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**ISTANBUL ANTI-CORRUPTION ACTION PLAN**

**FOURTH ROUND OF MONITORING**

**ARMENIA**

**ALTERNATIVE PROGRESS UPDATE**

**Armenian Young Lawyer's Association**

This document contains the alternative progress update of implementation of recommendations from the Third Round of Monitoring of the Istanbul Anti-Corruption Action Plan for Armenia submitted to the ACN Secretariat by Armenian Young Lawyer's Association. It provides information selectively to some recommendations. The progress update on Armenia with the assessment adopted at the 17<sup>th</sup> plenary **on 15 September 2016** in Paris is available [here](#).

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## PILLAR 1: ANTI-CORRUPTION POLICY

### Recommendation 1:

***Organise meaningful consultations about the new strategy with the public authorities and the non-governmental partners, including civil society, business and international partners, to ensure that the strategy focus on the right priorities and to build the support of the society to its implementation.***

***Ensure that the new strategy has a strong mechanism for its coordination and monitoring, including a set of performance indicators and the use of surveys and inputs from nongovernmental organisations.***

***Develop a budget for the implementation of the strategy including sufficient human and financial resources to ensure necessary financing from the state budget.***

### 17<sup>TH</sup> ACN Plenary Meeting, September 2016

The Government has been involved in dialogue with non-governmental partners regarding the implementation of different points of the strategy. These issues were discussed during joint events and working meetings. On 23.09.2015 the Government of the Republic of Armenia, represented by Ministry of Justice and Civil Society, represented by the CSOs' Anti-Corruption Coalition of Armenia, agreed on the establishment of 2 working groups: on Criminalization of Illicit Enrichment in Armenia and on effective institutional system for the fight against corruption. The working groups were established in January 2016 by the orders of the Minister of Justice. The criminalization of illicit enrichment as well as establishment of the effective institutional system for the fight against corruption is included in the Action Plan of the strategy.

During a regular meeting of the Anticorruption Council, Armenian Lawyers' Association has introduced both of these issues. The EU Ambassador attended the meeting and praised it as an excellent example of CSO-government dialogue.

The strategy does not have strong mechanisms for its coordination and monitoring.

The Government is planning to receive assistance from international organisations for implementation of various components of the strategy.

**Assessment of Progress - 17<sup>th</sup> Plenary: SIGNIFICANT PROGRESS/PROGRESS/LACK OF PROGRESS**

Text

### Recommendation 2:

***In addition to general surveys, commission surveys for specific high risk sectors to help the development and monitoring of anti-corruption policy and measures.***

***Provide support to NGOs in their corruption research.***

***Use the results of the surveys commissioned by the government and conducted by the NGOs for the development of the new Strategy and for the monitoring of its implementation and publish***

*them on the site of the anti-corruption council.*

**17<sup>TH</sup> ACN Plenary Meeting, September 2016**

The Police of Armenia applied to the OSCE office in Yerevan for assistance in implementation of assessment of activity of police regarding services provided to citizens. The OSCE office in Yerevan invited 2 experts for assessment of activity of Traffic Police and Passport and Visa Department. The assessment started at the middle of the May, 2016 and finished at the middle of August.

The Government has not used the results of surveys for development of the strategy but has used the results for implementation of some points of the strategy. For example, the Ministry of Justice used surveys and recommendations of the Armenian Lawyers' Association on criminalization of illicit enrichment and establishment of an independent anti-corruption body.

**Assessment of Progress - 17th Plenary: SIGNIFICANT PROGRESS/PROGRESS/LACK OF PROGRESS**

Text

**Recommendation 3:**

***Provide broader opportunities for the NGOs to participate in the Anti-Corruption Council.***

***During the launch of the new Strategy organise a public awareness campaign to send a strong message from the government to the citizens about intolerance of corruption.***

***Support the implementation of the new Strategy with a regular public information campaign about practical solutions, rights and duties of citizens when facing corruption.***

**17<sup>TH</sup> ACN Plenary Meeting, September 2016**

NGOs are always invited for participation in sessions of the Anti-Corruption Council, and they have opportunities to make speeches. However, there have not been any amendments to increase the number of NGO members of the Council.

