ISTANBUL ANTI-CORRUPTION ACTION PLAN

THIRD ROUND OF MONITORING

Armenia

PROGRESS UPDATE

The third round monitoring report on Armenia was adopted by the Istanbul Action Plan monitoring meeting in October, 2014. This document contains progress update on the implementation of the recommendations of the third round monitoring report by Armenia and the assessment of progress made. The document includes the update made at the following ACN Istanbul Action Plan Plenary Meeting: 15th meeting on 23-25 March, 2015; 16th Meeting on 7-9 October, 2015.
SUMMARY

15th ACN Istanbul Action Plan Meeting on 23-25 March, 2015: progress update was submitted by Armenian National Coordinator at the ACN, the Ministry of Justice of Armenia. In addition, shadow progress updates were submitted by three Armenian NGOs, namely, the Armenian Young Lawyers Association, the Protection of Rights without Borders Non-Governmental Organisation, and by the Freedom of Information Center of Armenia. The reports were reviewed by the monitoring exerts, including Mr Zurab Sanikidze, Acting Head of the Analytical Department of the Ministry of Justice of Georgia that also acts as the Secretary of Anti-Corruption Council of Georgia and the Georgian National Coordinator at the ACN, Ms Natalia Baratashvili of the Analytical Department of the Ministry of Justice, Mr Vakhtang Kezheradze from the State Audit Office, Ms Olga Savran, OECD, and Ms Tanya Khavanska, OECD. The progress update was discussed and adopted by the Istanbul Action Plan monitoring meeting on 23-25 March 2015.

The meeting concluded that there was progress in the implementation of 15 recommendations, and lack of tangible progress in relation to 8 recommendations. The monitoring meeting thanked the monitoring experts for their preparation for the assessment of progress, and noted that the shadow reports provided by the representatives of the Civil Society of Armenia were very useful for ensuring the objectivity of the assessment.

16th ACN Plenary on 7-9 October, 2015: progress update was submitted by the national coordinator for ACN, Deputy Minister of Justice of Armenia together with the annexed documentation. Alternative reports were received by the Secretariat from 4 Armenian NGOs: TI Armenia, Armenian Young Lawyers Association, Freedom of Information Center of Armenia and the Protection of Rights without Borders. Reports were reviewed by Mr. Vakhtang Kezheradze from the State Audit Office of Georgia and the representative of the ACN Secretariat Mrs. Rusudan Mikhelidze. The assessment of progress was discussed and adopted on the 16th ACN plenary on 8 October, 2015.

The plenary noted the progress in relation to 17 and lack of progress in relation to the 6 recommendations out of 23 recommendations. In case of 7 recommendations, where substantial measures have not been carried out yet, considering that the actions were taken in line with the timeline of the Armenian anti-corruption action plan, limited progress was noted. The secretariat thanked the national coordinator for very good cooperation and expressed appreciation for the alternative reports received from the 4 Armenian NGOs noted above.

The table below summarises the assessment, including the recommendations where progress was noted or where it was lacking.

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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 non-governmental organizations.

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


Measures taken to implement the recommendation as reported by the Government

Since August, 2014 there have been organized more than 50 discussions and consultations concerning the Draft of anti-corruption strategy1. The Draft of anti-corruption strategy was discussed during the conferences held in Yerevan with participation of international experts, civil society members and representatives of non-governmental organizations and concerned state bodies2. Many public discussions took place in various marzes of Armenia3, where the representatives of RA Ministry of Justice introduced the Draft of anti-corruption strategy project to the representatives of non-governmental organizations and civil society. The Draft of anti-corruption strategy project has also been discussed at the Public Council attached to the RA Minister of Justice. The Draft has been discussed in several events organized by non-governmental organizations, such as Transparency International, Armenian Young Lawyers Association, Protection of Rights Without Borders and Freedom of Information.

The Government Decree of February 19, 2015 on Establishing Anti-Corruption Council, Task Force of independent experts has regulated comprehensively the Anti-Corruption institutional framework, so that the new strategy could have a strong mechanism for its coordination and monitoring including a set of performance indicators and the use of surveys and inputs from non-governmental organizations. It is to be noted that in difference with the previous Decrees on establishing Anti-Corruption Council, the new one regulates clearly the functions and the tools that the Council should use to set his objectives. The head of the Monitoring Division of the Government Staff and 3 employees have been already appointed. The Monitoring Division acts as a permanent secretariat to the Anti-Corruption Council. With the help of this Division the first meeting of the Commission of donor coordination has been organized. The Commission is led by the Minister-Chief of Government Staff Davit Harutyunyan.

A budget for the implementation of the strategy is being discussed and the state budget for the year of 2016 will include articles concerning Anti-corruption strategy. Budget process for 2016 has already begun and discussions with relevant bodies are being held.

