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ISTANBUL ANTI-CORRUPTION ACTION PLAN

FOURTH ROUND OF MONITORING

TAJIKISTAN

PROGRESS UPDATE

This document contains the progress update of the implementation of recommendations from the Fourth Round of Monitoring of the Istanbul Anti-Corruption Action Plan for Tajikistan adopted at the 19th ACN Plenary Meeting on 4 July 2018.

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BACKGROUND

About the OECD

The OECD is a forum in which governments compare and exchange policy experiences, identify good practices in light of emerging challenges, and promote decisions and recommendations to produce better policies for better lives. The OECD's mission is to promote policies that improve economic and social well-being of people around the world. Find out more at www.oecd.org.

About the Anti-Corruption Network for Eastern Europe and Central Asia

Established in 1998, the main objective of the Anti-Corruption Network for Eastern Europe and Central Asia (ACN) is to support its member countries in their efforts to prevent and fight corruption. It provides a regional forum for the promotion of anti-corruption activities, the exchange of information, elaboration of best practices and donor co-ordination via regional meetings and seminars, peer-learning programmes, and thematic projects. ACN also serves as the home for the Istanbul Anti-Corruption Action Plan. Find out more at www.oecd.org/corruption/acn.

About the Istanbul Anti-Corruption Action Plan

The Istanbul Anti-Corruption Action Plan is a sub-regional peer-review programme launched in 2003 in the framework of the ACN. It supports anti-corruption reforms in Armenia, Azerbaijan, Georgia, Kyrgyzstan, Kazakhstan, Mongolia, Tajikistan, Ukraine and Uzbekistan through country reviews and continuous monitoring of participating countries' implementation of recommendations to assist in the implementation of the UN Convention against Corruption (UNCAC) and other international standards and best practice. Find out more at www.oecd.org/corruption/acn/istanbulactionplan.

PROGRESS UPDATE METHODOLOGY

After the adoption of the Monitoring Report, the assessed country presents a Progress Update at each subsequent ACN Plenary Meeting.

The Progress Update begins with a description of the methodology, followed by the summary of the assessment of implementation of recommendations, as agreed during the Plenary Meeting. It then goes into each recommendation separately, providing the country report, as well as the ACN and expert assessment.

The Progress Update follows the following steps:

1. Progress Update reports are prepared by country representatives

These documents include information on implementation measures taken for each recommendation, and may also cover additional anti-corruption developments. Country representatives submit a written Progress Update report to the ACN Secretariat through appointed National Co-ordinators, together with supporting documents, such as laws and statistical data. Civil society also submits alternative reports on progress.

2. Preparation of preliminary assessment by ACN Secretariat and experts

The Secretariat and the experts who contributed to the Monitoring Reports (or delegates replacing the experts) study the Progress Update reports and prepare a draft progress assessment for the Plenary Meeting. Civil society is also invited to contribute to the evaluation.

3. Discussion at the ACN Plenary meeting

The ACN Secretariat and experts discuss the Progress Update during a bilateral preparatory meeting with country representatives. The Plenary then discusses and endorses the assessment.

4. Finalisation of Progress Update

Following the Plenary Meeting, the ACN Secretariat adds the final assessment to the Progress Update reports, finalises and publishes them on the ACN website.

SUMMARY

19th meeting, July 3-5, 2018. The progress report on the implementation of the Implementation of the Fourth Round of Monitoring Requirements on Tajikistan was presented by the National Co-ordinator - the State Agency for Financial Control and Combating Corruption of the Republic of Tajikistan. The information was studied by the monitoring team consisting of Mr. Alexander Seregin, member of the Anti-Corruption Agency (Ukraine), Ms. Aziza Umarova, expert on good governance (Uzbekistan), Mr. Amir Ojagverdiyev, Senior Prosecutor in the Anti-Corruption General Directorate of the Prosecutor General's Office (Azerbaijan) and Mr. Andriy Kukharuk (OECD Secretariat).

The progress update was discussed and adopted at the plenary meeting of the OECD Istanbul Anti-Corruption Action Plan on July 4, 2018. Since the previous progress update, plenary noted progress 8 out of 19 recommendations, and lack of progress in 11 out of 19 recommendations.

Recommendation	Progress assessment
	<i>19th meeting</i> July 2018
Recommendation 1: Anti-corruption policy	Lack of progress
Recommendation 2: Anti-corruption surveys	Progress
Recommendation 3: Civil society participation	Lack of progress
Recommendation 4: Public awareness raising campaigns	Progress
Recommendation 5: National Anti-Corruption Council	Progress
Recommendation 6: State Agency for Financial Control and Combating Corruption	Progress
Recommendation 7: Integrity in public service	Lack of progress
Recommendation 8: Integrity of the judiciary	Lack of progress
Recommendation 9: Integrity of public prosecution bodies	Lack of progress
Recommendation 10: Accountability and transparency in the public sector	Progress
Recommendation 11: Integrity in public procurement	Lack of progress
Recommendation 12: Business integrity	Progress
Recommendation 13: Criminal anti-corruption legislation	Lack of progress
Recommendation 14: Definition of “official”	Lack of progress
Recommendation 15: Confiscation	Lack of progress
Recommendation 16: Sanctions	Progress
Recommendation 17: Procedures for investigating and prosecuting corruption offences	Lack of progress
Recommendation 18: Anti-corruption criminal justice bodies	Progress
Recommendation 19: Prevention of corruption in the land sector	Lack of progress

PROGRESS UPDATES BY RECOMMENDATION

Recommendation 1: Anti-corruption policy

1. **Work out very specific measurable assessment criteria for the achievement of the goals and performance of the measures for implementation of the Anti-Corruption Strategy for 2013–2020 of the Republic of Tajikistan and add them to the Strategy providing information (data) sources, on the basis of which achievement of the Strategy’s goals will be assessed, as well as agencies responsible for collection of such information.**
2. **Ensure the highest participation of all state power bodies (republican and local) in the development, implementation, assessment of the implementation of the national Anti-Corruption Strategy, allowing the state authorities to submit proposals on changing and amending the Anti-Corruption Strategy for 2013-2020 of the Republic of Tajikistan.**
3. **Ensure effective monitoring of the implementation of the Anti-Corruption Strategy for 2013-2020 of the Republic of Tajikistan, guaranteeing that the agency, which is authorized to carry out monitoring and control functions, has sufficient powers and resources to take decisions or to initiate the solution of problems related to non-implementation or insufficient implementation of the Strategy, can perform quality analysis and assessment of information on implementation of the Strategy, has the right to receive information related to implementation of the Strategy from all executing organizations of the Strategy, and also that this right is supported by the respective obligations of the executing organizations of the Strategy. Also stipulate more regular monitoring (every half-year) in order to react quickly to non-implementation or insufficient implementation of the Strategy. Ensure that in the course of assessment of implementation of the Anti-Corruption Strategy for 2013–2020 of the Republic of Tajikistan (monitoring) that the findings of a comprehensive study of the nature of corruption and its penetration into public administration are taken into consideration.**
4. **Continue disseminating information on the Anti-Corruption Strategy for 2013–2020 of the Republic of Tajikistan and its implementation, and pay more attention to the results of implementation of the Strategy, so that every executing organization of the Strategy feels its responsibility towards society, and society is aware of its right to request effective implementation of the Strategy from the state authorities.**
5. **Continue to engage civil society into all processes related to the Strategy: implementation, monitoring and control over implementation, analysis and updates; make every effort to ensure that these processes become a joint work of the state authorities and non-governmental structures.**
6. **Ensure the necessary financing of implementation of the Anti-Corruption Strategy for 2013–2020 of the Republic of Tajikistan by providing the respective funds for realization of measures which cannot be performed at the expense of the state executing organizations of the Strategy (i.e. measures which are not directly connected with the functions of the state body or which require additional financing) in the Strategy itself or stipulate obligations for all state authorities to perform measures for implementation of the Strategy in their intradepartmental plans for two years and to allocate relevant financing.**

Government report

1) For these purposes, the Agency conducts a comparative analysis to assess the planned and internal anti-corruption programs of the subjects implementing the Anti-Corruption Strategy in the Republic of Tajikistan for 2013-2020. Based on the results of this analysis, it is planned to develop a methodology for assessing the achievement of the Strategy's objectives in August-September 2018.

2) A comprehensive monitoring of the overall state of implementation of the Strategy showed that, in accordance with paragraph 3 of the Decree of the President of the Republic of Tajikistan "On the Anti-Corruption Strategy in the Republic of Tajikistan for 2013-2020" and clause 2 of the Action Plan on Implementation of the Strategy, all ministries, departments, executive bodies of the local government, organizations and institutions developed and approved departmental (sectoral) anti-corruption Programs and Plans for their implementation.

Also, Article 7 of the Republic of Tajikistan Law "On Regulatory Legal Acts" provides:

The subjects of law-making include the people of Tajikistan, joint meetings of the Majlisi Milli and the Majlisi Namoyandagon Majlisi Oli of the Republic of Tajikistan, the Majlisi Milli Majlisi Oli of the Republic of Tajikistan, the Majlisi Namoyandagon Majlisi Oli of the Republic of Tajikistan, the President of the Republic of Tajikistan, the Government of the Republic of Tajikistan, ministries, state committees of the Republic of Tajikistan, bodies at the Government of the Republic of Tajikistan, the National Bank of Tajikistan, Majlises of People's Deputies of the Gorno-Badakhshan Autonomous Region, regions and the city of Dushanbe, chairmen of the Gorno-Badakhshan Autonomous Region, regions and city of Dushanbe, Majlises of People's Deputies of cities and districts, chairmen of cities and districts, self-government bodies of settlements and villages. This statutory provision allows the executors of the Anti-Corruption Strategy in the Republic of Tajikistan for 2013–2020 to submit proposals for its changes and amendments.

3) According to the requirements of the Strategy, the State Agency for Financial Control and Combating Corruption of the Republic of Tajikistan is responsible for monitoring the Strategy. In case of non-implementation or inadequate implementation of the Anti-Corruption Strategy, the Agency sends to the executors of the Strategy a submission or written instruction. In addition, based on the results of monitoring and assessment of the implementation of the Anti-Corruption Strategy, the Agency initiated introduction of a proposal to introduce a separate article to the Code on Administrative Offences of the Republic of Tajikistan "Non-implementation or inadequate implementation of strategic anti-corruption programs", which was adopted. (see <https://rus.ozodi.org/a/29222785.html>)

4) The Agency continues to disseminate information about the Anti-Corruption Strategy in the Republic of Tajikistan for 2013-2020 and its implementation. For the period of 2017, the Agency held more than 689 meetings and conversations in the ministries, departments, executive state power bodies, organizations and institutions and participated in 87 seminars, roundtables and trainings. Also, information about the Anti-Corruption Strategy in the Republic of Tajikistan for 2013–2020 and its implementation is disseminated through mass media (television, radio, newspaper, etc.) and the Agency website.

It should be noted that every month the Agency broadcasts the television program "Scales of Law" on the channel "Tajikistan Television". Starting February 2018, in order for each state body to feel responsibility towards the society, and the society to know about its right to demand effective implementation of the Strategy from the state authorities, it is required to display information on the implementation of the Strategy

in the first part of the program by executors. (see <http://www.tv.tj/search/node>) (see <https://rus.ozodi.org/a/29222785.html>).

5) This item of the recommendation was developed in 2017-2018, in particular, through the intensification of the activities of public anti-corruption commissions at the state executive power bodies in the regions, 50% of which consisted of the civil society representatives. This year, the Agency expanded contact and cooperation with various civil society organizations, including the NGO Prevention of Corruption in Tajikistan, the NGO Centre for Human Rights, the Coalition of the Civil Society Organizations Transparency for Development, which includes 36 public organizations and independent experts, as well as with the media. Since April 2018, the Agency, together with the NGO Centre for Human Rights, the NGO Prevention of Corruption in Tajikistan, the Coalition of the Civil Society Organizations Transparency for Development and other state bodies held more than three seminars, roundtables and conferences in the Khatlon and Sughd regions, as well as in the city of Dushanbe for representatives of the Public Commission for the Prevention of Corruption at the local state bodies..

6) According to the Action Plan for the implementation of the Strategy, all authorities should fulfil the Strategy's requirements at their own expense, as well as at the expense of the financial resources of partners and organizations, including public ones. Also, there is a separate section on financing of these programs in the internal anti-corruption programs of the state authorities.

Progress assessment – 19th meeting: LACK OF PROGRESS

The information provided mainly indicates a continuing intensification of Tajikistan's implementation of the measures aimed at implementation and monitoring of the Strategy. At the same time, the purpose of the recommendation is to improve the applied approaches with the transition from formal to more practical and qualitative measures. The State Agency for Financial Control and Combating Corruption has carried out initial steps in this direction. In particular, the information provided about educational activities held together with the public, although it deserves a positive assessment, however, is insufficient to conclude that civil society is becoming an active and full-fledged participant in monitoring and implementation of the Strategy. Another positive step is also more active informing of the population about the implementation of the Strategy, as well as of those held accountable for its non-performance. However, given the issues covered by the recommendation, the mentioned fragmentary positive changes are as yet insufficient to conclude that the progress is being made.

Recommendation 2: Performance of comprehensive sociological surveys

7. Continue performing regular (at least every three years) comprehensive sociological surveys of corruption in all branches of power and state administration bodies.

8. Renew the practice of conducting sectoral studies on corruption.

9. Use the results of anti-corruption surveys in the development of anti-corruption policies, in the processes of monitoring and assessing the implementation of the Anti-Corruption Strategy.