Armenian Lawyers' Association and Ministry of Justice during the sessions of the Anti-Corruption Council on 17 June 2016 have proposed 2 options for the establishment of either an independent and universal anticorruption agency, which will include three components: investigation, prevention and education, or an independent anticorruption body, which will have preventive and educational functions, as well as a specialized investigative body. The recommendations also include an establishment of oversight committees with an increased number of NGOs.

Different level state officials often speak about the negative aspects of corruption and the need to combat it, but there is no public awareness campaign as such.

**Assessment of Progress - 17th Plenary: SIGNIFICANT PROGRESS/PROGRESS/LACK OF PROGRESS**

Text

**Recommendation 4:**

***Ensure that the Anti-Corruption Council leads the coordination of the Anti-Corruption Strategy and its monitoring, regularly informs the state bodies and the public about progress and challenges in its implementation and takes measure to strengthen the implementation where necessary.***

***Provide the permanent secretariat for the coordination and monitoring of the Anti-Corruption Strategy with a clear mandate for coordination and monitoring of anti-corruption policy and with the human and financial resources necessary for effective and independent work.***

***Strengthen the capacity of state bodies to develop and implement sectoral anti-corruption measures, provide them with analytical and methodological support, ensure coordination between the anti-corruption focal points and ethics commissions in the state bodies and with the law-enforcement bodies.***

***Establish a donor coordination mechanism to ensure effective support of the donors to the implementation of the Anti-Corruption Strategy and other anti-corruption, integrity and good governance programmes.***

#### **17<sup>TH</sup> ACN Plenary Meeting, September 2016**

The Anti-Corruption Council (ACC) is an ad-hoc body which convenes occasionally, as and when the government wishes to report new developments or to discuss draft reforms. Progress reports are presented, but it would be hard to say that the ACC leads the monitoring process, as it is not independent enough to play a significant role.

The Prime Minister's Office (PMO) has a special unit for monitoring of anti-corruption projects. The unit consists of only 4 persons and they do not have sufficient resources for effective and independent work. The expert group under the Council has not been established yet. Part of its role would be to assist the PMO to develop and implement a monitoring methodology. Currently there is no such methodology.

We are not aware of a donor coordination mechanism. We know that the government regularly meets with donors, requesting their support, but we are not aware of any policy to coordinate donor support (such as multilateral stakeholder meetings).

***Assessment of Progress - 17th Plenary: SIGNIFICANT PROGRESS/PROGRESS/LACK OF PROGRESS***

Text

## **II CRIMINALISATION OF CORRUPTION**

### **Recommendation 5:**

***Without further delay introduce liability of legal persons for corruption offences (criminal, administrative or civil) in line with international standards and enable law enforcement to effectively pursue corruption cases that involve legal persons.***

***Bring provisions on the offence of the trading in influence in full compliance with international standards.***

***Develop training curricula and organize training sessions for investigators and prosecutors with regard to detecting, investigating and prosecuting of bribery offences, when the bribe was merely offered or promised, as well as cases of trading in influence, and develop guidelines for investigators, prosecutors and judges on application of these offences.***

***Facilitate the detection and investigation of newly introduced provisions and new elements of the previously existing corruption offences by:***

**(i) increasing pro-activeness of the law enforcement and prosecution authorities notably through an increased use of analytical tools;**  
**(ii) using more actively other detection tools in addition to intelligence information gathered by law enforcement, such as media reports, information received from other jurisdictions, referrals from tax inspectors, auditors and FIUs, complaints received via government websites and hotlines, as well as information from other complaint mechanisms, as a basis for launching investigations.**

#### 17<sup>TH</sup> ACN Plenary Meeting, September 2016

Regarding the issue of introduction of liability of legal persons for corruption offences, a new Draft Criminal Code has been developed. Article 136 of the Draft Code states that *the legal persons (namely legal persons that are established in accordance with Armenian legislation (except state and local self-government bodies) international organizations, and as well the legal persons that are established in accordance with foreign law or its separate subdivision) are subject to criminal liability.*

Although, on the whole, the 7th Section with two Chapters of the Draft Criminal Code is dedicated to the issues regarding the criminal liability of legal persons, however it is not in line with international standards for the following reasons.