1 http://moj.am/legal/view/article/709
2 http://iravaban.net/en/71859.html#ad-image-0, http://iravaban.net/70499.html#ad-image-0
Assessment of Progress - 15th Plenary

PROGRESS

The Government of Armenia (GoA) has reported on numerous steps that they have taken to consult with non-governmental partners on the anti-corruption strategy. Although many loopholes have been identified by the Civil Society in many of these actions, including the limited number of participating NGOs, lack of true interest from the Civil Society because of the mistrust to the government and government’s resistance to take on board NGOs inputs, and the Civil Society would like to see more to recognize these steps as meaningful, it would be fair to acknowledge some progress made on this matter. In addition, the GoA has strengthened the institutional set up for the monitoring and coordination of the anti-corruption strategy implementation by appointing 4 persons into the monitoring division of the Anti-Corruption Council (its head and 3 secretariat members); this marks progress compared to the situation in the previous rounds of monitoring. However, the monitoring experts note concerns raised by the Civil Society regarding its representation in the Council as being limited and selective, and regarding effectiveness of the newly established Council overall. This issue should be further monitored in the course of the next progress updates. And finally reported steps on budgetary support to anti-corruption strategy are still in the preliminary stages and cannot be evaluated by the monitoring experts.
Measures taken to implement the recommendation as reported by the Government

The Government of Armenia has continued holding consultations about the Draft of anti-corruption strategy with participation of different stakeholders. On 29, July, a workshop on “Business sector against the existing challenges in the fight against corruption” was organized by the Ministry of Justice, European Union and Transparency International NGO with EU financing. During the workshop issues concerning the draft of the anti-corruption strategy were discussed. The Draft of anti-corruption strategy was discussed in detail with different representatives of International organizations, such as European Union, Council of Europe, and USAID. Particularly EU has explicitly applied to the Ministry of Justice of the RA to verify whether the draft of the new Strategy is in line with the Kuala Lumpur Statement on Anti-Corruption Strategies. Besides, the issue was discussed in the Ministry of Justice with EU representatives. In the result of this discussion some changes have been made in the draft of the anti-corruption strategy. It should be also mentioned that the draft of the Strategy was published in the official website of the Ministry of Justice to get opinion from every interested person; besides it was officially sent to the representatives of non-governmental organizations and civil society for getting their opinions. In the result of the proposals of the state bodies, international organizations and NGOs huge number of changes have been made in the draft. For example, by the proposal of NGOs (Anticorruption coalition, Transparency International, Armenian Young Lawyers Association, Protection of Rights Without Borders and Freedom of Information), some important measures, such as increasing the number of anti-corruption sectoral programs in case of necessity, revision of the existing anticorruption institutional framework, research on necessity of criminalization of the illicit enrichment, have been previewed in the draft action plan of the anticorruption strategy. It is important to mention that on 23, September, a meeting will be held with the participation of representatives from State bodies, international organizations, NGO’s. During the meeting, the Anticorruption strategy approved by the Anticorruption Council during the first sitting will be discussed and officially launched.

Taking into consideration the recommendations of the OECD and EU, it was decided to include anticorruption issues into the agenda of the RA Public Council meetings. Besides, newly approved anticorruption strategy and its action plan will be the topic of the RA Public Council discussion during its meeting in the first part of October, 2015.

The Governmental Decision N165 of February 19, 2015 on Establishing Anti-Corruption Council and Expert task force, on approving the composition of the council and rules of procedure for the council, expert task force and anti-corruption programs monitoring division of the staff of the Government of the Republic of Armenia has regulated comprehensively the Anti-Corruption institutional framework, so that the new strategy could have a strong mechanism for its coordination and monitoring including a set of performance indicators and the use of surveys and inputs from non-governmental organizations. The functions and the tools that the Council should use to set his objectives are clearly regulated by mentioned Decision. The Monitoring Division acts as a permanent secretariat to the Anti-Corruption Council. Besides, for ensuring the strong mechanism for coordination and monitoring of the new strategy the NGOs have been provided the right of participation of introducing a monitoring system for implementation of state programs and provision of public services. And the input of the NGOs should be used during the monitoring. The regarding the functionality of the Council

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4 See attached the draft of the anticorruption strategy and its working plan for the years 2015-2018
and its correspondence to the Principles of Jakarta and UNCAC were discussed with the representatives of the EU. Besides, the Minister of Justice of the Republic of Armenia officially introduced the opinion of the Ministry of Justice regarding this issue. The Ministry of Justice has officially applied to the Government Staff for including articles concerning Anti-corruption strategy in the state budget for the year of 2016. It should be also mentioned that the Anti-corruption Council, during its first sitting has endorsed the proposal to sign an agreement of cooperation with USAID, according to which USAID will financially support to the Government to implement Anticorruption strategy and its action plan. The total cost of the program is 750 thousand US dollars. It should be mentioned that the amount will constitute a part of the State budget.


**Assessment of Progress - 16th Plenary**

**PROGRESS**

In relation to the first part of the recommendation, meaningful consultations on the draft strategy and the action plan, the Government reported the consultations conducted with various representatives of non-governmental and international organizations, such as European Union, Council of Europe, and USAID. Draft was published on the website of the Ministry of Justice for comments. The workshop on “Business sector against the existing challenges in the fight against corruption” was conducted as well. The non-governmental organizations confirmed that they had the possibility to present their views some of which were taken into account. Anti-Corruption Strategy and its Implementation Action Plan for 2015-2018 plan were approved by the Council on its first sitting and adopted by the Government on 25 September, 2015.

