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Anti-Corruption Network for Eastern Europe and Central Asia

Istanbul Anti-Corruption Action Plan

The Second Round of Monitoring

ARMENIA

Progress Report

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1. PUBLIC SERVICE LAW/ETHICS COMMISSION FOR HIGH RANKING OFFICIALS

The new Law on Public Service was adopted by national Assembly on 26 May 2011 and signed by the President on 14 June 2011. The Law has entered into force on 1 January 2012. The main focus of the Law on Public Service is to provide rules on ethics, prevention of corruption and declaration of assets and mechanism to implement them. The new Law on Public Service has a much broader scope than the Civil Service law. The subject of this Law are not only civil servants, but also high-level officials, staff in National Assembly, Constitutional Court, Central Banks, National Security Council, Judicial Department, Prosecutor's Office, Yerevan Mayor's Office and bodies of local self-governments.

The Law on Public Service sets out some legal principles, rules on ethics and provides procedures to apply them. According to p. 8 art. 21 of the Law, each public servant should obey rules of ethics. As the high-ranking officials are a special category of public servants, this requirement applies to them. According to p. 2 art. 28, rules of ethics refer not only to the public competences of public servants, including high-ranking officials, but also to their daily life. In p. 3 of the same article there is given a list of the rules of ethics, such as respect of law, respect of moral norms in the society, contribution to development of trust in the public body, respectful attitude, use public resources for official purposes. According to p. 4 of the article this list is not exhaustive, so alternative rules of ethics are set in that area's specified legislation. Article 29 specially prohibits taking of gifts and defines a gift. Further, Art. 23 and 24 introduces a series of limitations to all public officials, including high-ranking officials, to have business/other outside activities, not to use position for purpose of political party, not to take gifts, etc. Chapter 7 provides a separate set of rules for high-ranking public officials relative to prevention of conflict of interest and declaration of property income.

On 8 February 2012 in the National Assembly the legislative package "On Amending the RA Law 'Rules of Procedure of the National Assembly'" and "On Amending the RA Law on Public Service" was passed in the first reading. The aim of the amendments is to set up the Ethics Committee of the National Assembly.

According to the Presidential Decree of 9 January 2012 Ethics Commission for High-Ranking Officials has been established. The following people have been nominated to serve as members of that Commission for a six-years term: Lilit Petrossian by the Speaker of the National Assembly, Armen Khudaverdian by the Prime Minister of Armenia, Areg Shushian by the Chairman of the RA Constitutional Court, Emil Babayan by the Chairman of the RA Court of Cassation and Artak Sarkissian by the RA Prosecutor General.

On 15 December 2011 the Government of the RA adopted the new form of assets declaration, which has entered into force on 1 January 2012. According to that decision, there is submitted new procedure of declaration of property and of income of high-ranking officials and persons, related to them. The high-ranking officials who are subject of this new obligation include the President, the Prime Minister, Ministers and altogether 500 top level public officials. This declaration is to be submitted by high-ranking officials and their relatives at the date of assuming and terminating the office and on a yearly basis.

Reporting about corruption

Article 22 of the Public Service Law introduces an obligation to public officials to report on breaches of law, including corruption, in relation to public service. The Law provides that public servants who have reported such breaches of law and did not receive a satisfactory response, may inform the chief of relevant body or competent bodies in writing. Further, the Law provides that competent authorities should provide protection to those who report corruption or other breach of law in good faith.

On December 15, 2012 the Armenian Government adopted a decree setting up the procedure of reporting about corruption related offences within the public service. The Decree mainly aims at regulating the process of filing a report on allegedly corrupt activities of public servants. The Decree is construed on the idea of protection of the reporting persons, which is enshrined in the Law on Public Service.

2. CRIMINALIZATION

Based on the recommendations received from the OECD and CE GRECO, Armenia has made amendments to its Criminal Code. Particularly the new amendments will address the criminalization of the following offences in line with its international commitments: Passive bribery (receiving a bribe), Trading in influence, Bribery in private sector. The amendments criminalize the “request and solicitation of an undue advantage and acceptance of an offer and of a promise of an undue advantage” the “ active side of trading in influence, request or the acceptance of an offer or promise of an undue advantage to exert improper influence” and the “bribery in the private sector by expanding the definition of persons subjected to these provisions to include all individuals who work for private sector entities”

The amending law also increases the sanctions for corruption offences, thus increasing the statutory limitation periods for such offences.

The draft law is in National Assembly and is in its final stage of approval by the parliament.