Firstly, it must be mentioned that as envisaged in Article 141, Part 1 of the Draft Criminal Code *it establishes the following types of punishment for legal entities:*

1. *Fine,*
2. *Temporary cessation of the right to engage in a specific type of activity,*
3. *Liquidation,*
4. *Restrictions on undertaking an activity in the territory of RA.*

Meantime, international experience shows that there are several other types of sanctions that both correspond with international standards and fulfil the aims of punishment. For instance, in 1988, the Council of Europe suggested that Member States should provide a broad spectrum of enforcement measures, such as prohibition of particular activities, deprivation of fiscal privileges and adverse public orders. Moreover, recommendation of the Committee of Ministers of EC No. 88 of 20 October 1988 provides for an extensive list of sanctions to be considered by Member States against enterprises, special attention is drawn to the prevention of further commission of crimes<sup>1</sup>. Other sanctions consist in restraining the corporation from the performance of some activities, denial, suspension or retraction of licenses, loss of rights (such as benefiting from subsidies or tax breaks), prohibition of advertising or selling on specific markets, etc.<sup>2</sup>

In addition to fines, the French Penal Code provides for various other sanctions such as dissolution, disqualification from performing special economic or social activities, placement for no longer than five years under judicial supervision, temporary or permanent closing down of plants used in the commission of the crime, temporary or permanent prohibition to issue stock or checks, confiscation of goods used or produced as a result of the crime and publication of the judgment. The German non-criminal model accepts as sanctions the following fines; dissolution, confiscation of the fruits of the crime, deprivation of rights or licenses, and the imposition of mandatory management oversight.

A sanction can involve an invasive and extreme reconstruction of a company. This

<sup>1</sup> <https://wcd.coe.int/com.instranet.InstraServlet?command=com.instranet.CmdBlobGet&InstranetImage=2732065&SecMode=1&DocId=2260740&Usage=2> (last access December 13, 2015)

<sup>2</sup> Anca Iulia Pop. Criminal Liability of Corporations- Comparative Jurisprudence, supra note 2, at 40.

can result in a complete reform of a corporation's practice after the offense. Probation is an important tool that enables reform of wayward corporations under different jurisdictions (for example in American Law). To prevent further offenses, probation may require a corporation to submit to the court an effective compliance and ethics program, make periodic reports to the court or probation officer regarding the organization's progress in implementing the program.

The United States Sentencing Guidelines impose an innovative sanctioning system<sup>3</sup>. In addition to paying high fines, corporations must also adopt complex internal mechanisms to prevent and detect crimes. Under US federal law the main sanctions are the fines, restitution, remedial orders, community service and probation.

As ill luck would have it, none of those sanctions can be found in RA Draft Criminal Code. Hence, the introduction of the offence without a proper sanctions mechanism cannot be considered as a deterrent for corruption.

Moreover, more than 6 months have passed after the introduction of the Draft Criminal Code, however, the letter is still in the stage of discussions and no practical steps have been made with the aim of presenting the draft to the Government for discussion. Thus, in our assessment the issue continues to stay at the very premature stage of development.

Concerning the guidelines for investigators, prosecutors and judges, the book titled "The features of the methodology of examination and qualification of the official crimes against state service" published by the Special Investigation Service is very general as it is not specialized on corruption-related offences as specified in the recommendation.

**Assessment of Progress - 17th Plenary: SIGNIFICANT PROGRESS/PROGRESS/LACK OF PROGRESS**

Text

Recommendation 6:

***Ensure that immunity procedures do not impede successful investigations and prosecutions of corruption cases.***

**17<sup>TH</sup> ACN Plenary Meeting, September 2016**

Text

**Assessment of Progress - 17th Plenary: SIGNIFICANT PROGRESS/PROGRESS/LACK OF PROGRESS**

Text

Recommendation 7:

***Examine the rules applicable to the lifting of bank secrecy and access to financial and commercial records in the course of financial investigations and the manner in which they are currently applied, to ensure that the process is simple and consistently implemented and that it does not impede investigators' and prosecutors' ability to pursue complex corruption crimes.***

***Train investigators and prosecutors on investigations and prosecutions of complex financial cases, and take steps to ensure that such investigations are conducted whenever appropriate and that***

<sup>3</sup> Mark Piet, Radha Ivory, Corporate Criminal Liability Emergence, Convergence and Risk Part I The Analytical Framework, Chapter I Emergence and Convergence: Corporate Criminal Liability Principles in Overview, Emergence: An Introduction to Corporate Criminal Liability Principles, 2011 9 IUS Gentium.