Regarding the second part of the recommendation, strong coordination and monitoring mechanism, the Government reported about establishing the new Anti-Corruption Council (ACC) which is now chaired by the Prime Minister and is supported by the expert task force as well as the permanent secretariat - Monitoring Division in the Government Staff Office. While the efficiency of these structures has yet to be seen, as they are newly established, the NGOs report that the mechanism of coordination and division of tasks between these organs is not entirely clear, in addition the relevant rules are not provided in one document, rather they are scattered in various regulations. Furthermore, the major weakness is considered to be the lack of formally defined role for the NGOs in the process of monitoring. Having reviewed the relevant part of the strategy outlining the mandate and tasks of the listed structures division of tasks seemed clear, however, as noted the efficiency of the coordination and monitoring mechanism had yet to be seen, as well as regulations studied in more detail during the monitoring procedure.

The Action Plan does not include the measurable indicators, however the measures are fairly precise.

Anti-Corruption Strategy and the Action Plan do not include the budget, however indicated where donor assistance is required. Government reported that the Anti-corruption Council has endorsed the proposal to sign an agreement of cooperation with USAID with the value of 750 KUSD. Lack of the budget allocations for the anti-corruption programme raises concerns as to
the feasibility of its implementation, which was proved to be problematic during the previous strategic planning cycle, as only 66% of the planned measures were implemented.

Overall, Plenary noted progress in implementation of this recommendation due to the work carried out to address its first and second parts.

**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

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*Measures taken to implement the recommendation as reported by the Government*

On 11.02.2015 in the Ministry of Justice a discussion was organized by the Deputy Minister of Justice Suren Krmoyan. Representatives, of 4 NGOs (Transparency International, Armenian Young Lawyers Association, Protection of Rights Without Borders, Freedom of Information) were participating in this discussion and were asked to submit all inquiries and surveys which can be related to corruption. Transparency International, Protection of Rights Without Borders and Freedom of Information have submitted to the Ministry of Justice the results of the inquiries and surveys⁶. These results are being used actually for making appropriate amendments in the Draft of anti-corruption strategy project. The Ministry of Justice, on behalf of the Armenian Government, announced its willingness to give necessary information to the NGOs for their surveys and to support NGOs in their corruption research.

One of the International NGOs, Open Society Foundations – Armenia has submitted to the Ministry of Justice its survey on the problems existing in the sector of education. This document is also being taken into account while making amendments in the draft of educational programs. The NGOs and the International partners were asked to transmit hereafter to the Ministry of Justice all the surveys, results of the researches made.

During the first meeting of the Commission of donor coordination, the Minister-Chief of Government Staff Davit Harutyunyan asked NGOs to conduct surveys for the Government, especially to do risk assessment in the specified sectors.

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**Assessment of Progress - 15th Plenary**

**PROGRESS**

Monitoring experts have been presented with contradictory information by the GoA and the representatives of the Civil Society on this recommendation. During the preparatory meeting

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some clarifications were made and it was agreed that some limited progress can be recognized in implementation of this recommendation.

16thACN Istanbul Action Plan Monitoring Meeting, 7-9 October, 2015

Measures taken to implement the recommendation as reported by the Government

The Ministry of Justice has cooperated with various organizations in the sphere of collection of information and survey.

The specific high risk sectors have been identified through observation of various researches and surveys. Particularly, in the scope of USAID Mobilizing Action against Corruption Program the Caucasus Research Resource Centers-Armenia has conducted a research concerning the issue of corruption in Armenia, the primary goal of which was assessment of corruption perception and anticorruption endeavors. IPSC institute for political and sociologic consulting published a research titled Government Success Index (Gs Index); Visibility, Achievements and Shortcomings, which included data concerning corruption rate in Armenian. The results of Global Barometer of Transparency International were also used during elaboration of anticorruption strategy.

Transparency International has conducted a huge research and published National Integrity System Assessment Report, 2014, which has been repeatedly used by the Ministry of Justice in policy elaboration process. The representatives of Transparency International have been invited to various events to present the report. The report was also published in the official website of the Ministry of Justice. Yerevan Press Club’s draft report Armenia’s civil society engagement in dialogue with the government policy coordination has also been used.

Besides, The Ministry of Justice has asked to NGOs to submit all inquiries and surveys related to corruption.

The results of surveys conducted by NGOs were also presented in the First Sitting of the Anticorruption Council. Particularly, Freedom of Information presented the analysis on issues of freedom of information in Armenia, Yerevan Press Club presented report on the engagement of civil society into the fight against corruption. All given surveys and reports have been comprehensively discussed.

The results of the researches conducted by NGOs were used while elaborating anticorruption strategy. Some NGOs presented their suggestions concerning fight against corruption during the First Sitting of Anticorruption Council. As a result the Prime Minister made appropriate orders directed to implementation of NGOs’ suggestions.

The representatives of the Ministry of Justice willingly participate and share information in various events, researches and discussions organized by NGOs in scope of different surveys.

It should be also mentioned that NGOs apply to the Ministry of Justice for getting information which is used for their surveys. For example, Transparency International in the scope of conducting a survey on the usefulness of the “National Integrity System Assessment in Armenia, 2014” has presented a questionnaire to the Ministry of Justice. The information provided by the Ministry of Justice was used during the survey.

