be taken as benchmarks and stating the consequences of the review findings, especially concerning the duty of the Parliament in that matter. The specialized anti-corruption agencies, i.e. the Commission for Combating Corruption and the Anti-Corruption Department in the Prosecutor General's Office, should be directly involved in this process.

Ensure that the requirement of the National Strategy on Increasing Transparency and Combating Corruption 2007-2011 to improve and implement anti-corruption measures by line ministries is implemented. A clear monitoring mechanism of line ministries anti-corruption action plans measures shall be put in place and monitored by the Commission on Combating Corruption. The Commission shall also recommend measures to the line ministries on the basis of reports issued by international development actors.

Continue projects to simplify regulations and procedures in public administration, such as the privatization processes and public service delivery.

On February 17, 2011 the Constitutional Law of the Republic of Azerbaijan on Normative Legal Acts became effective. This new comprehensive law consisting of 18 chapters and 98 articles replaced the previous law on normative legal acts dated November 26, 1999. The 5th chapter of the Law is about realization of generally accepted principles and norms of international law and norms of the treaties which Azerbaijan is a party to in the normative legal acts of the Republic of Azerbaijan. There are also provisions about compulsory legal and linguistic and abuse expertise of normative legal acts. "Structure of the opinion of compulsory legal expertise of draft normative legal acts and the "List of abuse factors in normative legal acts (and its drafts)" are annexed to the Law.

3.4. Public financial Control and Audit

New Recommendation 3.4.

Provide long-term capacity building and training in the field of corruption and fraud detection to the auditors of CoA. Introduce anti-fraud and anti-corruption audits in the activity portfolio of the CoA, as well as strict performance-based audits, especially in line ministries facing high corruption risk. Ensure that the CoA develops detailed yearly statistics on the number and types of audits carried out, the source of audit (how it was initiated), and the outcomes and impact of those audits on the decisions taken by the Parliament. Consider introducing ex-ante control of budget execution by the CoA.

Ensure that regularly published information on public accounts and budget includes clear explanations on discrepancies. Consider introducing a requirement to the PFCS to review agencies not according to the periodical plan (e.g. each agency to be reviewed not more than once every 2 years), but on the basis of risk-prone financial misconduct.

Enhance the power of the IA units in order to allow them to proactively launch anti-fraud and anti- corruption audits, especially in government spending entities, and not only on the basis of a received complaint or suspicious information. Assess the usefulness and the effectiveness of the IA units and propose further improvements; to this end, ensure that all IA unit in different entities should submit yearly statistics on the number of audits carried out, the types of audits, the source of audit (how it was initiated), and the outcomes and impact of those audits (fines, lawsuits, dismissal, financial and organizational reforms done on the basis of audit results, etc).

Organize joint trainings including personnel from Internal Audit and ACD on how to submit material to law enforcement bodies.

The State Financial Control Service (SFCS) of the Ministry of Finance acts in accordance with the *Rules for Examination by the SFCS* endorsed through the Decree I-100 dated 27.08.2009 of the Minister of Finances. According to these Rules, the Service is conducting examinations in the budgetary institutions based on the annual plan. While drafting its annual plan, the SFCS is taking into account also the information on irregularities in the budget-financed institutions, which is received by the Service from various services. Finally, the Ministry of Finances is elaborating Bill on State Financial Control, which foresees the extraordinary examinations based on the well-founded information.

A Strategic Development Plan (SDP) is in the process of implementation by the Chamber of Accounts in order to improve its capacity. Activities have been implemented according to SDP under the World Bank supported project CAPSAP on the account of resources allocated by SECO. Implementation of these activities is ensured on the account of resources envisaged in the Grant Agreement for Technical Assistance between the Government of the Republic of Azerbaijan and the Government of Swiss Confederation allocated specifically for categories of activities envisaged in the SDP.

After strengthening the capacity of the Chamber of Accounts under the CAPSAP projects it is expected to be capable to introduce separate planning of audits against corruption and fraud. Currently, while detecting any case of fraud or abuse during audits performed under the existing legislation, the audit group, according to “Rules On Preparation, Performance And Documenting The Results Of Financial-Budgetary Supervision Activities Performed by the Chamber of Account of the Republic of Azerbaijan”, the relevant report (act) is being prepared and sent to the General Prosecutor’s Office based on the decision of the Board of the Chamber on detected violations.

The Chamber of Accounts reports on annual basis to the Parliament of the Republic of Azerbaijan and reports covers types of financial-budgetary supervision activities performed during the year, their number and grounds, results of such activities, identified shortcomings and discrepancies and reasons causing them, proposals of the Chamber of eliminate the and

counter-activities made by audited agency, as well as other information related to current operations of the Chamber.

Preliminary audits, for the purpose of prevention of reasons and causes of legal violations is performed by the Chamber by means of development of relevant opinions at the state of consideration of draft laws related to the State Budget, budgets of Extra Budgetary Funds and budgetary financial issues.