*adequate human and financial resources are allocated, including the availability of expertise in forensic accounting and information technology.*

17<sup>TH</sup> ACN Plenary Meeting, September 2016

Text

*Assessment of Progress - 17th Plenary: SIGNIFICANT PROGRESS/PROGRESS/LACK OF PROGRESS*

Text

Recommendation 8:

*Strengthen anti-corruption specialization within law enforcement and prosecutorial bodies.*

*Foster cooperation between law enforcement bodies and control bodies in detecting, investigating and prosecuting corruption-related offences.*

*Encourage the criminal investigation and prosecution bodies to approach the corruption phenomenon in a more targeted and proactive manner, aiming at persons among high level officials, main risk areas in public administration and economy.*

17<sup>TH</sup> ACN Plenary Meeting, September 2016

Text

*Assessment of Progress - 17th Plenary: SIGNIFICANT PROGRESS/PROGRESS/LACK OF PROGRESS*

Text

Recommendation 9:

*To ensure comprehensive criminal statistics on corruption-related offences, the government should make available the data that allows to determine the following:*

- position/rank/occupation of the suspect/indicted/convicted person,*
- number of investigations, prosecutions and convictions for each type of offence,*
- sanctions applied,*
- the amount of the bribe and/or the damage caused by the offender, and*
- value of properties seized and confiscated.*

17<sup>TH</sup> ACN Plenary Meeting, September 2016

Text

*Assessment of Progress - 17th Plenary: SIGNIFICANT PROGRESS/PROGRESS/LACK OF PROGRESS*

Text

### III PREVENTION OF CORRUPTION

Recommendation 10:

*Provide the Ethics Commission for High-Ranking Officials with the right and the capacities to verify*

***asset declarations, introduce rules in the legislation and apply sanctions for failure to submit or for submitting false or incomplete information.***

***Provide the Ethics Commission for High-Ranking Officials with an independent budget which will ensure necessary human, financial and technical resources.***

***Designate the Ethics Commission for High-Ranking Officials - or another body - to promote and control of common public service standards and practices across the public administration.***

#### **17<sup>TH</sup> ACN Plenary Meeting, September 2016**

On 23.09.2015 the Armenian government, represented by Ministry of Justice, and Civil Society, represented by the CSOs' Anti-Corruption Coalition of Armenia, agreed on the establishment of 2 working groups: on Criminalization of Illicit Enrichment in Armenia and on effective institutional system for the fight against corruption.

On 17 June 2016, during a meeting of the Anticorruption Council, Armenian Lawyers' Association and the CSOs' Anti-Corruption Coalition of Armenia have introduced the issue of criminalization of illicit enrichment in current Criminal Code in line with the gaps both in the notion of the offense in a Draft Criminal Code and in declarations system submitted by high-ranking officials including sanctions for failure to submit or for submitting false or incomplete information. Prime Minister commissioned the Minister of Justice to draft a legislative package on criminalization of illicit enrichment and the Chair of Ethics Commission for High-Ranking Officials to draft a legislative package on the gaps in the declarations system submitted by high-ranking officials within two months. The legislative package on criminalization of illicit enrichment is already circulated between stakeholders.

Concerning the sanctions, Armenian Lawyers' Association has proposed to apply not only criminal and administrative sanctions for late filing, non-filing of declarations and for submitting false or incomplete information, but also disciplinary sanctions such as removal from the office (Italy, Slovak Republic, etc.), withholding of salary (Croatia, Poland), decrease of the salary (Kosovo), non-promotion or ban on receiving incentives for a year (Lithuania), etc.