3. FINANCIAL CONTROL AND AUDIT

As it is reported by the Control Chamber, the legislative bill “On the Public Sector Accounting” has been developed and presented to be submitted by the competitive bodies. The bill will complete the legal regulation on accounting in the public sector. There will be created a legal basis for public sector accounting system, which will appropriate the international standards in this field when the bill is adopted. Further, the concepts of the legislative bills “On Financial Management and Control” and “On Financial Inspection” which will be determined in the adoption of draft laws on fundamentals have been developed and presented to be submitted by the competitive bodies. In assistance of the World Bank it was carried out the pilot project of a non-commercial organizations fiduciary (trust-based) control. As a result the Government’s draft protocol-resolution “On the approval of the state non-commercial organizations fiduciary control system” has been developed. By the adoption of the resolution there will be defined the concept (model) of the financial management and control systems above the state non-commercial organizations, which will serve as a basis while investing the fiduciary control system above the state non-commercial organizations. Almost all of the public sector is regulated by the internal audit

field, which is fully consistent with international leading practices. There has been developed and adopted the Law “On internal audit” which has established the necessary legal framework for setting up the system of internal audit and effective activity of the system. On 11 August 2011 by the Government’s Resolution No. 1233 -Ն there has been developed and adopted “The standards of the activity of internal auditors and internal audit professional conduct rules, which fully comply with internationally recognized standards and establish an internal audit activity and the basic principles of conduct of the internal auditors. There has been developed and adopted “The methodological guidelines of applying the standards of the internal auditor’s professional activity”, which lead the internal auditors to perform their tasks and responsibilities properly. According to the Law on Internal audit, there has been developed and adopted the filling procedures and forms of registers of the internal audit units and internal auditors in the organizations. Further, it has been developed and submitted to consideration the legislative bill “On establishing the guidelines on regulating the manual internal audit in the public sector”. Loan and grant funds have been moved to the Treasury of RA, which in addition to economic efficiency, evidence the effectiveness of the treasury system and the highly appreciating by the International Bank and international organizations and donors.

4. PROCUREMENT

The new Law on Procurement which entered into force on 1 January 2011 has deserved special attention to the procurement institutional bodies. In particular, one of such bodies is the Procurement Appeals Board, which is wholly independent body and is engaged in the appealing the procedure of procurement. The Ministry of Finance focuses on the latter’s capacity building programs, including that during the implementation of such programs various international organizations greatly support the process.

Within the framework of e-procurement system introduction there has been developed and tested Armenia’s e-procurement system (software and hardware provisions). In October 2011 there were chosen three state governmental bodies which have organized procurement procedures through e-procurement system in real mode. To ensure the application of e-procurement system the Ministry of Finance has developed “The procedures of electronic procurements”, which has been approved by the Government. **By this resolution it is determined that, according to the Law on Procurements, since 1 January 2012 all the state bodies are carrying out open procurement procedure by e-procurement.**

According to the Charter of the Procurement Assistance Center, the Center assesses the characteristics and the qualification requirements, approved by the clients, to preserve the non-discrimination and provide competition requirements that are stipulated. Evaluation results must be submitted to the Authority and to the customers.

The completeness of reform measures in the public procurement sector, as well as each separate measure is directed to raise confidence in the field of public procurement. As an example, in the October 2010 the Government approved “The procedure of possible before-qualified participants”,

that allowed participants of the procurement, who register as a before-qualified possible participant, to refrain from representing several document during further procurement procedure, etc.

5. E-GOV.AM

Besides, there has been developed web-page e-gov.am which brings together the electronic governance tools and databases of the Armenian state agencies as well as provides comfortable environment for their use. On e-gov.am the User has an opportunity to:

- send a letter to the Government what enables to express an opinion or file a complaint;
- track the letter as the submission to the Government will be processed in a transparent manner; see the official, to whom the application has been assigned;
- access the decrees signed by the Government; view decrees approved by the Prime Minister; approach drafts decrees to be discussed during the Government's upcoming session;
- use the system to an application for performing different actions related to the User's license (obtain, restate, void or terminate, apply online for the license, submit application online and save time);
- register business online (register an entity in minutes using the one stop principle, view information on registered entities) – www.e-register.am ;
- access judicial information system (find cases, search Laws of the Republic of Armenia, follow the timetable of court hearings, for effective processing of payment order claims the system avails the opportunity of online case filing, following the further proceedings and sending necessary documents to the court online) – www.datalex.am ;
- submit public notifications to the extent permitted by the applicable law (saves time, enables search for other announcements, subscribe to receive new announcements) – www.azdarar.am ;
- access single source procurement disclosure (this section is designed to ensure public and transparent governance, shows procurements by state agencies from one source, presents procurements by state agencies from one source);
- view the funding provided to state non-commercial organizations;
- follow up the Governmental expenditures (study the budget of the Republic of Armenia including current fiscal changes by sections, groups, classes and expenditure lines);
- access electronic tax filing (this tool simplifies tax filing for both tax payers and tax officials by automating the preparation, checking and by online transfer of tax reports; online tax filing, restrains possible corruption risks, saves time) – file- www.online.taxservice.am ;
- fill intellectual property application (online submission of patent and trademark applications) – www.my.aipa.am ;
- get information of the Intellectual Property Agency (search in the databases of industrial designs, brand names, inventions, utility models, and trademarks).

6. FINANCING OF POLITICAL PARTIES

*Under recently adopted amendments to the Law on Political Parties, parties are obliged to declare their all financial sources, including in particular: **in-kind donations, assets, goods and services***

bought or rented under market prices, bank loans and contracts with foundations, associations and other bodies related to them.

The new amendment also provides that if the financial activities exceed 10 million AMD (app. 30,000 USD), political parties are obliged to publish their declarations only after passing financial audit.

The Law has been adopted by the National Assembly of the Republic of Armenia. After being approved by the President the amendments will be in force.