10. Ensure the publication and wide dissemination of the results of anti-corruption surveys.

19th ACN Plenary Meeting, July 2018

Government report

1) 2) The Strategic Research Centre under the President of the Republic of Tajikistan, taking into account the recommendations for conducting surveys every three years, plans to conduct a comprehensive sociological survey on corruption issues in the second half of 2018, expanding the already approved research methodology. At present, there are being worked out the coordination mechanisms, substantive aspects / details of questionnaires and research schemes with the key research partners. Target groups include the population, officials, entrepreneurs. The representativeness of sample will be covered by about 4 thousand respondents.

3) In order to conduct comprehensive sociological surveys on the penetration of corruption into all state power branches of government agencies, on May 14, 2018, the Strategic Research Centre under the President of the Republic of Tajikistan has created a working group from representatives of the Prosecutor General's Office, Academy of Sciences, Tajik National University, National Centre for Legislation at the President of the Republic of Tajikistan and the Agency.

4) As expected, the results of the survey will be widely presented / distributed at the end of 2018 in order to ensure involvement in the monitoring and assessment of the implementation of the Anti-Corruption Strategy.

5) It is planned / projected to ensure the publication of the survey results (tentatively at the end of 2018).

Progress assessment – 19th meeting: PROGRESS

The Strategic Research Centre under the President of the Republic of Tajikistan plans to conduct a comprehensive sociological survey on corruption issues in the second half of 2018 and, at the time of the assessment of progress, is undertaking relevant preparatory measures. It is important that plans for the practical use of the future survey results to improve anti-corruption policies, as well as for the dissemination of the survey results are implemented in practice. Information was also received on the establishment of a working group under the President of the Republic of Tajikistan to deal with the issues of corruption surveys.

Recommendation 3: Civil society participation

1. Continue to facilitate public participation in the fight against corruption by encouraging and entering into constructive dialogue with a wide range of representatives of civil society at the national and local levels and involve representatives of active civil society who have experience in

the prevention of corruption in the work of the National Anti-corruption Council under the President of the Republic of Tajikistan.

2. Ensure the effective functioning of the public commissions for corruption prevention in all local authorities in terms of performance of results-oriented functions (such as monitoring the implementation of the anti-corruption policies and anti-corruption strategies, participation in the monitoring of effectiveness of the state authorities, including those responsible for fighting corruption, participation in the decision-making by the state authorities, etc.).

19th ACN Plenary Meeting, July 2018

Government report

1) The issue of involving representatives of active civil society with experience in the field of preventing corruption in the National Anti-Corruption Council of the Republic of Tajikistan will be considered at the next meeting of the Council.

2) This item of the recommendation was developed in 2017-2018, in particular, through the intensification of the activities of public anti-corruption commissions at the state executive power bodies in the regions, 50% of which consisted of the civil society representatives. This year, the Agency expanded contact and cooperation with various civil society organizations, including the NGO Prevention of Corruption in Tajikistan, the NGO Centre for Human Rights, the Coalition of the Civil Society Organizations Transparency for Development, which includes 36 public organizations and independent experts, as well as with the media. Since April 2018, the Agency, together with the NGO Centre for Human Rights, the NGO Prevention of Corruption in Tajikistan, the Coalition of the Civil Society Organizations Transparency for Development and other state bodies held more than three seminars, roundtables and conferences in the Khatlon and Sughd regions, as well as in the city of Dushanbe for representatives of the Public Commission for the Prevention of Corruption at the local state bodies.

Also, according to the Regulations “On the Public Commissions for the Prevention of Corruption at the Local State Bodies”, the Public Commissions oversee the implementation of the anti-corruption strategies. As the local public commission is responsible for monitoring and periodical review of the implementation of the Strategy Action Plan, the Programs and plans of departmental actions in the executive state power bodies, these commissions check and analyse the implementation of the Strategy and submit annual reports to the National Anti-Corruption Council. If we take into account 50% representation of the civil society in the composition of the Public Commissions at all levels of the local state bodies (72 commissions in total), then the number of the civil society representatives participating in the implementation of the Strategy through these commissions will be far above 350 persons.

Progress assessment – 19th meeting: LACK OF PROGRESS

The information received suggests that the increasing role of the public in the formation and implementation of the anti-corruption policies is still more focused on the discussion stage rather than practical steps.

Also, from the information provided, including the information provided by public representatives, it is clear that the work of the public commissions with the state authorities in the anti-corruption sphere is still more focused on discussions and raising awareness. Although these tasks are also important, the recommendation emphasizes the need for the focus of the commissions’ work on a specific practical result.

Recommendation 4: Public awareness raising campaigns

- 1. Further extend the practice of strategic planning of anti-corruption education in the state authorities and base it on the analysis of the current situation.**
- 2. Identify target groups for the anti-corruption educational and awareness raising events, including the most vulnerable groups to corruption and the groups with the highest risk of corruption, and develop specific programs and messages for each group, stressing in the program the practical aspects and particular tools to fight and prevent corruption, and the rights of the citizens in their interaction with the public institutions.**
- 3. Develop and conduct assessment of the efficiency and effectiveness of anti-corruption education and awareness raising.**
- 4. Engage specialists with the relevant anti-corruption education and awareness raising skills and experience in anti-corruption, and continuously improve their qualifications.**
- 5. Develop joint anti-corruption public educational and awareness raising actions in cooperation with non-governmental partners.**

19th ACN Plenary Meeting, July 2018

Government report

1) Every six months the Agency draws up a plan for holding meetings and discussion in the field of anti-corruption education in the state authorities on the basis of sociological surveys of corruption issues and statistics on corruption offences.

2) In accordance with clause 4 of Action Plan of the National Anti-Corruption Council of the Republic of Tajikistan for 2018, there are plans to introduce an ongoing educational program on anti-corruption topics in the curricula of secondary, secondary vocational schools and universities, regardless of their form of ownership and departmental affiliation, and to develop anti-corruption textbooks in the first half of 2018. It is planned that training in secondary, secondary vocational schools will be held in September of this year.

Also, special anti-corruption training courses were developed in all institutes for advanced training under the state authorities and the Institute of Public Administration under the President of the Republic of Tajikistan.

3) The Agency, during a comprehensive monitoring of the overall state of the implementation of the Strategy, assesses the effectiveness of the performed anti-corruption education activities. In addition, according to the Methodology of the procedure for and methods of analysing activities (corruption risks) (Government Resolution dated October 28, 2016, No. 465) and the Law of the Republic of Tajikistan on the Fight against Corruption, the Agency summarizes the results of the organizational and methodological basis of the ministries, state committees, other state bodies, local executive state power bodies, self-

government bodies of settlements and villages, state-owned business entities, business entities where the state share is at least 50%, as well as non-profit organizations, including public associations, political parties, international organizations operating in the Republic of Tajikistan, and the implementation of the Methodology for each year, submits information to the Government of the Republic of Tajikistan. Therefore, during the assessment of corruption risks, all anti-corruption activities are conducted in state and non-government bodies.

4) For the period January-March 2018, the Civil Service Agency organized and conducted at the Institute of Public Administration under the President of the Republic of Tajikistan five courses covering the training, retraining and advanced training of public officials, attended by 340 public officials, including 121 women.

The content of these courses included anti-corruption topics for the purposes of anti-corruption education and advanced training of the public officials in anti-corruption.

At these courses, experts from government agencies, training and research Centres were recruited as lecturers. The following topics were presented to the public officials: “State policy in the field of information and information security in the Republic of Tajikistan”, “Ethics in public administration”, “Combating extremism and terrorism: methods of organizing ideological work in this direction”, Anti-Corruption Strategy in the Republic of Tajikistan for 2013-2020 approved by the Decree of the President of the Republic of Tajikistan dated August 30, 2013, No. 1504.

5) In February 2018, the State Agency for Financial Control and Combating Corruption of the Republic of Tajikistan approved a joint Action Plan on anti-corruption education and raising public awareness with the Public Organization Centre for Human Rights, and in January 2018 with the NGO Prevention of Corruption in Tajikistan.

To date, the Agency has developed a draft Plan for conducting anti-corruption education and raising public awareness with the OSCE Office in Dushanbe for the second half of 2018, which has been sent to the OSCE for approval.

Progress assessment – 19th meeting: PROGRESS

According to the information provided, the State Agency for Financial Control and Combating Corruption is drawing up a plan for its anti-corruption educational activities based on the results of sociological surveys and statistics. This approach cannot be called integrated, and it is subject to further development. In addition, information was received on the approval of joint anti-corruption education and public awareness plans with two public organizations. It is important that the plans indicated are implemented in practice and such initiatives find their development in future. There is also information on the involvement of specialists in anti-corruption educational measures, but there is no information about their professional development. Representatives of civil society are informed about the active work of the Agency in carrying out activities on anti-corruption education and raising public awareness.

Recommendation 5: National Anti-Corruption Council

- 1. Ensure effective and open activities of the National Anti-Corruption Council. Revise the approved composition of the National Council and the procedure for its formation with a view to engaging members of the public who are actively involved in preventing corruption. Ensure timely publication of the minutes of meetings and of the decisions adopted at them. Develop a mechanism for the implementation of decisions of the National Council, and control of this process.**
- 2. Provide for a permanent special secretariat of the National Anti-Corruption Council with staff members who specialize in anti-corruption issues. Consider the possibility of assigning the secretariat functions to the State Agency for Financial Control and Combating Corruption.**

19th ACN Plenary Meeting, July 2018

Government report

1) On December 20, 2017, a regular meeting of the National Anti-Corruption Council was held which addressed the issue of assigning the functions of the secretariat to the Agency. Following the meeting, the National Council made decisions on improving the activities of the secretary of the council and on highlighting the Council's activities and its decisions in the mass media.

As before, the information about this meeting was covered by all state television channels and some media, as well as posted on the website, in particular at <http://anticorruption.tj/index.php/tj/mu-ovimat-bokarupsiya>.

The process of implementing the decisions of the Council is the responsibility of the Secretary of the Council, and upon the results of each quarter a brief report is presented to the President of the Council. At the next meeting of the Council, it is planned that the functions of the Secretariat will be delegated to the State Agency for Financial Control and Combating Corruption.

Progress assessment – 19th meeting: PROGRESS

According to the information received, the composition of the National Council was not been updated and no changes were made in respect to its formation. In December 2017, there was held a meeting of the National Council, at which the issue of improving the work of its Secretariat and the possibility of delegating its functions to the State Agency for Financial Control and Combating Corruption were discussed. The decision adopted on this issue reflects the need to improve the work of the Secretariat and increase the transparency of the work of the National Council, including through the timely publication of its decisions. However, the information published about this meeting is still of a general nature, and the adopted Plan of the National Council's activities as well as the minutes of the meeting and a detailed and exhaustive list of decisions taken at the meeting were not made public. The fact that the problematic issues of the activities of the Secretariat of the National Council are being considered allows us to conclude that there is little progress.

Recommendation 6: State Agency for Financial Control and Combating Corruption

- 1. Continue to develop and strengthen the functions of the State Agency for Financial Control and Combating Corruption concerning the prevention of corruption, ensuring that a more significant part of resources is allocated to this area of its work.**
- 2. Continue to specialise staff members of the State Agency for Financial Control and Combating Corruption in the prevention of corruption.**
- 3. Ensure the effective coordination of the activities of staff members (structural units) in the prevention of corruption in the regional offices of the State Agency for Financial Control and Combating Corruption.**
- 4. Ensure the effective coordination of the activities of staff members (structural units) in the prevention of corruption in other state authorities.**

19th ACN Plenary Meeting, July 2018

Government report

1) It should be noted that the State Agency for Financial Control and Combating Corruption is funded from the state budget and the amount of funding for its activities increases every year.

In 2017 – TJS 18,757,573

In 2018 – TJS 20,112,950

In order to strengthen the prevention of corruption function in the Agency, the General Corruption Prevention Directorate was created in 2014, consisting of three offices and 22 staff members (another 22 staff members work at the departments in Gorno-Badakhshan Autonomous Region, Khatlon and Sughd regions, the city of Dushanbe and regional departments).

Moreover, in order to broaden the powers of the Agency for the Prevention of Corruption, amendments were made to the Law of the Republic of Tajikistan “On the Fight against Corruption” (May 30, 2017 No. 1440). In view of these amendments, the Agency summarizes the results of the organizational and methodological basis for the process of assessing (analysing) the risks of corruption in the ministries, state committees, other state bodies, local executive state power bodies, self-government bodies of villages and settlements, state-owned business entities, business entities where the state share is at least 50%, as well as non-profit organizations, including public associations, political parties, international organizations functioning on the territory of the Republic of Tajikistan, and provides information on the implementation of methodologies and the results of each year to the Government of the Republic of Tajikistan..

2) To increase the level of knowledge of the Agency's staff members, classes are held every Fridays with the involvement of academics, qualified law enforcement officers and state authorities, while the level of knowledge is assessed every year.

At the same time, in 2017, 28 Agency staff members, and for six months of 2018, 18 Agency staff members were sent to study other countries' experience in the prevention of corruption.

In addition, the Agency, in cooperation with the international and civil partners, regularly conducts trainings for employees of the General Directorate for the Prevention of Corruption and for the local sections and units for the prevention of corruption (five trainings in 2017 and three seminars for the reporting period).

3) The General Directorate for the Prevention of Corruption, in order to coordinate the activities of the corruption prevention officers of the regional offices of the Agency, holds quarterly meetings and discussions with staff members of the structural subdivisions on-site. All Action Plans and ongoing anti-corruption measures are initially coordinated with the Directorate's management, and at the end of the month the performed work is analysed on the basis of the submitted reports. Also, the specialists of the regional offices of the Agency for the Prevention of Corruption are included in the monitoring groups to conduct joint comprehensive monitoring of the state and implementation of the Strategy.

Moreover, every six months the staff members of the General Directorate for the Prevention of Corruption provide practical assistance to staff members of the lower subdivisions with field visits in order to improve their experience and skills.