It is important to mention that “Open Society Foundations– Armenia” NGO and Council of Europe have conducted anticorruption risk assessment in the Education sphere, besides Transparency International has done research on Corruption in the Military Background During
recent years. All results of the surveys, researches and risk assessments were submitted to the Ministry of Justice and to the other stakeholders. The submitted information is being used during the elaboration of policy

**Assessment of Progress 16th Plenary**

**PROGRESS**

Although the Government itself has not commissioned researches, the progress update shows that they have supported some research and used them in developing Anti-Corruption Strategy. TI points out that the Government has used National Integrity System assessment (NIS) in developing policy documents. Government noted that they requested the NGOs to submit their work, researches and analysis in the process of elaboration of the strategy and the action plan. Some of these were presented at the first session of the Anti-Corruption Council. Government also indicates that they have supported the work of CSOs by providing requested information in the process of research. Government additionally reports about other studies or reports they have used in the strategic planning process and more researches conducted in Education and Defence sectors by NGOs to identify the corruption risks.

**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


**Measures taken to implement the recommendation as reported by the Government**

NGOs, as well as non ruling authorities were not participating in the Anti-Corruption Council established in 2004. According to the Government Decree from 19 February, 2015 on Establishing Anti-Corruption Council, the Council is chaired by the Prime Minister, and includes the Chief of Staff of the Government, Ministers of Finance and of Justice, Prosecutor General, the Chair of the Ethics Commission for High-Ranking Officials, representatives from parliamentary opposition parties, Chair of the Public Council, a representative of the Union of Communities and two representatives from the civil society. According to the abovementioned Decree the principle of rotation will be applied to the civil society. Besides, in 28.11.2014 the Anti-Corruption coalition of NGOs was established. This fact gives a broader opportunity to a larger number of NGOs to express their opinions that could also be raised during the sessions of the Council by two NGOs, which are member to the Council.

The new Strategy has not been launched yet, but a number of activities have been effected by the Government to raise a public awareness concerning the Anti-Corruption measures. An agreement was made with GIZ to make videos and to broadcast them. GIZ will also finance the organizing of 3 trainings for the representatives of medias including trainings related to fight against corruption, intolerance of corruption.

An award named «Break the Corruption Chain» was organized by Armenian Young Lawyers Association NGO\(^7\). In the second half of 2014 a huge number of TV programs have been realized,

\(^7\) [http://iravaban.net/en/72627.html](http://iravaban.net/en/72627.html)
approximately 50 programs, 30 Web and Radio programs about the fight against corruption have been organized. Actually a state program, under which all state bodies will realize public awareness campaign about practical solutions, rights and duties of citizens when facing corruption, is in a phase of development.

**Assessment of Progress - 15th Plenary**

**PROGRESS**

Again most information provided by the GoA has been challenged by the Civil Society representatives, especially in regards to the role of the NGOs in the Council and non-inclusion of Civil Society’s recommendations into the Decree on the Anti-Corruption Council. Formally, Armenia did take some steps towards implementation of the first part of the recommendation, however, noting the concerns of the Civil Society, it will be important to monitor what role the NGOs will play and how decisive their word will be in the Council. As the Anti-Corruption Strategy has not been launched yet, it is premature to evaluate progress under the second and third parts of the recommendation.

**16th ACN Istanbul Action Plan Monitoring Meeting, 7-9 October, 2015**

**Measures taken to implement the recommendation as reported by the Government**

On 19 February, 2015, Ra Government adopted the Decision numbered N 165-N on Establishing Anti-Corruption Council and expert task force, on approving the composition of the council and rules of procedure for the council, expert task force and anti-corruption programs monitoring division of the staff of the Government of the Republic of Armenia. The decree provided the structure of the Anticorruption Council, according to which 2 NGOs had to be members of the Council.

Even though the main acting NGOs refused to have membership in the Anticorruption Council, the NGOs still have opportunity to participate in the sittings of Council and make inquires. Particularly, NGOs involved in anticorruption activities have been invited to participate to the First sitting of the Anticorruption Council. While Armenian Young Lawyers’ Association refused to participate, the other three NGOs actively participated. Freedom of Information and Yerevan Press Club presented the results of researches conducted in the area of freedom of information and engagement of civil society in the fight against corruption, also Transparency International anticorruption center and Yerevan Press Club posed their questions. The representatives of NGOs presented several important issues, which were discussed and as a result, solutions were provided.

With the partnership of the Ministry of Justice, The Young Lawyers Association and Freedom of Information Center of Armenia with the support of The OSCE Office in Yerevan and EU on 23, September, it was announced about the creation of the “Government- civil society” Anticorruption platform. The Deputy Minister of Justice of the RA Suren Krmoyan praised the efforts of the partner organizations in creation of the above-mentioned platform and

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9 See attached the decision

10 [http://moj.am/article/1380](http://moj.am/article/1380)
highlighted the significance of participation of the civil society in public administration. The creation of the Platform was named as coalition between State bodies, civil society and international donor organizations.

It should be also mentioned that the anti-corruption strategy and its action plan for 2015-2018 were launched during the meeting and a strong message from the Government to the citizens about the intolerance of corruption was sent.

In the end of the meeting the parties of cooperation have signed a joint statement on creation of anti-corruption working platform and anti-corruption working groups by which the launch of large-scale consolidation of the fight against corruption was declared.