During the afore-mentioned regular meeting the issue to provide the Ethics Commission for High-Ranking Officials with the right and the capacities to verify asset declarations and an independent budget, has also been mentioned, however from a different spectrum. Armenian Lawyers' Association and Ministry of Justice have proposed 2 options for the establishment of either an independent and universal anticorruption agency, which will include three components: investigation, prevention and education, or an independent anticorruption body, which will have preventive and educational functions, as well as a specialized investigative body. The abovementioned bodies will include in functions also the verification and analysis of asset declarations. Prime Minister instructed the Ministry of Justice to hold a thorough discussion on the proposed models and make a decision on the proposal within two months.

It's worth mentioning that Armenian Lawyers' Association has raised the issue of criminalization of illicit enrichment for about 8 years, hence we should acknowledge the fact that we witness a little success in this field.

**Assessment of Progress - 17th Plenary: SIGNIFICANT PROGRESS/PROGRESS/LACK OF PROGRESS**

Text

**Recommendation 11:**

*Ensure that ethics commissions in public institutions function properly, define their competencies, rules for their creation and operation, their role regarding conflict of interests, restrictions and sanctioning of public servants, and establish their obligation to present reports about their activity to the coordination body and to the public.*

*Designate a body responsible for co-ordination the activity of ethics commissions, for providing them with methodological guidance and training, monitoring and assessing effectiveness of ethics commissions.*

*Establish a mechanism for co-ordination between the ethics commissions, the human resources management departments and the anti-corruption focal points in each state body.*

**17<sup>TH</sup> ACN Plenary Meeting, September 2016**

The Armenian Lawyers' Association remains sceptical that ethics commissions within public bodies represent a realistic solution. It is unrealistic to expect that civil servants will sit in judgement on their immediate colleagues. It is better to strengthen the oversight powers of external bodies.

**Assessment of Progress - 17th Plenary: SIGNIFICANT PROGRESS/PROGRESS/LACK OF PROGRESS**

Text

**Recommendation 12:**

*Develop codes of ethics or conduct for special categories of public servants prescribed by Law on Public Service (art.4)*

*Revise and update codes of conduct for special categories of public servants in order to eliminate discordances existing in legal framework and to align them with the Law on Public Service.*

*Provide practical training to public officials about the use of code of ethics in practice.*

**17<sup>TH</sup> ACN Plenary Meeting, September 2016**

Text

**Assessment of Progress - 17th Plenary: SIGNIFICANT PROGRESS/PROGRESS/LACK OF PROGRESS**

Text

**Recommendation 13:**

*Develop clear rules regarding positions that are to be considered for merit based appointments and ensure their enforcement in practice, maintain records about merit based appointments.*

***Ensure that the majority of vacant posts are filled through competition and designate a body responsible for coordination and monitoring the process of filling in vacant service posts.***

***Develop guidelines on evaluating integrity and ethics competencies in the selection process.***

**17<sup>TH</sup> ACN Plenary Meeting, September 2016**

Text

***Assessment of Progress - 17th Plenary: SIGNIFICANT PROGRESS/PROGRESS/LACK OF PROGRESS***

Text

**Recommendation 14:**

***Develop clear legal norms regarding the procedure of conflict of interests and declaration by different categories of public servants, including high risk sectors such as public procurement procedure, and public officials who do not have superiors.***

***Without delay analyse the implementation of the Law on Public Service and identify inconsistencies in different laws such as the Law on Civil Service, the Law on NA Procedures, the Law on Municipal Service, the Law on Constitutional Court, the Judicial Code, and the Law on the Prosecutor's Office, and revise legislation in order to address the identified deficiencies.***

**17<sup>TH</sup> ACN Plenary Meeting, September 2016**

On 17 June 2016, during a meeting of the Anticorruption Council, Armenian Lawyers' Association has introduced the gaps in legislation concerning declarations system and conflicts of interests and made recommendations. The Chair of Ethics Commission for High-Ranking Officials has also presented the gaps in the above-mentioned sector. Prime Minister commissioned the Chair of Ethics Commission for High-Ranking Officials to draft a legislative package on the gaps in the declarations system submitted by high-ranking officials within two months.