4) Pursuant to paragraph 1 of the Plan for the Implementation of the Anti-Corruption Strategy in the Republic of Tajikistan for 2013-2020, and the Action Plan of the National Council for 2018 internal control units or operational units were established for the prevention of corruption in the ministries, departments and local executive state power bodies. The ongoing task of the internal control unit and the corruption prevention ombudsman is to analyse corruption risks, monitor the internal program and anti-corruption action plans, conflicts of interest, to initiate appropriate measures to fight against corruption within the state authority and to propose measures to eliminate the causes and conditions conducive to the emergence of corruption situations, as well as to ensure their implementation. After the establishment of these units, the Agency's cooperation with the state authorities in the field of combating corruption became even closer

Also, it should be noted that on November 25, 2015, the Agency established the Coordination Council for the Anti-Corruption Agencies chaired by the Agency Director.

Progress assessment – 19th meeting: PROGRESS

The information provided by both the Government and civil society representatives only indicates a general expansion of the preventive potential of the State Agency for Financial Control and Combating Corruption. It also indicates an increase of funding for the Agency, which is roughly proportional to the level of inflation in the country in 2017, amounting to 6.7%¹.

The Agency staff members responsible for preventing corruption take training courses and study the experience of other countries. The central office of the Agency also provides methodological assistance to representatives of the preventive subdivisions of the regional offices of the Agency.

¹ <https://news.tj/ru/news/tajikistan/economic/20180614/v-mae-v-tadzhikistane-zafiksirovan-sutshestvennii-rost-tsen>

The information provided does not specify in detail how the Agency's coordinating role in relation to other authorities has improved in practice.

PILLAR 2. PREVENTING CORRUPTION

Recommendation 7: Integrity in the public service

- 1. Reform the system of the separation of political and professional positions in public service.**
- 2. Reduce exemptions from recruitment competitions, introduce compulsory testing to ensure objectivity, and ensure transparency when allocating additional payments to public officials.**
- 3. Systematically set out legal regulations in the field of conflicts of interest in public service. In addition, modify the following legal definitions with a view to their extension in the Law: conflict of interests, state interest, personal interest.**
- 4. Stipulate in the law declaration of personal (private) interests by all public officials, including political public officials, as well as the specific procedures of exclusion of private interests from the decision-making process, and identify the procedures for resolution of cases associated with possible conflicts of interests or accusations of involvement in a conflict of interests.**
- 5. Make publicly available declarations of assets, especially those filed by politicians and high-ranking public officials. Introduce a permanent monitoring mechanism over the submission of declarations, their completeness and accuracy of information provided. Introduce declaration of personal (private) interests. Extend the obligation of declaring income and assets to public officials' spouses and children. Improve the format of declarations taking into account the future transition to the electronic format of the whole declaration process.**
- 6. Unify the approach to ethics education with possible certifications, and include issues of conflicts of interest and protection of the rights of whistleblowers. Publish, improve the content and ensure the effective application of the codes of ethics for industries with a high risk of corruption, ensure harmonization and methodological support for the activities of ethics commissions.**
- 7. Organize the collection and analysis of statistics on all issues related to the prevention of corruption in public service.**

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Government report

1) In order to streamline public positions and implement an effective mechanism, a clear distinction was made between public positions of state power (i.e. not public officials), political posts of the public service and administrative posts of the public service.

This differentiation is provided for by the Decree of the President of the Republic of Tajikistan dated August 15, 2016, No. 737 “On the Register of the Public Posts of the Republic of Tajikistan” (new edition).

The law establishes a clear list of public posts of the state power and political posts.

At present, the experience of other states on the differentiation of political and administrative posts is being studied, after which the Public Service Agency will receive proposals on the streamlining these posts.

2) The appointment of administrative public officials to administrative positions in the public service without a competition, in compliance with the qualification requirements, is carried out in accordance with the requirements of the regulatory legal acts of the Republic of Tajikistan.

According to clause 36 of the Regulations on the procedure for holding a competition for filling vacant administrative posts in the public service, which was approved by the Decree of the President of the Republic of Tajikistan dated March 10, 2016, No. 647, one can use pre-tests (written assignment, testing) to determine the level of knowledge and training of the candidates.

Pursuant to this clause, in 2017, when conducting a competition to ensure objectivity at the State Agency for Financial Control and Combating Corruption, a test was held at the local executive body of the city of Dushanbe. Written assignments were organized in the Accounts Chamber, the Local Development Committee, the Ministry of Justice, the Ministry of Finance, the State Committee for Land Management and Geodesy and the Tax Committee.

Also, in the first quarter of 2018, testing was conducted at the local executive body of the city of Dushanbe, and written assignments were organized at the Ministry of Energy and Water Resources and the Tax Committee.

Public officials in administrative positions in the public service receive compensation established by the legislation of the Republic of Tajikistan in addition to the Unified Wage Scale.

3) Legal mechanisms to prevent and resolve conflicts of interest in public service were developed and implemented.

At present, conflicts of interest are regulated within the framework of the Labour Code of the Republic of Tajikistan (Art. 19), the Law of the Republic of Tajikistan “On the Public Service” (Art. 15, 16, 28, 30, 31), the Law of the Republic of Tajikistan “On the Fight against Corruption” (Articles 9, 10), the Rules for Rotation (Relocation) of the Leading Personnel of the Public Service of the Republic of Tajikistan, approved by the Decree of the President of the Republic of Tajikistan dated May 26, 2011, No. 1074, the Code of Ethics of a Public Official of the Republic of Tajikistan (Decree of the President of the Republic of Tajikistan dated December 3, 2015, No. 951) and other regulatory legal acts.

Also, in order to implement this recommendation, the State Agency for Financial Control and Combating Corruption of the Republic of Tajikistan prepared a draft law of the Republic of Tajikistan “On the Prevention of Conflicts of Interest in the Public Service”, which is being coordinated between the ministries and departments.

4) At present, the draft Law of the Republic of Tajikistan “On Amending the Law “On the Fight against Corruption” (Article 8 Financial Control Measures) is being considered by the Government of the Republic of Tajikistan.

5) These issues will be considered after the adoption of the draft Law of the Republic of Tajikistan “On Amending the Law of the Republic of Tajikistan “On the Fight against Corruption” dated December 29, 2017, No. 02-2054, which is being considered by the Government of the Republic of Tajikistan.

7) Concerning the collection and analysis of statistics on all issues relating to the prevention of corruption, including in the public service, the Public Service Agency intends to monitor the issue of disciplinary liability for violation of the requirements of Article 62 of the Labour Code of the Republic of Tajikistan, Article 32 of the Law of the Republic of Tajikistan “On the Public Service” and the ethical rules.

In 2016, 36 public officials in state administrations were brought to disciplinary liability for violation of the ethical rules, in particular, 34 public officials were reprimanded, severely reprimanded, or demoted and two public officials were dismissed from their posts.

In the first half of 2017, four public officials of the state authorities were brought to disciplinary liability for violation of the ethical rules and were reprimanded.

Monitoring of this issue for 2017 and the first quarter of 2018 is planned before the end of July 2018.

Progress assessment – 19th meeting: LACK OF PROGRESS

1) With respect to the improvement of the differentiation of the political and public officials, no changes have taken place, and international experience is being studied.

2) No significant changes in terms of recruitment and wages have occurred except for testing in the several authorities, which is not systematic.

3) No changes have taken place since the previous round of monitoring; the draft legislative changes regarding the regulation of the conflicts of interest are being coordinated between the ministries and departments.

4) With respect to the declaration and resolution of conflicts of interest, according to the information provided, a corresponding draft law has been developed, which is being considered by the Government.

5) With respect to the submission, public disclosure and verification of declarations of assets by public officials, information was received on the draft law, which has been under consideration by the Government since December 2017.

6) No information has been provided on the measures aimed at implementing the part of the recommendation regarding the professional ethics of public officials.

7) Data monitoring is planned before the end of July 2018, but there is no information on what kind of data will be monitored.

Recommendation 8: Integrity of the judiciary

- 1. Reform the Judicial Qualification Board by transforming it into a separate independent body of the judiciary, ensure its activities are open and transparent, engage the public in its work.**
- 2. Provide for a rule on the ceremonial role of the subjects of the appointment and dismissal of judges based on decisions of the Judicial Qualification Board.**
- 3. Empower the Judicial Qualification Board with the right to make independent decisions on initiating disciplinary cases and conducting qualification assessment of judges, including with the purpose to transfer a judge to a higher court.**
- 4. Introduce a transparent mechanism for the competitive selection for a position of judge, ensuring an objective assessment of the knowledge and skills of the candidates.**
- 5. Publish information about available vacancies for a position of judge at all levels, as well as the date and conditions of the competition on the official website of the Judicial Qualification Board.**
- 6. Envisage and ensure the practical application of the provisions on the automatic extension of the employment contract of a judge for a new ten-year term, if the judge has fulfilled their duties in good faith.**
- 7. Introduce the mandatory publication of the decisions and resolutions of the Plenums of the Supreme Court and the Higher Economic Court.**
- 8. Introduce a mechanism for the consideration of cases in courts in compliance with the principle of their automatic random distribution.**
- 9. Publish information about the schedule of cases on the websites of courts.**
- 10. Clarify the grounds for the rotation of judges, as well as the inconsistency of judges' positions and the violation by judges of labour legislation as grounds for their withdrawal and dismissal.**
- 11. Envisage a rule on the possibility of the withdrawal and dismissal of a judge in connection with the reorganization of courts only in case of a judge's refusal to transfer to another court if there are available vacancies.**
- 12. Ensure systematic work on the provision of consultations, analysis of practice and consideration of problematic issues related to the application of the rules of professional ethics for judges.**
- 13. Ensure the self-government of the legal profession, remove the power in the certification of advocates from the Ministry of Justice.**

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Government report

1) In this regard, it should be noted that after abolishing the Council of Justice of the Republic of Tajikistan according to the Decree of the President of the Republic of Tajikistan dated June 9, 2016, No. 698, and after making changes and amendments to the Constitutional Law “On the Courts of the Republic of Tajikistan”, the powers of the Council of Justice on the organizational, material and technical support of the courts, selection and training of candidates for the office of judge, professional development of judges and court staff are assigned respectively to the Supreme Court and the Higher Economic Court.

In addition, significant changes and amendments were introduced into Chapter 11 of this Constitutional Law, which regulates, inter alia, education, competences, procedure for work of the Judicial Qualification Board, adoption of its opinions and decisions.

Thus, in accordance with Article 111 of the Constitutional Law, in order to expand the democratic principles in recruitment, to strengthen the guarantees of independence of judges, to ensure the nomination of worthy candidates for judges, there is established a single Judicial Qualification Board of the Republic of Tajikistan instead of the earlier formed three Qualification Boards. According to Article 113 of the Constitutional Law, its competence includes the provision of recommendations for the first-time nominated candidate for the position of a judge, suitability of a judge for election or appointment to a higher court, recall and release of the judge, consideration of the issue of disciplinary liability of judges of the republic and others.

According to Article 112 of the Constitutional Law, the Judicial Qualification Board is composed of a chair, deputy chair and 11 members elected at a conference of judges of the courts of the Republic of Tajikistan.

For the election of members of the Judicial Qualification Board, the chair of the public association “Association of Judges of the Republic of Tajikistan”, established in accordance with the legislation of the Republic of Tajikistan, convenes a conference of judges of the courts of the Republic of Tajikistan.

A conference of judges convened to elect the members of the Judicial Qualification Board is deemed to be lawful if at least two thirds of the judges of the Republic of Tajikistan have taken part in it.

A judge is deemed elected to the members of the Judicial Qualification Board if s/he has received more than half of the votes of the judges who participated in the voting.

The Chair of the Association of Judges of the Republic of Tajikistan convenes the first meeting of the Judicial Qualification Board, where the chair and vice-chair of the Judicial Qualification Board are elected, by open or secret ballot, by a majority of votes from among its members.

The Judicial Qualification Board acts independently, with its seat in the city of Dushanbe.

In accordance with Article 113 of the Constitutional Law, the Judicial Qualification Board may, in order to exercise its powers, request the necessary information from the chairs of the courts, from the state authorities, organizations and officials.

The Judicial Qualification Board is obliged to protect the rights and legitimate interests of judges and demand from the state authorities, enterprises, institutions, other organizations and officials a response to its inquiry.

According to Article 118 of the Constitutional Law, the meeting of the Judicial Qualification Board is held openly.

The chairs of the respective courts may be invited to the meetings of the Judicial Qualification Board.

Consideration of issues to be resolved at a meeting of the Judicial Qualification Board starts with a report from the chair or member of the Board, who previously has studied the submission and other materials filed to the Board for consideration. Then the persons invited to the meeting of the Board are heard and the necessary documents are examined.

In accordance with Article 121 of the Constitutional Law, the opinion and decision of the Judicial Qualification Board are adopted by a majority vote of the members of the Board participating in its meeting.

The conclusion or decision of the Judicial Qualification Board shall be set out in writing and contain the date and place of its adoption, the composition of the Board and the reasons for the decision.

The decision and conclusion of the Judicial Qualification Board may be appealed to the Supreme Court of the Republic of Tajikistan within 10 days from the date of their delivery.

2) Regarding item 2 of these Recommendations, we inform that according to Articles 56 and 86 of the Constitution of the Republic of Tajikistan, the election and withdrawal of the chair, deputies and judges of the Constitutional Court, the Supreme Court and the Higher Economic Court of the Republic of Tajikistan are within the competence of the Majlisi milli Majlisi Oli of the Republic of Tajikistan.

Judges of the Military Court, judges of the Gorno-Badakhshan Autonomous Region Court, courts of the regions, the city of Dushanbe, cities and districts, judges of the Economic Court of the Gorno-Badakhshan Autonomous Region, the regions and the city of Dushanbe are appointed and dismissed by the President of the Republic of Tajikistan in the manner provided for in the Constitutional Law.