Anti-Corruption school for Young Leaders was launched on 30, September, 2015\(^\text{11}\). Representatives of the Ministry of Justice, international organizations and NGOs were participated to the launching event with speeches. The representatives of the Government welcomed the creation of such educational program and appreciated the fruitful cooperation with NGOs.

However, the details of fight against corruption, including the activities of Anticorruption Council and comprehensive description of Anticorruption Strategy, rights and duties of population while facing a corruption have been repeatedly presented to public through various methods, including media reports. The Ministry of Justice, along with Eurasia Partnership Foundation has recorded a media program titled “Corruption and Combating Corruption in Armenia”\(^\text{12}\). The Ministry of Justice and GIZ work on join project aimed at creation of short video-clips of various contents, which shall be presented by media to spread anticorruption messages. The anticorruption strategy and issues have also been discussed with journalists and business representatives during seminars organized for especially these professionals.

Concerning the strong message of the government to the citizens about intolerance of corruption, it should be mentioned that during the first sitting of the Anti-corruption Council the Chairperson indicated that in the process of the fight against corruption the most important component is the existence of the political will and the Armenian Government have that will for making the results of the fight against corruption visible and tangible.\(^\text{13}\)

On April 14, 2015, the Ministry of Justice sent a request (numbered 01/4516-15) to the Government of Armenia, asking to order all governmental bodies to provide information about undertaken programs on corruption prevention. In the same time, Ministry of Justice suggested to order all state agencies to conduct anticorruption informative programs. All governmental bodies have provided relevant information related to the undertaken programs on corruption prevention.

**Assessment of Progress - 16\(^\text{th}\) Plenary**

**PROGRESS**

Government reports about the changed composition of the Anti-corruption Council which includes 2 seats for the NGOs, additionally the representatives of CSOs can be present at its sessions as observers. Government also reports about recently established Government-Civil

\(^{11}\) http://iravaban.net/en/102016.html#ad-image-0

\(^{12}\) See official website of Eurasia Partnership Foundation: http://am.epfarmenia.am/unticorruption-in-armenia/

Society anti-corruption platform in September 2015 with the participation of the AYLA and FOICA and the support of OSCE and the EU.

Conversely, NGOs inform the criteria for participation in the Council are unrealistic and cannot be met by the NGOs working in the field of anti-corruption. Further NGOs noted that the 2 sits in the Council cannot affect the decision-making process. This reportedly led the NGOs to refuse participation as members in the Council. At the same time they confirmed that they have been provided the opportunity to take part in the Council session as observers, present during the session and make comments or suggestions. Additionally, CSOs report that the procedure for selecting the NGOs is not only bureaucratic but also not democratic and transparent. Government informed that they are currently working on revised rules/criteria for participation of NGOs.

In relation to the second part of the recommendation, Government reports about the various public information materials produced with the support of the international partners, including educational videos. Additionally, progress update notes that the Prime Minister of Armenia sent the strong messages against corruption when chairing the first session of the renewed Council. Additionally, launching of the anti-corruption school for young leaders is reported by the Government.

**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 [Government is requesting a more precise recommendation]


**Measures taken to implement the recommendation as reported by the Government**

According to the Government Decree of February 19, 2015 on Establishing Anti-Corruption Council, Task Force of independent experts, the Council is coordinating the implementation of anti-corruption strategy, ensuring control over the implementation of anti-corruption strategy and sector-specific programs. Recommendations of the Council subject to implementation through the adoption of legal acts may be laid down as decisions of the Government of the Republic of Armenia, relevant legal acts of the Prime Minister of the Republic of Armenia, as well as other responsible bodies. Recommendations of the Council may also serve as a basis for relevant legal acts of the National Assembly and local self-government bodies of the Republic of Armenia.

The Council of Europe will support the implementation of sectoral anti-corruption measures. For instance, program with a budget of 500000 € is designated to the sector of education. The
program is being launched since January of 2015.

The Decree states as well that the Council is supported by a standing Task Force of independent experts. The Task force supports the elaboration of the Strategy and the development of sector-specific anti-corruption programmes, carries out monitoring, evaluation of programmes, summarises the reports on the implementation of programmes, draws up reports and submits recommendations to the Council, etc. The logistic and organisational support of the Commission activities is provided by the Staff of the Government of the Republic of Armenia through a Monitoring Division set up under the Staff. The Monitoring Division acts as a permanent secretariat to the Anti-Corruption Council. The Decree defines also the main functions of the Monitoring Division, such as providing the implementation of technical-organizational works of The Council, organizing the works of the experts, providing their relationships with the representatives of the appropriate public authorities, implementing monitoring of the reports of Anti corruption Strategy of the Republic of Armenia and of its Action plan, overseeing the process of the implementation of RA Government’s current year’s action plan and priority issues regarding their functions and gives information about it to the Council, providing expertise, giving conclusions of the drafts of the legal acts approved by the Anti corruption Strategy, organizing and implementing events, discussions, distribution of information and guides with the state and local members, with the representatives of state and international organizations, which will help to arise the public awareness in the area of the fight against corruption. The sector-specific programmes have been developed by responsible State bodies. The Prime-Minister of the RA has ordered to State bodies to designate minimum 2 officials (one of them will be the deputy of the Head of the body, the other will be the head/specialist of a subdivision) which will be anti-corruption focal points.