The recommendations by Armenian Lawyers' Association were made in the framework of the joined working group on criminalization of illicit enrichment discussed above. They include but are not limited to:

- to put the obligation to submit declarations not only high-ranking officials but public officials based on the fact that the offense of illicit enrichment will cover all the public officials,
- to include persons related with up to 2nd degree blood relationship in the declaration obligation,
- to include expenditures that are not considered as assets such as luxury vacations in the declaration obligation,

To reduce the situations of conflicts of interests the new emerging institute of disclosure of beneficiary owners of the companies has also been presented by Armenian Lawyers' Association during the afore-said regular meeting of the Anticorruption Council. Prime Minister commissioned Minister of Justice to draft a legislative package on this issue within 2 months.

Consequently, it appears that there is little success concerning this recommendation as the reforms are at a preliminary stage.

**Assessment of Progress - 17th Plenary: SIGNIFICANT PROGRESS/PROGRESS/LACK OF PROGRESS**

Text

**Recommendation 15:**

***Create specific channels to report corruption in each public institution, out of the hierarchical chain and launch campaign to raise awareness of those measures among public servants.***

***Adopt legislation and practical mechanism for the protection of whistleblowers .***

**17<sup>TH</sup> ACN Plenary Meeting, September 2016**

On 05 August 2016, during a pre-session of the Anticorruption Council, Armenian Lawyers' Association has introduced the concept paper on protection of whistleblowers. The cornerstone of the recommendations was the fact that it had 2 options: one up-to-date and one traditional. The first one provided a golden opportunity for whistleblowers who prefer to stay in shade to share the information anonymously by dint of cutting-edge ICT programs. It also included monetary compensations. It was discussed that an up-to-date approach better corresponds to the needs of RA and decided that the issue would be presented during the session of the Anticorruption Council.

Moreover, the protection of whistle-blowers would be included in the functions of the new Anti-Corruption Independent agency discussed above.

**Assessment of Progress - 17th Plenary: SIGNIFICANT PROGRESS/PROGRESS/LACK OF PROGRESS**

Text

**Recommendation 16:**

***Provide anti-corruption and ethics training (linked to creating awareness on codes of ethics) for all/majority of public servants: different programs should be developed for different categories of public servants, such as new public officials, ethics commissions' members and internal auditors, as well as officials in high risk sectors such as public procurement; and provide consultations for high-level and political officials.***

***Include measurable performance indicators (quantitative and qualitative) for anti-corruption, conflict of interests and ethics training, including of the impact of training on ethical standards in public administration, in the new Anti-Corruption Strategy and designate responsible body to coordinate and monitor training activities.***

**17<sup>TH</sup> ACN Plenary Meeting, September 2016**

Text

**Assessment of Progress - 17th Plenary: SIGNIFICANT PROGRESS/PROGRESS/LACK OF PROGRESS**

Text

**Recommendation 17:**

***Ensure proper regulatory impact assessment before adopting legislation and stability of legislation as much as possible to the benefit of businesses in Armenia;***

***Continue introducing e-governance tools aimed at decreasing the customer contact with the Government bureaucracy and reducing the risks of corruption;***

***Make the OGP national platform operational and efficient forum for discussing policy initiatives and monitoring of implementation of e-governance, transparency and accountability initiatives;***

***Finalise inspections reforms with the involvement of the relevant stakeholders;***

***Complete Tax and Customs Reform and ensure their implementation in practice.***

**17<sup>TH</sup> ACN Plenary Meeting, September 2016**

Tax and Customs reform: these remain problematic issues in Armenia. Business associations regularly list them among the top reform priorities. A new tax code is currently in the National Assembly. Business associations are critical of it, saying that certain provisions will increase corruption, and that it should be thoroughly revised. However, as it has already passed first reading, it is not clear whether substantial changes will be made.

The principle of tax and customs reform constitutes an action point in the anti-corruption strategy, but a separate list of action points on that topic has not been drafted yet. The strategy's action plan is for the period 2015-18, but there is a danger that action points for customs and tax reform will not be adopted until mid-2017, leaving little time for implementation.