With regards to the Judicial Qualification Board, it issues opinions on compliance for election or appointment as Vice-Chairmen and judges of the Supreme Court of the Republic of Tajikistan, Higher Economic Court of the Republic of Tajikistan, chairmen, deputy chairmen and judges of the Gorno-Badakhshan Autonomous Region Court, regional courts, courts of the city of Dushanbe, military courts of garrisons, courts of the cities and districts, the Economic Court of the Gorno-Badakhshan Autonomous Region, economic courts of the regions and of the city of Dushanbe.

Moreover, in accordance with Article 113 of the Constitutional Law the Judicial Qualification Board:

- conducts qualification assessment of the Republic's judges;
- issues, upon the submission of the Chair of the Supreme Court of the Republic of Tajikistan, an opinion on assignment of qualification classes to the judges of the Supreme Court of the Republic of Tajikistan, chairmen, deputy chairmen, judges of the Gorno-Badakhshan Autonomous Region Court, regional courts, courts of the city of Dushanbe, military courts of garrisons, courts of the cities and districts;
- issues upon the submission of the Chair of the Higher Economic Court of the Republic of Tajikistan, an opinion on assignment of qualification classes to the judges of the Higher Economic Court of the Republic of Tajikistan, chairmen, deputy chairmen and judges of the Economic Court of the Gorno-Badakhshan Autonomous Region, economic courts of the regions and the city of Dushanbe;
- issues an opinion on the withdrawal and release of judges of the Supreme Court of the Republic of Tajikistan, chairmen, deputy chairmen and judges of the Gorno-Badakhshan Autonomous Region Court, regional courts, courts of the city of Dushanbe, military courts of garrison, courts of the cities and districts;

- issues an opinion on the withdrawal and release of judges of the Higher Economic Court of the Republic of Tajikistan, chairmen, deputy chairmen and judges of the Gorno-Badakhshan Autonomous Region Economic Court, regional economic courts, economic courts of the city of Dushanbe;

3) Regarding item 3 of the Recommendation, it should be noted that a judge is subject to disciplinary liability in accordance with article 123 of the Constitutional Law.

Also, in accordance with Article 127 of the Constitutional Law the Judicial Qualification Board applies the following disciplinary punishments:

- Warnings,
- reprimands.

When imposing a disciplinary sanction, it is necessary to take into account the nature of the violation and its consequences, the severity of the offence, the personality of the judge, the degree of their guilt.

According to Article 114 of the Constitutional Law, the qualification assessment of judges is conducted by the judicial qualification board in order to assess the professional activities of judges, to stimulate their interest in improving their professional level, as well as their liability in complying with the Constitution of the Republic of Tajikistan and the laws when considering cases. The form of the qualification assessment of judges is determined by the judicial qualification board.

The qualification assessment of judges is carried out in the following cases:

- when assigning qualification classes;
- when electing and appointing a judge to a higher court;
- when electing and appointing a judge for a new term of office;
- when the need arises to determine whether the judge complies with the occupied office.

4) For items 4 and 5 of the Recommendation, it should be noted that the responsible nature of the tasks performed by the courts imposes higher requirements on the persons entrusted by the judiciary, that is, the judges who exercise justice on a professional basis.

According to Article 13 of the Constitutional Law of the Republic of Tajikistan “On the Courts of the Republic of Tajikistan”, judges are persons with competence to administer justice in accordance with the Constitution of the Republic of Tajikistan, this Constitutional Law and other regulatory legal acts of the Republic of Tajikistan.

Only a person with citizenship of the Republic of Tajikistan, a law degree, who speaks the state language, and has professional work experience of at least three years has the right to sit the exam.

According to Article 107 of the Constitutional Law, upon the joint submission of the Chair of the Supreme Court of the Republic of Tajikistan and the Chair of the Higher Economic Court of the Republic of Tajikistan, the President of the Republic of Tajikistan establishes a Unified Examination Commission for candidates for the office of judge and judge interns and approves its composition and Regulations.

The procedure for establishing the Unified Examination Commission, its powers, organization, support for its activities, as well as the procedure for conducting examinations are regulated in the Regulations on the Unified Examination Commission.

The Unified Examination Commission is composed of:

- The assistant to the President of the Republic of Tajikistan on staffing issues;
- The Deputy Chair of the Supreme Court of the Republic of Tajikistan;
- The Chair of the Higher Economic Court of the Republic of Tajikistan;
- The Prosecutor General of the Republic of Tajikistan;
- The Deputy Director of the Agency for the Public Service under the President of the Republic of Tajikistan;
- The Director of the National Legislation Centre under the President of the Republic of Tajikistan;
- A representative of the Tajik National University.

In accordance with the Regulations on the Unified Examination Commission for candidates for the office of judge and trainee judges, approved by the Decree of the President of the Republic of Tajikistan April 5, 2017, No. 866, on the basis of the joint order of the Chairmen of the Supreme Court and the Higher Economic Court, a commission is established to receive documents for the office of trainee judge.

The Republic's mass media and the websites of the Supreme Court and the Higher Economic Court publish announcements about the competition for the office of trainee judge.

The activity of the commission for receiving documents for the office of trainee judge is open, and members of the public and mass media have access thereto.

After the relevant verification, no later than five days prior to the exams, the Chairmen of the Supreme Court and the Higher Economic Court approve the list of candidates eligible to sit for the exams, which is to be published on the websites of the Supreme Court and the Higher Economic Court.

Selection of candidates for the office of judge is carried out on a competitive basis.

The date of the exams is published on the websites of the Supreme Court and the Higher Economic Court.

Representatives of the media can be present during the exam for the office of trainee judge, the proceedings of the exam are displayed in real time on monitors installed in the building where the exam is held.

On the proposal of the examining commission for candidates for the office of judge and trainee judges, persons newly appointed to the office of judge can work as trainee judges during one year and this period is included in their professional work experience.

A candidate who successfully passes the exam is appointed by the President of the Supreme Court to the position of trainee judge.

A trainee judge, In the exercise of his or her powers in outside relations, must also avoid anything that could diminish the authority of the judiciary, the dignity of a judge, or raise doubts about his or her objectivity, fairness and impartiality.

The internship of a judge consists of two parts. These are training courses for advanced training at the Judicial Training Centre at the Supreme Court, where a special program has been developed for raising the level of knowledge, in particular with regard to criminal, civil, family, labour, housing, land affairs, and administrative offence cases.

On the basis of the results of the internship, the trainee judges take an exam, the results of which are valid for three years.

Trainee judges who have completed a one-year internship are assigned to the pool of candidates for the office of judge.

6) According to Article 84 of the Constitution of the Republic of Tajikistan, the term of office of judges is ten years.

In accordance with Part 2 of Article 15 of the Constitutional Law of the Republic of Tajikistan, when electing or appointing a judge during their term from one court to another, their ten-year term shall be calculated from the date of the new election or appointment.

Issues regarding further strengthening the judiciary, improving the judicial system, enhancing the role of the court in protecting human and civil rights and freedoms, and ensuring the rule of law and justice are under being examined by the state.

7) With regard to item 7 on the introduction of mandatory publication of decisions and resolutions of the Plenary Sessions of the Supreme Court and the Higher Economic Court, it should be noted that the resolutions of the Plenum of the Supreme Court of the Republic of Tajikistan are published in the Bulletin of the Supreme Court. After solving some organizational issues in the second half of 2018, they will be published on the website of the Supreme Court.

With respect to the publication of the court decisions themselves, it is just a matter of time.

The lack of publication of judicial acts on the websites of the courts today is a result of organizational, material and technical problems.

At the same time, within the framework of the UNDP project in the Republic of Tajikistan “Access to Judicial Information”, the Action Plan for 2018–2019 was developed, which, along with other surveys, envisages the provision of equipment for the Press Centre of the Supreme Court and lower courts, the development of a draft Law “On Openness of the Judicial Information”, which regulates relations connected with access to information on the activities of the courts, as well as the form in which this information is provided.

The Supreme Court, in order to study the effectiveness of the activities of the available websites, conducted a monitoring, during which it was established that there are 50 websites out of 76 courts in the republic. On-site, they face certain difficulties associated with the lack of material and technical base.

The new Project on Access to the Judicial Information and the Action Plan prepared for its implementation will undoubtedly contribute to the gradual development of an electronic office management system in the courts, improving the level of knowledge of employees responsible for the websites in the field of using communication technologies, incorporating legal information into websites, working with the mass media, and also will create the conditions for electronic access to the judicial acts.

8) According to the requirements of Articles 77 and 83 of the Constitutional Law, the distribution of cases among judges in the prescribed manner is entrusted to the chairs of the regional, city and district courts, taking into account the workload of judges, their experience and qualifications.

This recommendation deserves attention, but due to the fact that its implementation is associated with the development of an electronic office management system in the courts, this issue is currently being studied.

9) With respect to the publication of information on the schedule of cases on the courts' websites, it should be noted that the lists of cases assigned for consideration are published in those courts with websites.

At the same time, in order to become acquainted with current information on the activities of the courts, information stands were installed in the buildings of the courts in places accessible to citizens, including persons with disabilities.

10) With regard to item 10 of the Recommendation, attention should be paid to the fact that Part 5 of Article 30 of the Labour Code of the Republic of Tajikistan provides for the transfer (rotation) of the leading personnel in the state authorities, which is not considered a transfer to another job and is carried out in order to effectively use their professional skills and prevent corruption and conflicts of interest in accordance with the legislation of the Republic of Tajikistan.

However, in view of the fact that the legal basis for the organization and activities of the courts, the procedure for electing, appointing, withdrawing and dismissing judges and regulating other relations concerning the organizational and legal activities of the judicial bodies and judges is set out in the Constitutional Law, we believe that the Constitutional Law should clearly provide for the rotation of judges, as well as for how the judge's incompatibility with the occupied office is expressed and how this can be confirmed.

At the same time, we note that in accordance with Article 18 of the Constitutional Law, the withdrawal and dismissal of judges is also carried out in the event of their violation of the labour legislation of the Republic of Tajikistan.

11) In accordance with paragraph 13 of parts 1 and 3 of Article 18 of the Constitutional Law, the withdrawal and dismissal of judges is also carried out in the event of reorganization of the court (courts) or redundancy of judges. Transfer of judges from one court to another is allowed only with their consent.

However, it is necessary to bear in mind that, according to Article 286 of the Labour Code of the Republic of Tajikistan, in particular, the work of judges is regulated by that Code subject to the specifics stipulated by legislative and other regulatory legal acts of the Republic of Tajikistan, which set special conditions and procedure for entry on duty, service and its termination, special working conditions, remuneration terms, as well as additional benefits, benefits and restrictions.

In addition, in accordance with part 6 of Article 30 of the Labour Code of the Republic of Tajikistan, if continuation of labour duties specified in an employment contract is impossible for objective reasons provided for by the legislation of the Republic of Tajikistan, the employer must, if possible, offer the employee other work available in the organization. If the employee refuses to transfer to another job, the employment contract may be terminated on a general basis in accordance with the legislation of the Republic of Tajikistan.

Based on the provisions of this article and other provisions of the Labour Code envisaging guarantees and compensations, even although the rule of paragraph 11 is not explicitly stated in the Constitutional Law, the requirements of labour legislation will be undoubtedly respected when withdrawing and dismissing judges in cases of reorganization of the court(s) or redundancy of judges.

12) With respect to ensuring systematic work on the provision of advice, analysis of the practice of considering problematic issues related to the application of the professional ethics rules for judges, it should be noted that improving the legal and moral culture of judges is one of the ways of preventing corruption in the judicial system.

The training curriculum for the judges and court staff at the Training Centre at the Supreme Court of the Republic of Tajikistan, includes, among other topics, training on the “Specifics of handling corruption-related criminal cases (articles 319, 320, 321 of the Criminal Code of the Republic of Tajikistan” and “Anti-Corruption Strategy in the Republic of Tajikistan for 2013-2020”, as well as the study of the Code of Ethics of Judges of the Republic of Tajikistan.

In addition, issues of professional ethics are systematically discussed at the seminars held at the end of each month in the city of Dushanbe and in the regional Centres with the participation of judges.

At the same time, it should be noted that development of a draft program for the judicial and legal reforms in the Republic of Tajikistan for 2019-2023 has been initiated at present. All Recommendations will be carefully studied and analysed, and all measures will be taken to ensure their implementation.

13) According to Article 13 of the Law of the Republic of Tajikistan “On the Legal Profession”:

1. The Qualification Commission is established at the Ministry of Justice of the Republic of Tajikistan to decide on the issue of obtaining and terminating the status of a lawyer, as well as attestation of lawyers.
2. The Qualification Commission shall be formed for a period of two years and comprise 9 commission members.
3. The Chair of the Qualification Commission shall be one of the Deputy Ministers of Justice of the Republic of Tajikistan on the distribution of duties. The Deputy Chair of the Qualification Commission is elected at a meeting of the Qualification Commission from among the representatives of lawyers, the responsible secretary is elected at a meeting of the Qualification Commission from among the commission members. In the event of non-participation of the Chair of the Qualification Commission in the meeting, his/her authority shall be delegated to the Deputy Chair of the Qualification Commission.

Moreover, in accordance with Article 35 of the said Law:

1. In order for the lawyers to maintain the required level of professional training, to improve knowledge of the legislation of the Republic of Tajikistan and law enforcement practice, they are obliged to improve their qualification in the state accredited educational institutions every five years and should be certified by the Qualification Commission.
2. The choice of an accredited educational institution that provides advanced training for lawyers is carried out by a lawyer independently.
3. The information on retraining and advanced training of the lawyers is entered in the Unified Register of Lawyers.
4. In order to increase the required level of professional qualifications and qualifications of the lawyers, the Union of Lawyers may form a Lawyers’ Training Centre or introduce special courses.

Based on the above, we note that the legal profession in the Republic of Tajikistan is viewed as a separate institution.