The information related to the implementation of the budget in quarter and annual segments, including the information on the difference in figures between the approved ones and real ones, are regularly published in the press and web-page of the Ministry of Finance.

3.5. Public Procurement

New Recommendation 3.5.

Review and reform the legal and institutional framework for the public procurement, including the Public Procurement Law, and strengthen the capacity of the State Procurement Agency to lead the implementation of the reform. Ensure transparency of procurement procedures, expand the use of competitive procedures, ensure that emergency and single-source procurements are reasonably limited and properly controlled. Ensure that procurement plans are developed by procurement agencies. Introduce clear criteria for establishing and operation of tendering commissions, adopt standard template for bidding documents. Continue providing professional and anti-corruption training to the officials involved in the tendering commissions. Strengthen monitoring of public procurement carried out by the procuring agencies, collect and analyze precise statistical information on procurement methods, values, and other relevant information. Establish an independent public procurement review body competent to review appeals filed by participants of the tendering procedures, introduce a freezing period to allow for filing of complaints.

- The number of refusals issued by the State Agency for Procurement (the Agency) to the applications for purchase of single-source by the procuring institutions has increased 5 times in comparison to the previous year.
- The Agency is about to complete its mutual work with the USAID on elaboration of the statutory framework for the Standard Templates for procurement of goods, works and services. These templates are already worked out and printed.
- The Agency is about to complete (within the next half-a-year) its work on the single internet portal, which meets the demands of the Agency in line with its new duties under the Public Procurement Act 2010 (enacted on the 17.03.2010).
- The Agency has elaborated Draft Presidential Decree on the Additional Measures on Public Procurement.

The Agency has elaborated Public Procurement (Amendment) Bill.

3.6. Access to Information

New Recommendation 3.6.

Analyze the implementation of the Access to information Act in order to identify if any difficulties remain in public access to information, e.g. if the provision requiring that the requestor should be duly authorized to acquire information leads to abuse of discretion by public officials.

Establish a special agency, such as Commissioner/Ombudsperson, or assign duties to monitor the implementation of the Access to information act to another already existing public institution; ensure relevant independence and impartiality as well as mandate and powers to this body.

Analysis of the implementation of the Access to information Act in order to identify if any difficulties is the topic, which the CCC is encouraging as the topic of research by NGOs and is considered among priority topics in allocation of grants. The situation in this area is reflected in the yearly Report of Ombudsman and Research on the Condition of Corruption, run by NGOs.

3.7. Political corruption

New Recommendation 3.7.

In order to foster trust of citizens in the independence of political parties, introduce a requirement to disclose information about sources of private donations received by political parties, above a certain threshold. In order to ensure transparency of financing of political parties and election campaigns, establish a system, with a clearly defined mandate and powers, to carry out this function.

Ensure that the Bill on Prevention of Conflict of Interests or a separate legal act establish conflict of interest rules for political officials and envisage sound monitoring system of the application of the above-mentioned rules.

Donations may be granted to political parties by domestic natural and legal persons and take the form of cash or non-cash donations. No value thresholds are fixed. Political parties may not receive donations intended to generate an economical or political benefit for the donor, according to the legislation. Anonymous donations are not explicitly regulated by the legislation but they are excluded in so far as the financial accounts of political parties must indicate the name (surname) of the donor, his/her address and the amount of the donation.

3.8. Integrity in Judiciary

New Recommendation 3.8.

Consider abolishing immunity of judges from prosecution. Alternatively, amend the statutory and constitutional provisions regarding lifting of immunity, which should be applied only when a criminal case is ready to be filed to court or when the arrest of a judge is requested. Lift the prohibition on using special investigative measures,

allowing application of detective measures (SIMs) and criminal investigations of judges to be conducted confidentially, as are all other criminal investigations.

Develop and introduce a methodology using international standards (such as the recommendations of the Council of Europe) to ensure random distribution of cases between judges and panels of judges in all courts.

The provisions of this recommendation have been reported and are currently under consideration of the Independent Self-Governing Body for the Judicial Branch of Power – the Judicial Legal Council.

JLC is continuing its efforts to provide full application of the Case Processing Instructions of 30.08.2007, which requires installation of the automatic and codified cases assignment system.

3.9. Integrity in the private sector

New Recommendation 3.9.

Develop and launch awareness raising programs about risks of corruption and solutions for private sector. Together with private sector organizations, promote the development self-regulation within the private sector (code of conduct, anti-corruption compliance policies).

The Ministry of Economic Development runs regular training with the participation of the private sector and business community in particular, in view of its special position. Thus according to the Presidential Decree of 2002 re *Prevention of Intruding and Fiddling with Entrepreneurial Activity*, any financial examination of the private sector actors, i.e. private businesses, except tax reviews, shall be carried out only with the participation of the MED representatives. In addition, the President endorsed Establishment of United register of the Examination of Entrepreneurial Activity in March 2011. Therefore, the Minister of the MOD issued a special order in April 2011 on running regular training on prevention of corruption and abuses in this area with the involvement of the private sector agents.