The draft of the Prime-Minister Decree on Creation of a Commission responsible for the donor coordination has been developed and is in a phase of adoption. As it was already mentioned, the Commission is leaded by the Minister-Chief of Government Staff Davit Harutyunyan. The Commission will be responsible for ensuring the effective support of the donors to the implementation of the Anti-Corruption Strategy and other anti-corruption, integrity and good governance programs. Meanwhile, the first meeting has already been held and daily activities are being realized.

**Assessment of Progress - 15th Plenary**

**PROGRESS**

GoA reported various steps taken towards implementation of this recommendation, especially as it relates to the parts 2, 3, and 4 of the Recommendation. As to the part 1 and 2 of the recommendation the Civil Society has pointed out weaknesses in the institutional set up and the potential of the Council – this should be further addressed by the GoA in the future, especially in view of the full assessment in the next cycle of monitoring.

**16th ACN Istanbul Action Plan Monitoring Meeting, 7-9 October, 2015**

**Measures taken to implement the recommendation as reported by the Government**

According to the Governmental Decision N165 of February 19, 2015 on Establishing Anti-Corruption Council and expert task force, on approving the composition of the council and rules of procedure for the council, expert task force and anti-corruption programs monitoring division of the staff of the Government of the Republic of Armenia, the Council is coordinating the implementation of actions arising from the anti-corruption strategy, exercising control over
the anti-corruption strategy and sector-specific programs, considering the results of evaluation (monitoring) of anti-corruption programs, and submitting recommendations to the responsible bodies on the basis of reports summarized by the Task Force. The recommendations of the Council submitted to the responsible bodies on the basis of reports summarized by the Task Force are being realized through decisions of the Government of the Republic of Armenia, legal acts adopted by the Prime Minister of the Republic of Armenia or the responsible bodies. The recommendations of the Council also serve as a basis for legal acts of the National Assembly of the Republic of Armenia and of local self-government bodies.

The first sitting of the Anti-corruption Council took place on 28 July, 2015. During the sitting the Chairperson of the Council-Prime Minister of the Republic of Armenia indicated the important role of the Anticorruption Council, and mentioned that the fight against corruption will have a fruitful result only in case of active participation and cooperation of all stakeholders. The Chairperson underlined one more time that in the process of the fight against corruption the most important component is the existence of the political will and the Armenian Government have that will for making the results of the fight against corruption visible and tangible.

The Decision N 165 states as well that the Council is supported by a permanently functioning Expert Task Force composed of independent experts. The Task Force supports the development of anti-corruption strategy and sector-specific draft anti-corruption programs, submits recommendations to the Council on amending and supplementing the Strategy and/or sector-specific anti-corruption programs, conducts monitoring, evaluation of programs, summarize the reports on program implementation, prepares reports, reviews on the progress of program implementation and submits recommendations to the Council, conducts - in the fields predetermined by the Council, as well as prescribed by the anti-corruption strategy — investigation and analysis of corrupt practices and causes of corruption, and submits recommendations aimed at more efficient solutions. The implementation of organizational and technical works of the Council and Expert Task Force is ensured by the Staff of the Government of the Republic of Armenia through Anti-Corruption Programs Monitoring Division set up under the Staff. The Anti-Corruption Programs Monitoring Division acts as a permanent secretariat to the Anti-Corruption Council. The main functions of the Division are prescribed by the Governmental Decision N165.

The sectoral anticorruption programs have been developed by responsible State bodies. Meanwhile, it was decided to realize risk assessment in 4 targeted sectors previewed by the Strategy (Police, Healthcare, Education, State revenues recruitment). It should be mentioned that the Strategy, its action plan and sectoral programs are flexible and based on the results of risk assessment, they will be reviewed, and relevant amendments will be done for assuring the effectiveness of the document. As it was already mentioned the Anti-corruption Council, during its first sitting has endorsed the proposal to sign an agreement of cooperation with USAID, according to which USAID will financially support to the implementation of the Anticorruption strategy and its action plan, including sectoral programs.

In all State bodies (including law enforcement bodies) anticorruption focal points are appointed (2 officials, one of them deputy of the Head of the body, the other head or specialist of the subdivision). Special trainings for anticorruption focal points are planned and will be organized. Coordination between the anticorruption focal points and ethics commissions is regulated by the draft strategy.

14 See attached minutes of the first sitting of the Anti-corruption Council.
The Commission on donor coordination headed by the Minister-Chief of Government Staff Davit Harutyunyan meets periodically. In the end of September or in the beginning of October, the second donor coordination meeting will take place, during which the issue regarding the financing of approved Anticorruption Strategy and its action plan will be discussed. All stakeholders have been already informed about the meeting.

The Ministry of Justice and the EU Delegation held a stakeholder’s workshop on the topic of Anti-Corruption in Armenia on Monday 25 May, at the EU Delegation. Representatives from the government, the office of the Ombudsman, and the commission on Ethics of high-ranking officials presented the Republic of Armenia developments in the field of Anti-Corruption. Interested donor organizations as well as civil society organizations also attended and briefly presented their actions in this field.