Progress assessment – 19th meeting: LACK OF PROGRESS

- 1) *No information has been provided on the specific steps taken to implement the relevant part of the*

recommendation.

2) *No information has been provided on the specific steps taken to implement the relevant part of the recommendation.*

3) *No information has been provided on the specific steps taken to implement the relevant part of the recommendation.*

4) *According to the information provided, in order to select candidates for the office of trainee judge a competition is held in the form of an exam, however, there no details have been provided on how to ensure an objective assessment of the skills and knowledge of the candidates. The examination is the responsibility of the Unified Examination Commission, where representatives of the judiciary are in the minority, while the Commission includes the Assistant to the President, the Deputy Prosecutor General, and the Deputy Director of the Public Service Agency.*

5) *Information was received on the obligation to publish announcements about the competition for the office of judge and trainee judge, lists of candidates admitted to sit for the exam, as well as the dates and results of the exam. Mass media access to all stages of the competition has also been mentioned.*

6) *No information was received on any measures aimed at establishing a rule on the automatic extension of a judge's labour contract for a new ten-year term if the judge has fulfilled their duties in good faith.*

7) *According to the information provided, it is planned to publish the resolutions of the Plenum of the Supreme Court on the website of this court. In addition, the UNDP Project on Access to Judicial Information is being implemented, under which it is planned to improve the material and technical base necessary for publishing court decisions.*

8) *The introduction of the system of automatic random distribution of cases is at the stage of examination, while the insufficient material and technical base of the courts is also an obstacle for its implementation.*

9) *According to the information received, the timetable of cases is published in courts with websites (50 out of 86).*

10) *No information has been provided on the measures aimed to clarify the grounds for the rotation of judges, as well as the judge's incompatibility with the occupied office and the violation of labour legislation by the judge as grounds for withdrawing and dismissing a judge.*

11) *No information has been provided on the measures aimed to establish a rule on the possibility of withdrawing and dismissing a judge due to reorganization of the courts only in the event of a judge's refusal to transfer to work in another court in the case of available vacancies.*

12) *Although in terms of providing judges with the professional ethics rules, the information is limited to the coverage of this topic by training for judges, it is also noted that work has begun on drafting a program of judicial and legal reforms in the Republic of Tajikistan for 2019–2023, and within this process all recommendation in terms of the integrity of judges will be carefully studied and analysed, and all measures will be taken to ensure their implementation. This is indeed a good opportunity to ensure the subsequent implementation of the relevant recommendations by Tajikistan.*

13) *No information has been provided on the measures aimed at ensuring self-governance of the legal*

profession.

Recommendation 9: Integrity of public prosecution bodies

- 1. Restrict the powers of public prosecution bodies in the implementation of general supervision.**
- 2. Exclude from legislation the possibility of conducting inspections of the activities of prosecutors and investigators in the prosecutor's office upon instructions from the Parliament and the President.**
- 3. Introduce a transparent mechanism for multi-level competitive selection of staff members in public prosecution bodies. Provide an objective assessment of the knowledge and skills of candidates by an independent commission participating at least in preliminary selection, as well as establish a procedure allowing candidates to challenge the selection results.**
- 4. Develop a special education system and provide advice to prosecutors on the application of the rules of integrity and the Code of Ethics, develop and distribute relevant written guidelines and methodological manuals, introduce mechanisms to identify conflicts of interest.**
- 5. Develop clear and universal criteria for assessing the effectiveness of the work of prosecutors; ensure the publication of such an assessment on the website of the General Prosecutor's Office.**

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Government report

1) The recommendation does not clearly state what powers of the prosecutor in the field of general supervision should be reduced or revised. In order to implement this recommendation, it is necessary to amend Article 24 "The powers of the prosecutor in exercising general supervision," of the Constitutional Law of the Republic of Tajikistan "On the Public Prosecution Bodies of the Republic of Tajikistan". Currently, amendments to this law have not been considered.

2)

3) According to Article 53 of the Constitutional Law of the Republic of Tajikistan "On the Public Prosecution Bodies of the Republic of Tajikistan", only a person who has the citizenship of the Republic of Tajikistan, is under the age of 35 years old, has a higher legal education, the necessary professional and moral qualities, and is able to perform duties for health reasons, can be hired to serve in public prosecution bodies.

In accordance with Article 18 of the Law of the Republic of Tajikistan "On the Public Service", a vacant public post of administrative service should be filled on a competitive basis.

According to part 2 of paragraph 7 of the Decree of the President of the Republic of Tajikistan “On the Registry of the Public Posts of the Republic of Tajikistan”, in public prosecution bodies, in addition to prosecutors and investigators, the third category of posts includes the head of department, the fourth category includes head of sector, the fifth the category includes the chief specialist, the sixth category includes the leading specialist, and the seventh category includes the specialist.

Due to the fact that there are the above-mentioned administrative posts of the public service in public prosecution bodies, a competition commission was established for the proper selection and acceptance of personnel for vacant administrative posts of the public service in order to fulfil the requirements of the Law of the Republic of Tajikistan “On Public Service” on the basis of the order of the Prosecutor General of the Republic of Tajikistan of March 20, 2018, No. 5-28. The commission consists of seven persons including the chair, members and secretary of the commission.

The activity of the competition commission is governed by the Regulations “On the Procedure for Holding a Competition for Filling Vacant Administrative Posts of the Public Service”, approved by the Decree of the President of the Republic of Tajikistan dated March 10, 2016, No. 647.

All employees working in public prosecution bodies are required to have the necessary legal knowledge and a high professional level of activity.

For these purposes, the Decree of the President of the Republic of Tajikistan “On the Structure of the Central Office and the Management Scheme of the Prosecutor General’s Office of the Republic of Tajikistan” No. 539 of August 14, 2015. According to this Decree, the Institute for the Study of Law, Rule of Law, Criminality and Advanced Training of the Public Prosecutors of the Republic of Tajikistan was established in order to conduct research and development, to increase the level of knowledge and professional skills of staff members of the public prosecution bodies.

The Institute approved the program of conducting seminars in all regions of the republic, which was implemented in April 2018, in order to train investigators of the public prosecution bodies on the features and methods of identifying and investigating corruption offences and offences involving corruption.

Moreover, the Institute for the Application of the Rules of Integrity and Compliance with the Code of Ethics has held and holds regular classes to study the Code of Ethics of Public officials of the Republic of Tajikistan, approved by the Decree of the President No. 591 of December 3, 2015, and the Code of Ethics of Staff Members of the Public Prosecution Office of the Republic of Tajikistan, approved by the Order of the Prosecutor General of the Republic of Tajikistan No. 5-39 of April 20, 2017, where more than 200 public prosecutors participated..

In addition, twice a month seminars are held in the central office and in the lower-level public prosecutor’s offices, which, besides the planned topics, also deal with the issues of applying the rules of integrity.

Moreover, the Order of the Prosecutor General of the Republic of Tajikistan dated January 17, 2018, No. 5-04, approved the Internal Regulations of the Prosecutor’s Office of the Republic of Tajikistan, which, apart from the general rules, also covers the issues of the application of the rules of integrity, and which were distributed among the prosecution bodies of the Republic of Tajikistan for compliance and enforcement.

It should be noted that on April 26, 2018, the Plan was adopted for holding meetings and discussions in the lower-level public prosecutor’s offices on preventing factors of corruption, instances of violations of the labour discipline and professional ethics provisions by public prosecutors from May to September 2018.

4) To this end, the Institute of the Public Administration developed a training module “World Experience in Combating Corruption”, which is provided at all advanced training courses for public civil servants.

With respect to the issues of combating corruption and advancing the level of skills of the law enforcement officers, on December 25-30, 2017, an advanced training course was held for law enforcement officers, and staff in public prosecution bodies and courts, which included the following topics:

- “Ethics and integrity as means of preventing corruption”;
- “Corruption as a social phenomenon”;
- “Methods of preventing corruption actions”;
- “Performance of the anti-corruption expertise of regulatory legal acts and draft regulatory legal acts”;
- “The role of the Tajik police in the prevention of corruption”;
- “The causes of corruption in the state authorities: preventive measures and anti-corruption methods”;
- “Implementation of the Program for Implementation of the Anti-Corruption Strategy in the Republic of Tajikistan for 2013-2020”.

Progress assessment – 19th meeting: LACK OF PROGRESS

- 1) *No measures were taken to limit the powers of the public prosecutor’s office in the field of general supervision. With respect to the content of the recommendation and the ambiguity which is mentioned in the information sent by the Government, Tajikistan should pay attention to the content of the relevant section of the Monitoring Report, which refers to the significant corruption risks associated with the extensive powers of prosecutors to conduct inspections as part of general supervision.*
- 2) *No information was provided on measures for eliminating from the legislation the possibility of carrying out inspections of the activities of prosecutors and investigators of the public prosecutor's office on behalf of the Parliament and the President.*
- 3) *The information on competitive recruitment for public prosecution bodies concerns public officials, while the recommendation explicitly concerns public prosecutors, who are separate from the public officials.*
- 4) *The information on the observance of professional ethics rules in the public prosecutor’s office mainly concerns the issues of training, but it does not cover the issues of consultations, guidelines and manuals, as well as the mechanisms for identifying conflicts of interest.*
- 5) *No information was provided on the assessment of the effectiveness of the work of public prosecutors.*

Recommendation 10: Accountability and transparency in the public sector

- 1. Revise legislation on access to information in order to limit the volume of information which is not subject to disclosure as well as the powers of heads of state authorities and organizations to restrict access to information.**
- 2. Confirm uniform requirements for the information which has to be published by the state authorities, and for the websites of state authorities and organizations, specifying the information which has to be presented on these websites and ensure compliance with these requirements.**
- 3. Ensure free unlimited free-of-charge access to all of the country's regulatory legal acts, including draft regulatory legal acts, which have to be updated on a timely basis.**
- 4. Decriminalize defamation completely.**
- 5. Provide for a provision in the law that it applies to all categories of information. Also, provide for a provision in the law that access to all information should be a general rule, and the restriction can only be an exception. Exceptions should be determined on a case-by-case basis according to the principle that the non-disclosure of information in this case is more important from the standpoint of protecting legitimate interests than its disclosure for the purposes of public interests.**
- 6. Compile and publish a list of information falling under the category of official secrets, as well as develop and implement a mechanism for its declassification. By default, everything that is not included in the list should be subject to publication.**
- 7. Develop a unified guideline for working with requests for information in each state authority, and implement monitoring of this work.**
- 8. Conduct an inventory of the status of registers and databases for potential interdepartmental exchanges in the provision of services (land, tax committee, register of legal entities; information about the beneficial owners of companies, vehicle registry) and set publication dates.**
- 9. Create a national open data portal, oblige state authorities to publish statistical data in a machine-readable "open data" format, including public procurement data.**
- 10. Strengthen the rights and resources of the Office of the Ombudsman for the effective monitoring of compliance with the right to information.**
- 11. Provide a transparent mechanism for assessing the regulatory impact, as well as the anti-corruption expertise and public discussion of all draft legislation affecting the socio-economic development of the country. Ensure the mandatory public availability of conclusions of the results of regulatory impact analysis and anti-corruption expertise.**

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Government report

1) In order to limit the scope of information that should not be disclosed, on May 27, 2017, the Government of the Republic of Tajikistan approved a Resolution on the classification of secrecy.

2) Resolution No. 344 of the Government of the Republic of Tajikistan of July 10, 2017 approved the Uniform Rules for the Official Websites of the Ministries and Agencies, Local Executive Bodies, and Self-Government Bodies of Settlements and Villages, which stipulate the requirements for information that should be published by the state power bodies on the websites of the state authorities and organizations. In order to ensure compliance with these requirements by the state power bodies, at the end of 2017 there was established a working group consisting of senior officials of the Executive Office of the President of the Republic of Tajikistan. Since the Executive Office of the President of the Republic of Tajikistan is authorized to coordinate and monitor the implementation of these Uniform Rules, the working group constantly monitors compliance with the requirements for this procedure.

3) In order to ensure the right of citizens to receive full, timely and free access to the regulatory legal acts, as well as the implementation of measures stipulated by the Conceptual Framework for the Analysis of Regulatory Impact in the Republic of Tajikistan, approved by the Government of the Republic of Tajikistan on November 18, 2015, No. 673, Resolution No. 98 of the Government of the Republic of Tajikistan “On the Creation and Financing of the Internet Portal of Legal Information of the Republic of Tajikistan” was adopted on February 25, 2017.

The resolution provides for the following:

1. The creation of an Internet portal of legal information of the Republic of Tajikistan.
2. That access to all regulatory legal acts posted on the Internet portal, as well as information provided by the regulatory impact analysis system, is free and free of charge.
3. The appointment of the Ministry of Justice of the Republic of Tajikistan as the authorized body for the creation, maintenance and operation of the Internet portal of legal information of the Republic of Tajikistan.
4. That the Ministry of Justice of the Republic of Tajikistan shall take the necessary organizational and legal measures to create an Internet portal of legal information of the Republic of Tajikistan.
5. The financing of the activities of the Internet portal of legal information of the Republic of Tajikistan at the expense of the state budget (special funds) in terms of paying the salaries of employees and using the global computer network Internet.

Moreover, the Resolution No. 167 of the Government of the Republic of Tajikistan of March 27, 2018, approved the procedure for the official publication of regulatory legal acts of the ministries, state committees, bodies under the President of the Republic of Tajikistan, bodies under the Government of the Republic of Tajikistan and the National Bank of Tajikistan. This Procedure provides that:

The full text of a regulatory legal act shall be posted on the official website of the authority that has adopted the said regulatory legal act.

Regulatory legal acts of a universally binding nature issued by the ministries, state committees, bodies under the President of the Republic of Tajikistan, bodies under the Government of the Republic of Tajikistan and the

National Bank of Tajikistan that have passed state registration but have not been published in the prescribed manner, do not entail legal consequences as they have not come into force and cannot serve as a basis for regulating the relevant legal relations and applying sanctions to citizens, officials and legal entities.