***Assessment of Progress - 17th Plenary: SIGNIFICANT PROGRESS/PROGRESS/LACK OF PROGRESS***

Text

**Recommendation 18:**

***Ensure that in the course of its audits the Control Chamber pays attention to detecting "fraud" and "incidents of corruption"; improve the mechanism for the Control Chamber to alert law enforcement authorities on suspicions of corruption; ensure experience of the Control Chamber is used in developing training for public servants and cooperates with new internal audit units.***

***Continue to implement measures to put in place an effective financial control and internal audit system in public administration, according to the Strategy and the Action Plan 2011–2013 for Public Internal Financial Control System with specific focus on the design, existence and working in continuity of financial control and the transparent reporting of deficiencies.***

***Continue to provide for sufficient human resources to conduct internal audit at the central and local level public administration bodies; improve the certification programme of internal auditors; ensure that compliance audits of good quality are conducted.***

***Continue to provide training to the heads of administrative bodies and financial management***

*staff in administrative bodies of central and local governments on prevention of corruption.*

**17<sup>TH</sup> ACN Plenary Meeting, September 2016**

Text

**Assessment of Progress - 17th Plenary: SIGNIFICANT PROGRESS/PROGRESS/LACK OF PROGRESS**

Text

**Recommendation 19:**

*Complete the revision and enhancement of the e-procurement system, ensuring that it reflects international best practice, including the electronic processing of every step of the procurement process up to contract award, and extend the mandatory use of the e-procurement system to all public procurement entities;*

*Ensure the timely publication of all relevant procurement notifications, data and statistics on the dedicated government procurement website in Armenian and English languages;*

*Ensure that procurement co-ordinators and any other procurement staff and procurement consultants receive adequate training (including the practical application of the procurement rules and procedures);*

*Introduce additional safeguards (e.g. selective review of tender documents by PSC engineers and/or procurement specialists) to ensure that technical specifications and tender requirements are not biased;*

*Introduce formal and mandatory declarations of conflicts of interest for all members of the PSC, the Procurement Complaint Review Board, the evaluators of tenders, the heads of procuring entities and any other individuals who are involved in public sector procurement processes. Ensure verification and publication of these declarations, introduce sanctions for violations of conflict of interest declarations;*

*Reinforce competition in quasi-monopoly/oligopoly sectors;*

*Significantly reduce the use of single source procurement and of negotiated procedure without notification.*

**17<sup>TH</sup> ACN Plenary Meeting, September 2016**

On 17 June 2016, during a meeting of the Anticorruption Council, Armenian Lawyers' Association has introduced a concept of disclosure of beneficial owners to solve the issue with conflicts of interests, mainly concerning public procurement.

Moreover, Anti-Corruption Programmes Monitoring Division had prepared legislative amendments to the RA Law on Public Service and RA Law on Public Procurement which were also presented by Armenian Lawyers' Association. The latter was taken from the anticorruption legislation of Slovenia which has been approved by GRECO. According to it, contracting authorities operating in accordance with the public procurement regulations shall not do business with entities in which a public official holding office with a contracting authority or his/her family member is a member of the management or participates directly

or indirectly in the founding rights, management or capital in an amount exceeding 10%. The public official shall submit the information to the Ethics Commission for High-Ranking Officials within one month after assuming the Office.

**Assessment of Progress - 17th Plenary: SIGNIFICANT PROGRESS/PROGRESS/LACK OF PROGRESS**

Text

**Recommendation 20:**

*Analyse and subsequently review the FOI Law to bring it in line with international standards, in order to ensure clarity of existing regulations and eliminate existing shortcomings, among other issues reflect the public interest test and e-requests; adopt necessary secondary legislation for implementation of FOI.*

*Ensure proactive publication of information by state bodies, clarify records management and classification system and introduce the registries of public information in state bodies; consider establishing a unified portal for proactive publication of information.*

*Ensure efficient supervision and oversight of enforcement of the right of access to information as well as adequate powers and resources to issue binding decisions, and ensure designation of FOI officers in each agency as required by article 13 of the Law.*

*Raise awareness of public officials to foster the culture of openness and transparency in Government and carry out systematic training of information officers and of other public officials dealing with access to information issues.*

*Ensure implementation in practice of the provisions related to transparency of the entities using public resources (article 1.2 of the Law).*

17<sup>TH</sup> ACN Plenary Meeting, September 2016

**NGO report**

Text

**Assessment of Progress - 17th Plenary: SIGNIFICANT PROGRESS/PROGRESS/LACK OF PROGRESS**

Text

**Recommendation 21:**

*Ensure that political parties disclose their financial data, including bank loans and contracts with foundations, associations and other bodies related to them.*