It should be mentioned also that in mid-October another Donor coordination meeting with participation of all stakeholders is planned to be held. During this meeting the approved Anticorruption new strategy will be discussed and the donors will present their suggestions regarding the support to the implementation of the anticorruption measures.

**Assessment of Progress - 16th Plenary**

**PROGRESS**

In relation to the first part of the recommendation, coordination of the anti-corruption strategy, monitoring its implementation and necessary publicity, the Government describes new procedures with slightly modified institutional structure introduced for coordination of Anti-corruption Policy and reports about the first meeting of the renewed ACC chaired by the Prime Minister of Armenia. As the policy documents were adopted and new structures approved only recently, no information is provided regarding the actual process of monitoring and informing regularly about the progress and challenges and strengthening implementation where necessary by the Council. The resources of the Monitoring Division of the Government staff seem challenging as there are only 3 staff members employed in the mentioned unit.

Some CSOs believe that Anti-corruption Council in its current form cannot effectively lead coordination and monitoring of the anti-corruption policy and that the national budget for 2015 does not provide sufficient financial resources for the work of the secretariat, which currently has 3 employees. The functioning of the Council has to be monitored in the future to make conclusions on its efficiency.

Government reports that the commission on donor coordination led by the Minister Chief of Government Staff meets regularly. Donor coordination in Armenia is in fact the series of meetings between donors and the Government agencies, according to the Government the next meeting is scheduled for mid-October.

Accordingly, plenary noted that there is some progress in implementation of this recommendation.
Pillar 2 Criminalization and Law Enforcement

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.


Measures taken to implement the recommendation as reported by the Government

The Draft Code of Administrative Offences has been developed. It defines administrative liability for legal persons. Thus, Draft Code states that individuals and legal persons are subject for administrative liability (Article 16th of the Draft Code). Besides, in the chapter of administrative penalties types of penalties such as notice, fine and termination of the legal person’s activity are determined as penalties for legal persons (Articles 38th and 39th of the Draft Code). The special part of the code will define articles related to this issue.

Article 31 of the AML/CFT law provides the responsibility for legal persons’ involvement in money laundering. The latter article was amended on 28 October, 2014, providing more specific definition for the legal persons’ involvement in money laundering.

For the cooperation between the FMC and law enforcement agencies, please refer to Article 13 of the AML/CFT Law.

The table below indicates statistics on information exchanged between the FMC and law enforcement agencies.

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Professional educational program of 2014 for the persons included in the list of candidates for judges, which is a part of the educational proceedings of 2014 of RA Academy of Justice (approved by the decision of Management Council of Academy of Justice dated 25.02.2014 and
numbered 5-A), as well as the professional educational program of 2014 for the persons included in the list of candidates for prosecutors (approved by the decision of Management Council of Academy of Justice dated 03.03.2014 and numbered 8-A) provide educational courses on RA anticorruption policy. Particularly, these courses include topics concerning to abovementioned issue:

1. Basics of RA legal and judicial reforms (numbered J-006-14), foreseen by both above mentioned programs,
2. Professional ethics of judges (numbered J-005-14), foreseen be the professional educational program of 2014 for the persons included in the list of candidates for judges,
3. Professional ethics of prosecutor (numbered J-006-14), foreseen by professional educational program of 2014 for the persons included in the list of candidates for prosecutors,

It should be also mentioned that professional educational program of 2015 for the persons included in the list of candidates for prosecutors and judges, which was approved by the Management Council of Academy of Justice on 30 January, 2015 foresees an independent course concerning the sphere of given issue. The course is titled Contemporary issues in the fight against corruption in the public service and will last 10 academic hours. The course relates to the issues concerning corruption cases in the public service of the Republic of Armenia, the status of fight against such cases, the legal (Domestic and international regulations, as well as the recommendations of the Anti-Corruption Group (GRECO) (OECD) and Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism of Council of Europe(MONEYVAL)) and institutional (Domestic and international, as well as the actions of GRECO and MONEYVAL) frameworks of anticorruption struggle, measures undertaken by the state and other concerned parties (non-governmental organizations, mass media).

Based on Article 9 of RA Law on Investigation Committee, the persons included in the list of candidates of Investigation Committee servants take a special educational program at the Academy of Justice. One of the courses of this program is named Criminal and criminological analysis of main types of official crimes and contains a special chapter concerning the investigation of corruption offences.

The tax and customs servants (including investigators) take annual trainings at the scientific educational center of RA Ministry of Finance. The trainings are held based on the professional features.

Besides Academy of Justice has developed a number of practical and theoretical guidelines, including the guidelines on "Criminal and criminological analysis of main types of official crimes" and "Money laundering", as well as the study on "Retaliatory measures in the sector of Anti-Corruption policy".

**Assessment of Progress - 15th Plenary**

**PROGRESS**

It appears that steps taken to implement part 1 of this recommendation have been taken by the GoA but it would be important to see new draft legislation be enacted. The other reported measures do not directly address remaining parts of the recommendation. The trainings are general, guidelines do not relate to what was identified in the recommendation, no information is provided on pro-activeness of the law enforcement. Therefore Progress is acknowledged with the emphasis that it is very limited and relates only to the first part of the recommendation.
Measures taken to implement the recommendation as reported by the Government

The issue of introduction of liability of legal persons for corruption offences has been discussed during the First sitting of Anticorruption Council. The acting Minister of Justice has presented the importance of the issue to attention of the Council. As a result the Prime Minister ordered the acting Minister of Justice to make necessary arrangements in order to introduce liability of legal persons for corruption offences in criminal or administrative legislation and present drafted documents to the Government’s discussion.