Officials and legal entities that violate the requirements of this Procedure shall be held liable in accordance with the legislation of the Republic of Tajikistan.

4) Based on the Law of the Republic of Tajikistan “On Introduction of Changes and Amendments to the Criminal Code of the Republic of Tajikistan” dated July 3, 2012, defamation was excluded from Article 135 of the Criminal Code of the Republic of Tajikistan. Currently, when defamation is the deliberate dissemination of false information, which discredits the honour and dignity and reputation of another person or is insulting, that is, degrading the honour and dignity and reputation of another person expressed in indecent form, then honour, dignity, and business reputation are protected in accordance with the requirements of Articles 170, 171, 174 and 174(1) of the Civil Code.

5) The Law of the Republic of Tajikistan “On the Right to Access to Information” clearly defines the concept of the right to access and lists those types of information to which access cannot be restricted.

6) It should be noted that the state authorities and organizations, in collaboration with the agencies for the state secrets protection, have developed departmental lists of information to be classified (for example, in the Ministries of the Interior, Defence, Education and Science, Justice, the Commissioner for Human Rights, etc.). The Law of the Republic of Tajikistan “On the State Secrets” already regulated the mechanism for declassifying information falling under the category of the official secrets. Article 26 of this law specifies the grounds for declassifying information and the right to change the departmental lists of information in the state authorities and organizations that are subject to classification is vested with the heads of the state authorities who are personally responsible for the validity of decisions on declassifying of information and who have approved such lists. The decisions of these heads related to the change in the departmental lists of information constituting state secrets must be agreed with the authorized state body.

7) In order to improve the activities, the Commissioner for Human Rights developed and approved on December 28, 2016, the Guidelines on handling appeals on issues of access to information.

8) In accordance with paragraph 8 of the Uniform Rules for the Official Websites of the Ministries and Agencies, Local Executive Bodies, and Self-Governing Bodies of Settlements and Villages on the Internet, it is planned that ministries and agencies, local executive bodies and self-governing bodies of settlements and villages shall perform certain measures for the citizens and organizations:

- a special section ("trading platform") of the official website may provide, if necessary, information on the tenders among organizations and enterprises to carry out certain works for public needs;
- the website shall publish tender announcements, conditions for participation therein and a set of special forms that the applicant must complete. Portal software helps to collect incoming applications and to sum up the results.

Based on the above, it can be said that the issue is being solved now.

9) In 2016, the Commissioner for Human Rights monitored the activities of the websites of the judicial bodies, the Ministry of Health and Social Protection and the Ministry of Education and Science of the Republic of Tajikistan. In 2018, the Commissioner for Human Rights intends to continue monitoring the websites of the state authorities.

10) Article 35 of the Law of the Republic of Tajikistan “On Regulatory Legal Acts” provides for public consultations on notification of the drafting of a regulatory legal act subject to regulatory impact analysis:

1. The drafter of a regulatory legal act shall conduct public consultations for at least 30 calendar days from the date of posting a notice of drafting a regulatory legal act subject to analysis in the Register of Plans for Drafting Regulatory Legal Acts.
2. Individuals and legal entities, state authorities have the right to make their proposals in connection with the notice of drafting a regulatory legal act before the expiration of the public consultation period.
3. Based on the results of consideration of proposals received in connection with the notice, the drafter makes an informed decision on drafting the regulatory legal act or on its rejection.
4. If a decision is made to reject the drafting of a regulatory legal act, the drafter records the necessary information in the Register of Plans for Drafting Regulatory Legal Acts and notifies the authorities and persons specified in part 2 of this Article, as well as the persons from whom the applications have been received, by posting the respective notice.
5. If a decision is made to draft a regulatory legal act, the drafter prepares the text and carries out regulatory impact analysis in accordance with the requirements of Article 36 of this Law. When drafting a regulatory legal act, the law drafter may take into account the proposals received in the course of the public consultations.
6. Upon the expiration of the public consultation period, the body authorized to perform the regulatory impact analysis issues an opinion on its completion for the drafter.

The National Legislation Centre under the President of the Republic of Tajikistan is the authorized body for the regulatory impact analysis (hereinafter, “RIA”) in the Republic of Tajikistan. A special RIA unit has been put in place within the centre. According to the information received, the RIA system will start functioning in practice in the second half of 2018.

Progress assessment – 19th meeting: PROGRESS

1) No information was provided on the revision of the scope of information that is not subject to disclosure, and the powers of the heads of the state authorities and organizations to restrict access to information.

2) Information was provided on the Uniform Rules for the Official Websites of the Ministries and Agencies, Local Executive Bodies, and Self-Government Bodies of Settlements and Villages adopted by the Government in July 2017. In addition, a working group was put in place that monitors the fulfilment of the requirements of these rules. According to the information from public representatives, the updated website of the Statistical Agency under the President of the Republic of Tajikistan already complies with the specified rules.

3) Information was provided on the Procedure for the Official Publication of Regulatory Legal Acts of the Ministries, State Committees, Bodies under the President of the Republic of Tajikistan, Bodies under the Government of the Republic of Tajikistan and the National Bank of Tajikistan, adopted by the Government in March 2018. The specified Procedure requires posting the full text of the act on the website of the authority that has approved the act. The Resolution of the Government “On the Creation and Financing of the Internet Portal of Legal Information of the Republic of Tajikistan” is adopted in 2017 is also mentioned. The status of

the practical implementation of these two positive initiatives remains unknown.

4) Full decriminalization of defamation did not take place, since the Criminal Code still provides for liability for defamation against the President and the Leader of the Nation.

5) No information was provided on the legislative revisions of the disclosure rules.

6) In general, there were no changes in the approach to official secrets, although administrative liability was established for conferring secrecy to information that in fact is not secret. The public also provided an example of declassifying information for inclusion in the National EITI Report.

7) No data was provided on improvement of the regulation of work with information inquiries.

8) No information was provided on the inventory of registers after acceptance of the report.

9) No data was provided referring to the work on the national open data portal and the release of open data statistics.

10) In 2018, the Commissioner for Human Rights intends to continue monitoring the websites of some state authorities, which, however, does not serve as an evidence of strengthening the rights and resources of the Commissioner.

11) The regulatory impact analysis system should function starting from July 2018. With regard to anti-corruption expertise, public representatives were informed about educational activities explaining the methodology of the examination conducted by the OSCE. However, the public availability of the results of anti-corruption expertise is not guaranteed.

Recommendation 11: Integrity in public procurement

12. Revise the Law “On the Public Procurement of Goods, Works and Services” and other related legal acts of the Republic of Tajikistan in order to ensure compliance of the legislative base with the international requirements and standards.

13. Ensure that all purchases of goods, works and services, which are fully or partly financed from the public funds by all state power bodies or other legal entities, are made in accordance with the requirements of the Law “On the Public Procurement of Goods, Works and Services”.

14. Ensure effective functioning of the system of accountability, control and dissemination of information on public procurement as envisaged in the Law “On the Public Procurement of Goods, Works and Services”.

15. Regulate public procurements falling outside of the scope of regulation of the Law “On the Public Procurement of Goods, Works and Services” (public procurements securing national defence, national security, state secrets, etc.) and establish control over the funds spent on such purchases without prejudice to the state secrecy and other conditions typical for such purchases.

16. Prevent conflicts of interest in procurement procedures, in particular, by: (a) dividing the supervisory functions of the public procurement system and conducting public procurement on behalf of procuring entities that do not have the status of “qualified procuring entity”; (b) introducing the rules on settlement of conflicts of interest for persons authorized to represent the procuring entity (including members of selection panels and complaints bodies), including the declaration of their interests.

17. Improve the public e-procurement system by expanding e-procurement methods, developing modules of contract management, procurement planning, online complaints handling, procurement data management, and analysis; the development of interfaces between e-procurement systems and other functioning e-government systems; and the establishment of an interactive and transactional e-government system by 2020.

18. Create and maintain a database of companies involved in corruption offences.

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Government report

1) On December 15, 2017, the Agency for the Public Procurement of Goods, Works and Services under the Government of the Republic of Tajikistan sent the new edition of the draft Law of the Republic of Tajikistan “On the Public Procurement” No. 271651 to the Ministries of Justice, Finance, Economic Development and Trade, the State Committee on Investments and State Property Management, the State Agency for Financial Control and Combating Corruption and the National Centre for Legislation in accordance with the instructions of the First Deputy Prime Minister of the Republic of Tajikistan Davlatali Saidot. The proposals and comments of the ministries and departments were considered jointly with them during the second quarter of the current year, as a result of which the draft law was finalized. The draft of the revised law was sent on May 31 of the current year for reconsideration and subsequent approval by the top officials of the above ministries and departments.

Along with this, in May of this year, the second stage of the development of regulatory legal acts arising from the new draft law was completed, in particular, the international consultant developed and submitted to the Agency draft public procurement rules, standard tender documents for various procurement categories, procurement guidelines and training programs.

2) Despite the fact that over the past few years, as a result of educational activities, a number of state-owned enterprises that are not involved in public procurement procedures have begun procurement activities in accordance with the Law of the Republic of Tajikistan “On the Public Procurement of Goods, Works and Services”, so far some of the state-owned enterprises and joint ventures with a share of the Government of the Republic of Tajikistan exceeding 50% do not comply with the requirements of the law. In order to eliminate the undesirable practices, the Agency appealed to the State Committee on Investments and State Property Management of the Republic of Tajikistan with a letter dated March 20, 2018, to obtain a list of the state-owned enterprises and joint ventures with a share of the Government of the Republic of Tajikistan exceeding 50%.

Upon reception of the list of joint stock companies (letter of the Committee of April 24, 2018 No. 1-5a/1356), consisting of 122 joint stock companies and two limited liability companies and the identification, on the basis of comparison with the public procurement statistics, of those avoiding application of the law, appropriate letters of instruction will be sent.

The results of the responses of joint-stock companies to the inquiry of the authorized body will be communicated to the National Anti-Corruption Council and the State Agency for Financial Control and Combating Corruption in the second half of this year. In case of failure to comply with the requirements of the Law, the relevant materials will be transferred to the Agency of the State Financial Control and Fight against Corruption.

3) Based on the results following the recommendations of the Istanbul Anti-Corruption Action Plan of the Anti-Corruption Network for Eastern Europe and Central Asia, a report on the activities for 2017 was published on the Agency's website. It should be noted that the system of reporting, monitoring and dissemination of information will be improved with the launch of the new e-procurement system in 2018. According to the terms of reference for improving the e-procurement system, there were provided 32 comprehensive indicators of absolute and average indicators of organizations' public procurement activities. The Agency also developed 88 indicators for expanding the analysis and reporting capabilities that were integrated into the system. In addition, during the mission of representatives of the World Bank on April 19-20, 2018, it was agreed to include a requirement to study the existing reporting module and statistical indicators into the terms of reference for the international competition "Selection of an international consultant for the preparation of tender documentation for the creation of an interactive and transactional end-to-end electronic public procurement system" and, if necessary, its possible further expansion.

It should be noted that at present the website publishes information on public procurement, the register of orders and contracts, unreliable suppliers and other necessary information in the form of open data which are available to site users.

4) Based on a study of the regulatory legal acts of some CIS countries, the Agency drafted a resolution of the Government of the Republic of Tajikistan "On Approval of the Public Procurement Rules by a Special Procedure", which is intended to regulate public procurement for the national defence, national security, state secrets, precious metals and precious stones, as well as management of disasters and other emergencies. The draft resolution (Rules) was sent to the ministries and departments on June 1, 2018.

5) The draft Law of the Republic of Tajikistan "On the Public Procurement" includes a provision on the establishment of a complaints resolution board, which, through settlement of participants' complaints by an independent body, is designed to prevent conflicts of interest, sharing the functions of supervising the public procurement system and conducting public procurement having the status of a "qualified procuring entity"..

Concerning the introduction of rules for regulating conflicts of interest of the persons authorized to represent the procuring entity, we note that the new draft Law provides for broader and more detailed provisions on the conflicts of interest and the declaration of conflicts of interest compared to the current law. In particular, these issues in the new draft law are governed by Article 70 "Conflict of Interest", Article 71 "Declaration and Disclosure of Conflict of Interest" and Article 72 "Restriction of Employment", the purpose of which is to prevent conflicts of interest in accordance with the international standards.

6) The implementation of this recommendation is provided for in the Public Finance Management Modernization Project 2. There were prepared the terms of reference for the international tender "Selection of an international consultant for the development of tender documents (technical specifications) for the creation of an integrated interactive and transactional end-to-end e-procurement system" (contract

PFMMPII/IC-32/2017), which were sent to the World Bank for approval and publication of the notice about holding an international competition.

At the same time, we note that some of the elements outlined in this recommendation have already been developed and implemented as part of the Institutional Development Foundation TF016491-TJ grant “Implementing and enhancing the capacity of electronic procurement”, including procurement planning, contract management, online complaints, procurement data management and integration with the electronic systems of the Ministry of Finance and the Tax Committee, which allow the exchange of data in electronic format.

7) In order to implement paragraph 71 of the Action Plan for the “Anti-Corruption Strategy in the Republic of Tajikistan for 2013-2020”, on December 29, 2017, the Ministry of Economic Development and Trade of the Republic of Tajikistan established an interdepartmental working group to create a database of business entities previously associated with corrupt practices.

The first meeting of the interdepartmental working group was held in March of this year, where issues and problems related to the creation of a database of business entities were discussed.