*Ensure substantial and independent monitoring of election campaign funding and monitoring of political parties financing by an independent authority, with adequate staff, material resources and powers to proactively supervise such funding, investigate alleged infringements of political financing regulations and impose sanctions. At a minimum, the Control and Verification Services should be given the power and corresponding tools to assess and verify the validity of declarations.*

***Ensure clear conflict of interest prevention and ethical behaviour rules for elected and other political officials, promote their vigorous application and enforce them; introduce appropriate penalties for violations of these rules.***

***Consolidate the legislation on asset declarations, conflict of interests, and incompatibilities by regulating in a coherent manner the competence of the Ethics Committee.***

**17<sup>TH</sup> ACN Plenary Meeting, September 2016**

**NGO report**

Text

**Assessment of Progress - 17th Plenary: SIGNIFICANT PROGRESS/PROGRESS/LACK OF PROGRESS**

Text

**Recommendation 22:**

***Continue Constitutional reform and ensure its proper implementation providing better separation of powers and independence of the judiciary, including by improving the procedures for nomination of judge candidates and appointment of judges.***

***Ensure in practice proper financing of the judiciary.***

***Establish a mechanism that will ensure equal participation of judges in self-governing bodies; clarify competences of these bodies, as well as the role of the court chairpersons.***

***Ensure that automated case assignment among judges based on objective criteria and ensure that information on case assignment is open to judges, parties and the public is in place and functioning.***

***Ensure that independence of the judiciary includes the independence from interference by other judges and if such practice takes place it is dealt with through disciplinary means against judges taking part in such practice.***

***Modify grounds for disciplinary liability of judges by establishing clear and precise criteria in compliance with international standards and best practice, and ensure that the law reflects the fact that disciplinary liability requires a disciplinary offence and a different than the disciplinary procedure should be considered in dismissing judges who are unable to fulfil their tasks.***

***Ensure that the disciplinary proceedings comply with fair trial guarantees, in particular by separating investigation, prosecution and decision-making in such proceedings, and afford the judges with adequate means to defend themselves.***

**17<sup>TH</sup> ACN Plenary Meeting, September 2016**

Text

**Assessment of Progress - 17th Plenary: SIGNIFICANT PROGRESS/PROGRESS/LACK OF PROGRESS**

Text

**Recommendation 23:**

***Conduct assessment of corruption risks involving the private sector.***

***In co-operation with business representatives identify business integrity measures and include them in the anti-corruption strategy or another relevant policy document, ensure the monitoring of implementation of these measures.***

***Include business representatives in the anti-corruption bodies foreseen under the new Anti-Corruption Strategy.***

**17<sup>TH</sup> ACN Plenary Meeting, September 2016**

So far the government has not conducted an assessment of corruption risks involving the private sector. The process of recruiting experts to develop an action plan for the state revenues sector has not been completed yet.

Different state institutions have permanent working contacts and discussions with business support organizations. The prime-minister established the Council on SME. Suggestions provided from the business sector are not included in the strategy but serve as a motivation for reforms.

On 05 August 2016, during a pre-session of the Anticorruption Council, Armenian Lawyers' Association and CSO Anti-Corruption Coalition of Armenia have introduced a number of solutions to issues in business sector, mainly in public procurement, tax and customs areas. Recommendations included an establishment of ad-hoc groups composed of 14 members from which 7 representing business and civil society and 7 – Government and Ministries.

Moreover, the recommendation of Armenian Lawyers' Association and CSO Anti-Corruption Coalition of Armenia referring the abolishment of customs brokers' services for those legal entities that export merchandise of until 200 EUR customs value, was accepted. This provision is stipulated in the amendments of the RA Law about Customs Regulations. It is worth mentioning that the above-mentioned recommendation was raised by business sector during the workshop "The Business Sector in Armenia: Corruption Risks and Integrity Issues" organized by Armenian Lawyers' Association and CSO Anti-Corruption Coalition of Armenia.

***Assessment of Progress - 17th Plenary: SIGNIFICANT PROGRESS/PROGRESS/LACK OF PROGRESS***

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