In accordance with the Minutes of Meeting of the Interdepartmental Working Group on the creation of a “Database on business entities previously associated with corruption offences” dated March 15, 2018, No. 09/2-1, the Agency for Government Procurement of Goods, Works and Services under the Government of the Republic of Tajikistan submitted relevant information to the Interdepartmental Working Group from April 3, 2018 No. 1/2-229. Based on the conclusion of the Interdepartmental Working Group and the letter of the Ministry of Economic Development and Trade of May 8, 2018, No. 09/2-251, the Agency was provided with information from the Tax Committee on individual entrepreneurs and founders / directors of limited liability companies who are held in places of detention, ephemeral “one-day” companies, as well as from the Customs Service on persons included in the risk group of the Risk Management System of the Unified Automated Information System.

The Agency also held a working meeting with a representative of the Information Centre of the Ministry of Internal Affairs of the Republic of Tajikistan, on the basis of which the Centre sent an inquiry of May 17, 2018, No. 1/2-367 regarding the decision on the organizational and technical aspects of the exchange of information on persons listed in the database of the Ministry of Internal Affairs of the Republic of Tajikistan, which will contribute to the creation of a complete database.

Progress assessment – 19th meeting: LACK OF PROGRESS

- 1) *New legislation is still being finalized and discussed.*
- 2) *The State Agency for Financial Control and Combating Corruption started collecting information on the state and municipal enterprises conducting public procurement outside competitive procedures. It is planned to improve the system of accountability, control, collection and dissemination of information on public procurement with the launch of a new e-procurement system in 2018*
- 3) *The Public Procurement Agency has drafted a decree of the Government of the Republic of Tajikistan “On Approval of the Public Procurement Rules by a Special Procedure”, which is intended to regulate public procurement for the national defence, national security, state secrets, precious metals and precious stones, as well as management of disasters and other emergencies. At the moment, the project is being coordinated with the ministries and departments.*

4) *The information provided refers to the planned changes in terms of separating the powers to supervise the implementation of the public procurement and to directly implement them, as well as in terms of improving the rules on preventing conflicts of interest in conducting public procurement. However, all these changes are still at the draft stage.*

5) *There are plans to expand the capacity of electronic public procurement, for which the assistance of the World Bank is attracted. Also, there were introduced procurement planning, contract management, online complaints handling, procurement data management and integration with the electronic systems of the Ministry of Finance and the Tax Committee, allowing the exchange of data in electronic format.*

6) *An interdepartmental working group was established to create a database of business entities previously associated with corruption offences. According to the results of the group's work, the Public Procurement Agency began collecting information from the Tax Committee and the Customs Service, and a request for information was sent to the Ministry of Internal Affairs.*

All the information provided indicates some steps aimed at the implementation of the recommendation, but for the most part they are at the stage of development or planning, which is insufficient at this stage to conclude that progress has been made.

Recommendation 12: Business integrity

1. Introduce requirements of information transparency and disclosure, as well as anti-corruption programs at enterprises owned or controlled by the state.

2. Deepen the dialogue with business with a focus on preventing corruption in the framework of working groups under the State Committee on Investments and State Property Management and in other formats, for example, in the framework of sectoral / departmental action plans.

3. Expand the participation of business together with other representatives of civil society in the National Anti-Corruption Council and in monitoring the Strategy's implementation.

4. Continue to identify corruption risks for businesses, including through regular surveys, as well as in closer dialogue with focus groups of entrepreneurs, with a view to identifying problems, including within sectoral / departmental action plans.

5. Organize training on the prevention of corruption in business for state authorities, which are concerned by these issues, as well as for entrepreneurs.

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Government report

1) With respect to the level of corporate transparency, it should be noted that there information is disclosed / submitted on direct and indirect ownership, representing 5%, information about board members and their directorial activities in other companies, as well as basic information about their core business activities. Moreover, in order to verify transactions prior to their implementation, it is necessary to involve an external body, for example, an external auditor. In addition, in accordance with the laws of the country, shareholders have the right to appoint and dismiss an external auditor.

It should be noted that the Republic of Tajikistan has a high rating in terms of “Protecting Minority Investors” (33rd among 190 countries of the world) in the Doing Business report of the World Bank Group. In particular, Tajikistan has 8 out of 10 possible points on the transaction information disclosure index, 6 out of 10 possible points on the directors responsibility index, 6 out of 10 possible points on the ease of filing claims by shareholders, 9 out of 10 possible points on the shareholder rights index, 7 out of 10 possible points on the corporate transparency index and 4 out of 10 possible points on the index of the degree of ownership and control. In general, Tajikistan has 6.7 out of 10 possible points for the protection of minority investors, which is above the average.

Active work is being conducted to introduce corporate governance and to expand activities of the supervisory board members in open joint-stock companies and limited liability companies owned or controlled by the state. In particular, in accordance with the requirements of the Law “On Joint-Stock Companies” and the Model Regulations of the Supervisory Board of Joint-Stock Companies, adopted by a resolution of the Government of the Republic of Tajikistan on May 30, 2015, No. 347, supervisory boards were established in 54 open joint-stock companies and limited liability companies, owned or controlled by the state.

Supervisory boards have been established to protect the interests of owners, to introduce corporate governance and to increase the transparency and efficiency of companies. The Supervisory Board is the governing body of companies, carries out the general management of the activities of companies, supervises the execution of decisions of owners and founders in accordance with the requirements of the country’s legislation.

Thus, on the basis of the current legislation, the Supervisory Boards have been established in such major companies as Tajikair OJSC, Tajikcement OJSC, Tajiktransgaz OJSC, Dushanbe International Airport OJSC, Kulyab International Airport OJSC, Kurgantuyube International Airport OJSC, etc.

2) In order to deepen dialogue with business and according to the Decree of the President of the Republic of Tajikistan, in 2007, there was created a platform for a free and direct dialogue between the public and private sectors in the form of the Consultative Council on the Improvement of the Investment Climate under the President of the Republic of Tajikistan.

In particular, in order to increase the transparency of the state registration of business entities, taxation and elimination of the human factor in these procedures, starting January 1, an online registration procedure was introduced through the Tax Committee portal www.andoz.tj, as well as an online system of payment of the state duties and taxes using national credit cards.

Entrepreneurs can carry out 14 different actions online through the implemented electronic platform. These actions include business registration, cancellation and modification of company data (for example, the name of the general director, company address, share capital, etc.). Further efforts to improve the online business

registration system are aimed at completely paperless transactions, which are in line with the international best practices (see Appendix for further information).

4) Numerous surveys were conducted over the course of dozens of roundtables, as well as within working groups, where identified corruption risks were reviewed and certain action plans were developed. At present, we can state that the risk has been reduced due to business prosperity.

The investment infrastructure (banking, insurance, information-analytical, consulting et al.) and other mechanisms securing property rights are being developed while the development of contractual relations is being stabilized.

One example of risk that was mentioned at the roundtable was the low effectiveness of the state support and business regulation mechanisms at the regional level. In this connection, it was decided to establish 33 regional councils, which today successfully carry out their activities to improve the investment and business climate in the Gorno-Badakhshan Autonomous Region, Khatlon and Sughd regions, as well as areas of republican subordination. In this way, a public-private dialogue is being developed at the regional level.

5) As already noted above, the State Committee on Investments and State Property Management of the Republic of Tajikistan works out the appropriate action plans that affect corruption and risks in business, and also, in collaboration with business associations, public organizations with the support of development partners, holds regular events aimed at information clarification and awareness raising of the private sector on corruption risks and practical solutions associated with these problems.

Moreover, in order to improve the capacity of the public and private sectors, the State Committee on Investments and State Property Management of the Republic of Tajikistan in collaboration with the World Bank Group, German Corporation for International Cooperation, EBRD, UNDP and other development partners, conducts training courses for the public officials, youth, entrepreneurs, in particular, women entrepreneurs, on supporting and developing the private sector, starting a business, basics of business planning and administration, introducing quality standards, etc.

Accordingly, active and extensive work with the private sector is ongoing. It should be noted that the authorized body on financial control and fight against corruption conducts explanatory work with the staff members of the State Committee on Investments and State Property Management of the Republic of Tajikistan twice a year.

Progress assessment – 19th meeting: PROGRESS

1) The government reports on increasing corporate transparency requirements and introducing the institute of supervisory boards, but there is no information regarding the implementation of anti-corruption programs.

2) Information was received on an electronic platform through which business can communicate with the state authorities, but this does not relate to the latest improvements. The public also informed about the adoption of the Law “On the Moratorium on Checking the Activities of Entrepreneurs in the Production Spheres”, developed based on a dialogue with business.

3) There was no expansion of business participation in the work of the National Anti-Corruption Council and the monitoring of the implementation of the Anti-Corruption Strategy.

4) The information provided on identifying corruption risks is not specific, and the example provided of one of the identified risks being “the low effectiveness of government support and business regulation

mechanisms” does not clearly explain the exact threat of corruption in the private sector in this case.

5) General information was provided about the activities of the State Committee on Investments and State Property Management in conducting various events with representatives of the public and private sectors on the prevention of corruption in business.

PILLAR 3. CRIMINALISATION OF CORRUPTION

Recommendation 13: Criminal anti-corruption legislation

- 1. Conduct a thorough comparative analysis of the Criminal Code, the Law on the Fight against Corruption, the Code of Administrative Offences and other relevant legislative acts of the Republic of Tajikistan, and harmonize the criminal and administrative anti-corruption legislation of the country based on the results of this analysis.**
- 2. Introduce into criminal law the concepts of a “request” for, a “claim” to an undue advantage and the “acceptance of an offer / promise” of such an advantage as an independent crime.**
- 3. Introduce into criminal legislation the concepts of an intentional “proposal” and “promise” of an undue advantage to a public official as an independent crime.**
- 4. Revise the existing definition of a bribe with the obligatory indication that it implies "any undue advantage."**
- 5. Envisage liability for passive bribery and bribery "in favour of third parties" with the consent or with the knowledge of the official.**
- 6. Establish effective and efficient liability of legal entities for corruption offences with proportional sanctions that are commensurate with the act committed. Liability should arise both for the commission of an offence by certain officials and for inadequate control by the governing bodies / persons of such a legal entity, which made it possible to commit such an offence.**
- 7. Consider adopting relevant appropriate legislation to punish illicit enrichment.**
- 8. Provide for “trading in influence” as a crime.**
- 9. Bring Article 279 of the Criminal Code in line with the standards provided for in Article 21 of the UN Convention against Corruption.**
- 10. Clarify the concept of “a person performing managerial functions in a commercial or other organization” within the Criminal Code.**
- 11. Distinguish between the elements of the offences provided for in articles 279 and 324 of the Criminal Code in order to avoid duplication of these norms.**
- 12. Introduce a single concept of "extortion".**

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Government report

An Interdepartmental Working Group was created by the Order of the President of the Republic of Tajikistan of February 18, 2013 to harmonize national legislation with the requirements of the UN Convention against Corruption and the Istanbul Anti-Corruption Action Plan. In addition, a working group to prepare the draft of the new Criminal Code of the Republic of Tajikistan was created by the Order of the President of the Republic of Tajikistan No. AP-684 of February 26, 2016.

These working groups will examine the issues related to this recommendation.

Progress assessment – 19th meeting: LACK OF PROGRESS

Information was received on the establishment of a working group to harmonize national legislation with the requirements of the UN Convention against Corruption and the Istanbul Anti-Corruption Action Plan, as well as a working group on drafting a new Criminal Code. These groups will consider the issues related to the implementation of the recommendation.

Recommendation 14: Definition of “official”

- 1. Introduce a uniform concept of “official”, ensuring that this definition covers all categories of persons specified in the UN Convention against Corruption, including those performing any public functions, including for a public department or public enterprise, or providing any public service.**
- 2. Identify all categories of persons who, based on their activities, commit corruption offences, but are not recognized under the Criminal Code as the perpetrators of these offences, either as an official, or as a person performing managerial functions in a commercial or other organization, and eliminate such omissions.**
- 3. Amend the concept of “official of a foreign state” by noting that this category includes persons performing a public function, including for a public enterprise.**

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Government report

At present, a working group comprising staff from Agency, law enforcement agencies and legal experts, and formed in coordination with these bodies, is conducting a study and analysis of the relevant laws, regulations and international standards in order to implement recommendation 14.

Progress assessment – 19th meeting: LACK OF PROGRESS

The working group is analysing domestic legislation and international legal acts.

Recommendation 15: Confiscation

- 1. Analyse the reasons for the lack of practice of confiscation based on the results of consideration of corruption cases, develop and implement practical steps to ensure the identification, seizure and confiscation of assets derived from corruption as well as income derived therefrom.**
- 2. Consider the possibility of reforming the institution of confiscation by recognizing confiscation as a coercive measure, excluding it from the list of penalties.**
- 3. Ensure that confiscation is applicable to all corruption offences.**
- 4. Consider introducing extended confiscation in accordance with the international standards.**
- 5. Introduce sustainable review mechanism to evaluate the effectiveness of the provisional measures (procedural coercion measures at the pre-trial stage) aimed at securing confiscation.**

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Government report

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These working groups will examine the issues related to this recommendation.

Progress assessment – 19th meeting: LACK OF PROGRESS

Information was received on the establishment of a working group to harmonize national legislation with the requirements of the UN Convention against Corruption and the Istanbul Anti-Corruption Action Plan, as well as a working group on drafting a new Criminal Code. These groups will consider the issues related to the implementation of the recommendation.

Recommendation 16: Sanctions

- 1. Establish the deprivation of the right to occupy certain positions or engage in certain activities as a mandatory additional sanction for corruption offences.**
- 2. Remove corruption offences from the list of offences for which the court is obliged to impose a non-custodial sentence, or replace the sanction already imposed with such if the defendant or convicted person is fully compensated for the material damage caused.**
- 3. Conduct systematic surveys on the effectiveness of the existing corruption sanctions, analysing, among other things, the volume of imposed sanctions depending on the subject of the crime, the position held, the size of bribes, etc. Adjust legislation and law enforcement practices based on the results of such research.**

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Government report

As already noted, the working group is currently drafting a new edition of the Criminal Code of the Republic of Tajikistan, which will address the above recommendations.

In this regard, we note that the additional Interdepartmental Action Plan for the Implementation of the Anti-Corruption Strategy for 2018-2020, as well as the recommendations outlined in the Organization for Economic Co-operation and Development Istanbul Action Plan Monitoring Report on Tajikistan provide that every six months, based on the results of the statistical reports of the courts of the republic, there should be a study and analysis of the practice of sentencing on criminal cases involving corruption, as well as summary of the judicial practice in such category of cases. Since corruption offences are characterized by the presence of a special subject – an official, it is necessary to analyse the composition of convicts, sphere of administration, correspondence of the sanction to the nature and degree of public danger of the crime, circumstances of its commission and identity of the perpetrator.

Based on the results of the summaries, it is recommended that, in order to drawing the attention of judges to a high degree of public danger of criminal cases of a corruption, it is necessary to identify the reasons contributing to the commission of the offence and to issue special rulings for the competent authorities and officials.

2) It should be noted that on June 13 the Majlisi Namoyandagon of the Majlisi Oli of Tajikistan approved the amendments to certain articles of the Criminal Code of the Republic of Tajikistan.

According to the adopted amendments, persons convicted of crimes related to bribery cannot be released in exchange for the payment of fines.

Progress assessment – 19th meeting: PROGRESS

There is information about a periodic analysis of the practice of sentencing, but it is not specified who exactly conducts such analyses.

There is also information on the adoption of the law under which persons convicted of crimes related to bribery cannot be released in exchange for the payment of fines.

Recommendation 17: Procedures for investigating and prosecuting corruption offences

- 1. Provide clear a legal distinction of jurisdiction on corruption-related offences, excluding multiple interpretations.**
- 2. Establish the countering of high-ranking and complex corruption as a priority for anti-corruption law enforcement agencies, in particular the State Agency for Financial Control and Combating Corruption. Establish the outcome of work in this area as one of the main indicators of**

the effectiveness of these bodies.

3. **Include online mass media in the list of media sources whose communications may serve as grounds for initiating a criminal case.**
4. **Increase the proactive potential of investigators from the State Agency for Financial Control and Combating Corruption, representatives of other law enforcement agencies and prosecution authorities, in particular, through a broader use of analytical methods.**
5. **In addition to operational information collected by law enforcement agencies, it is necessary to use other methods of investigative work more actively, including more thorough examination of media communications, information obtained from other jurisdictions, information from tax inspectors, auditors and FIUs, as well as complaints received through government websites and hotlines, reports from embassies and information received through other channels of complaints as grounds for initiating investigations.**
6. **Provide for the possibility of tapping telephone and other conversations with respect to all corruption offences.**
7. **Use investigative measures such as operational infiltration and sting operations in the detection and investigation of corruption offences.**
8. **Ensure the publication of statistical reports on corruption offences, crime detection, investigative work, and the results of judicial proceedings on corruption and corruption-related offences.**

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Government report

Part 7 of Article 161 of the Criminal Procedure Code of the Republic of Tajikistan sets out a clear legislative distinction of jurisdiction over corruption offences.

In accordance with the requirements of this provision, 48 articles of the Criminal Code of the Republic of Tajikistan are deemed to be related exclusively to corruption-related offences, which are investigated by the State Agency for Financial Control and Combating Corruption of the Republic of Tajikistan.

In turn, the State Agency for Financial Control and Combating Corruption of the Republic of Tajikistan has split the jurisdiction of the investigation of economic and official corruption-related offences carried out by the relevant units.

Countering to high-ranking and complex corruption is a priority for the State Agency for Financial Control and Combating Corruption of the Republic of Tajikistan, and the outcomes of work in this area are one of the main indicators of the effectiveness of this body.

Based on the Law of the Republic of Tajikistan “On Operational and Search Activities” and on the basis of a decision of the relevant court (sanction), officers of the operational units of the State Agency for Financial

Control and Combating Corruption of the Republic of Tajikistan conduct operational and search measures in the form of tapping and recording telephone conversations, thereby receiving and fixing with the help of technical means of acoustic information transmitted via telephone lines or one-way messages, and the receipt and fixation, by using technical means, of various types of signals transmitted via any technical communication channels, with a view to finding out information about criminal activity, in particular, corruption-related offences, identifying a circle of connections, as well as obtaining other information conducive to solving specific operational and search tasks.

Also, on the basis of the changes and amendments of July 18, 2017, to the Law of the Republic of Tajikistan “On Operational and Search Activities”, officers of operational units of the State Agency for Financial Control and Combating Corruption of the Republic of Tajikistan conduct operational activities in the form of obtaining computer information, that is, removing information necessary for solving problems of operational and search activities, by fixing electronic and physical fields during processing, storage and transmission of information regardless of the transmission means.

Operational-search measures related to the operational control of postal items, listening to telephone conversations with connection to the station equipment of enterprises, institutions and organizations, regardless of ownership, individuals and legal entities providing services and means of communication with the removal of information from technical channels and computer information, carried out using the operational and technical forces and means of national security, internal affairs, drug control and government financial control.

In accordance with the Law of the Republic of Tajikistan “On Operational and Search Activities”, at present, officers of the operational units of the State Agency for Financial Control and Combating Corruption of the Republic of Tajikistan carry out operational and search activities in the form of operational infiltration, thereby infiltrating into the criminal environment to settle tasks of operational and search activities on a confidential basis, and thus corruption-related offences are identified in practice.

The same law regulates sting operations, when in the course of conducting operational infiltration and search measures, a similar situation is artificially created, as close as possible to reality, with the goal of causing a specific event or reproducing past events, or conducting certain operations in fully controlled conditions and under the control of an investigative body with involvement of a person with respect to whom there is evidence of illegal activities without notifying him of the operation in order to confirm the commission of the unlawful act by the person, as well as to prevent, identify, suppress and solve crimes against property, the procedure for economic activity, as well as serious or especially serious crimes that could harm the national and economic security of the country.

The results of the operations and search activities can serve as a basis for initiating a criminal case, be submitted to the bodies of inquiry, the investigator, the prosecutor or the court in which the criminal case is being processed, and also be used in proving criminal cases.

In addition to the operational information collected during operations and search activities by the State Agency for Financial Control and Combating Corruption of the Republic of Tajikistan, other methods of investigative and operational work are also more actively used.

In accordance with Article 1 of the Law of the Republic of Tajikistan “On Appeals of Individuals and Legal Entities” dated July 27, 2016, No. 1339, an appeal received at the official e-mail address of the relevant body and organization, or posted on the official website of the relevant body and organization, is considered an electronic message.

Electronic appeals along with other sources of mass information may serve as a basis for initiating a criminal case or making another legal decision in case of identifying signs of a crime.

The grounds for the initiation of investigations are information and acts on the results of the audit conducted by specialists of the Tax Committee and the Accounts Chamber of the Republic of Tajikistan

Also, in accordance with the Law of the Republic of Tajikistan “On Appeals of Individuals and Legal Entities,” the basis for the initiation of investigations are media communications, as well as complaints received through the government websites and other channels of complaints.

Progress assessment – 19th meeting: LACK OF PROGRESS

- 1) No measures were taken concerning the legislative distinction of the jurisdiction of corruption offences.*
- 2) No information was provided on practical steps for setting the countering of high-ranking and complex corruption as a priority for the anti-corruption law enforcement agencies.*
- 3) No changes were introduced to the Criminal Procedure Code with respect to online mass media as a source of information about offences.*
- 4) No information was provided on more active use of analytical methods by the State Agency for Financial Control and Combating Corruption of the Republic of Tajikistan.*
- 5) No information was provided on more active use of other sources of information other than operational activities in order to detect corruption.*
- 6) There is no evidence that the tapping of telephones and other forms of communication cannot be applied to all corruption offences.*
- 7) The information provided above suggests the possibility of using operational infiltration or sting operations, but there is no evidence that this happens in practice.*
- 8) No information was provided confirming the public disclosure of statistical data.*

Recommendation 18: Anti-corruption criminal justice bodies

- 1. Continue to improve competitive selection in the State Agency for Financial Control and Combating Corruption aimed at ensuring transparency and equal access of citizens to the service.**
- 2. Provide clear criteria for the promotion of employees of the State Agency for Financial Control and Combating Corruption.**
- 3. Start the work of the Advanced Training Centre for Anti-Corruption Officers and Judges and ensure the development of this institution, including by providing it with sufficient material and technical bases and staffing it with qualified trainers.**

4. Prepare detailed semi-annual reports of the results of the law enforcement activities of the State Agency for Financial Control and Combating Corruption and publish them on the Agency's website, and submit such reports to the public and conduct joint discussions.

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Government report

- 1) In order to improve the competitive selection for admission to vacant jobs, the Agency held a competition from May to September, 2017, which, unlike previous competitions, consisted of four stages. The first stage was "acceptance of documents", in which 656 candidates submitted documents. The second stage was "testing", in which 573 candidates took part. The third stage was "dictation", in which 76 out of 118 candidates moved to the next stage. Also, 26 candidates who passed the competitive selection for good grades were referred to the HR Department to get jobs in the Agency.
- 2) The Law of the Republic of Tajikistan "On the State Agency for Financial Control and Combating Corruption" and the Regulations on serving in the law-enforcement units of the State Agency for Financial Control and Combating Corruption of the Republic of Tajikistan set out clear criteria for promotion of the Agency's employees.
- 3) On December 4, 2017, the Advanced Training Centre for Anti-Corruption Officers and Judges was established at the Institute of Public Administration under the President of the Republic of Tajikistan.
- 4) Detailed semi-annual reports on the results of the law enforcement activities of the State Agency for Financial Control and Combating Corruption are published on the Agency's website <http://anticorruption.tj>; also, following the half-year results, the Agency's Director holds a press conference attended by mass media representatives and the public.

Progress assessment – 19th meeting: PROGRESS

- 1) *Information was provided on holding a four-stage competition for personnel selection in 2017 at the State Agency for Financial Control and Combating Corruption. However, this does not indicate systemic improvements to the competition, including in terms of testing and the composition of the competition committee, which are mentioned in the fourth round monitoring report.*
- 2) *No information was provided on any improvements in the criteria for the promotion of employees in the Agency for the State Financial Control and Fight against Corruption.*
- 3) *In December 2017, the Advanced Training Centre for Anti-Corruption Officers and Judges was established at the Institute of Public Administration under the President of the Republic of Tajikistan.*
- 4) *It is impossible to conclude that there has been any progress in terms of improvements in the public accountability of the Agency without seeing specific examples of reports and discussing them with the public. Holding press conferences is important, but the recommendation suggests a more substantive discussion on the Agency's reporting, and not just informing the public.*

PILLAR 4. PREVENTION AND PROSECUTION OF CORRUPTION IN THE LAND SECTOR

Recommendation 19: Prevention of corruption in the land sector

1. Establish at the interdepartmental level an exhaustive list of specific requirements for the selection of land plots, failure to comply with which may trigger rejection of approval on the location of the facility.
2. Ensure full publicity of information on the availability of reserve and special land fund lands at the local, regional and national level.
3. Implement a pilot project to provide land for commercial development in cities on a competitive (competition) basis.
4. Ensure internal independence of state control bodies over land use and protection in the system of the State Committee for Land Management and Geodesy.
5. Introduce a special training program for law enforcement officers for identifying corruption offences in the land sector.

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Government report

1) For the purposes of selection of a land plot in the districts (cities), permanent land selection commissions have been established, comprising representatives of all district (city) structures. When choosing a land plot, each member of the land selection commission presents to the interested person the requirements, standards and conditions for their observance and implementation. The requirements, standards and conditions will be specified in the acts of the commission.

During the creation of the land plot, the commission will provide a positive opinion subject to the presented requirements, standards and conditions.

Based on this recommendation, changes and amendments are planned to the Rules for the Allocation of Land Plots for Individuals and Legal Entities.

2) In fact, such lands are available at all levels, this information is not confidential and is public and upon reception of an application from individuals and legal entities to provide them with these lands, there should be no problem for the allocation of these lands.

If at any level the facts of the refusal to grant these lands are revealed, they [the responsible persons] will be subject of administrative proceedings in accordance with the current legislation.

In order to implement this recommendation at the regional and national level, information on the availability of reserve lands and special land fund lands was made publicly available and published in the newspapers of

the Land Management Committee of the Sogd oblast "Mehri Zamin", the Land Management Committee of the Khatlon region "Khatlonzamin", in the journal of the State Committee "Sarzamin" and on the official website of the State Committee www.zamin.tj.

3) Land plots for the construction of buildings or structures are allocated at the request of individuals and legal entities in the prescribed manner. In order to implement this recommendation, it is planned to make changes and amendments to the Rules for the Allocation of Land Plots for Individuals and Legal Entities.

4) The experience of the Ministry of Education and Science and the Committee for Architecture and Construction under the Government of the Republic of Tajikistan shows that in reality such an independent control body should be established within the system of the State Committee.

This recommendation is at the stage of analysis, training and coordination.

Progress assessment – 19th meeting: LACK OF PROGRESS

1) The problem of the broad discretion of officials in the allocation of land remains unresolved.

2) It is not clear from the information above exactly how the full publicity of information on the availability of reserve lands and special land fund lands is provided. In order to draw a conclusion on improvements in this area, it is necessary to obtain specific examples that will testify to the systemic, rather than fragmentary disclosure of the relevant information.

3) No information was provided on the allocation of lands for commercial construction on a competitive basis.

4) Information was received that the recommendation regarding the internal independence of the state control over land use and protection in the system of the State Committee for Land Management and Geodesy is at the stage of analysis, training and coordination.

5) No information was provided on the training of law enforcement officers in order to identify corruption in the land sector.