The Draft Criminal Code has been developed. It defines criminal liability for legal persons. Thus, the 136th Article 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 for criminal liability.

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.

By the efforts of the Ministry of Justice Liability of Legal Persons for Corruption in Eastern Europe and Central Asia Report of OECD Anti-Corruption Network for Eastern Europe and Central Asia has been translated into Armenian language in order to facilitate the process of introduction of liability of legal persons in Armenian legislation. The report is posted in the official website of the Ministry of Justice.

The issue regarding the compliance with international standards of provisions on the offence of the trading in influence is being discussed within the scope of development of new Criminal Code.

In the scopes of Co/EU Eastern Partnership Programmatic Co-operation Framework Regional project on “Fight against corruption and fostering good governance; fight against money laundering” training and capacity needs assessment concerning anti-corruption and economic crime for the Academy of Justice, Law Institute of the Ministry of Justice and Capacity building programs for representatives of law enforcement agencies (development of curricula to be used by the Judicial Academy) are going to be conducted.

Regarding trainings of investigators, it is important to note that since January, 2015 the investigators of Investigation Committee and the investigator candidates take trainings in the Academy of Justice. The trainings contain special courses on crimes against state service and methods of investigation of corruption crimes. The Investigation Committee periodically publishes special guides and regulations relating to the investigation of various crimes, including Corruption crimes. The information about crimes and the process of investigation is being posted in the official website of the Investigation Committee.

In the same time, seminars are held each Friday by the division of improvement of organization of investigatory activities of the Special Investigation Service of the Republic of Armenia with the participation of all the investigators of the Service with the purpose of discussing the topical legal issues (including the improvement of examination, ways, and methods of fight against corruption). Investigators were provided with methodical letters involving suggestions of solutions of various problems arising in practice.

The Special Investigation Service has published a book titled “The features of the methodology of examination and qualification of the official crimes against state service” and

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15 See the official website of the Ministry of Justice; http://moj.am/storage/uploads/ACN-Liability-of-Legal-Persons-1-.pdf

16 See attached the regional project
directed to the enhancement of the efficiency of organization and examination of official crimes against state service cases.

The participation of the Special Investigation Service in various symposiums, seminars, consultation, courses, particularly the ones dedicated to the efficient examination of crimes relating to tortures, the prevention of official and corruption crimes and fight against them, has been ensured.

Assessment of Progress - 16th Plenary

PROGRESS

In relation to the issue of legislative amendments in relation to the liability of legal persons, on the one hand, the Government reports that the draft legislation was developed to introduce the new chapter in the criminal code in relation to liability of legal persons, on the other hand, it is mentioned that the issue was discussed at the first session of the renewed ACC, where Prime Minister ordered the Ministry of Justice to take measures to present the draft to the Government for discussion. Thus, in the Plenary's assessment the issue is still at the very premature stage of development. Armenia is encouraged to move fast forward with the introduction of the liability of legal persons for corruption. Introduction of the trading in influence in the legislation is being discussed within the framework of the development of the new Criminal Code as reported by the Government.

While progress cannot be noted on the legislative side of this recommendation, the Government presented the information regarding the trainings of relevant staff, development of the training curriculum and related methodological guidelines to address the second part of the recommendation. In particular, Government reported that since January 2015 new cycle of trainings has been initiated for the investigators including on the issues of corruption, also, methodological guidance for investigation of corruption cases is provided to the investigators regularly, there are ongoing efforts in cooperation with the EU project to develop the curriculum for investigation and prosecution of the new forms of corruption offences based on the needs assessment. However, the experts are not in a position to assess the quality or effects of the provided trainings or the methodological guidance as a part of the progress update procedure.

Thus, very limited progress was noted in relation to this recommendation, at the same time it was emphasized that the increased proactivity of law enforcement, using detection tools and various sources for initiating investigation on corruption cases has to be demonstrated by the number of new cases opened, investigated and prosecuted based on the mentioned sources, thus, the efficiency of enforcement should be seen and not merely legislative, or policy work, such as issuing the guidelines and developing the necessary curriculum, in order to conclude the compliance with this recommendation.

Based on the above, the plenary concluded that there is only limited progress in relation to this recommendation.

Recommendation 6.

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

Measures taken to implement the recommendation as reported by the Government

A non-official survey was conducted among investigators and prosecutors. The participants of the survey indicated, that the personal immunity of certain category of persons does not impede the investigation and criminal prosecution of corruption-related offences, since the constitution and legislation framework provides for relevant legal structures for involving persons having immunity as defendant, detaining them or initiating a matter on subjecting them to administrative liability through judicial procedure.

Armenian national legal system provides for dual protection of members of parliament: non-liability or non-accountability for votes cast and opinions expressed in the performance of their duties and, as regards all other acts, inviolability, prohibiting detention or legal proceedings without the authorization of the chamber of which they are members.

The scope of non-liability normally covers protection against all kinds of public penalties for acts committed in the performance of members’ duties or, more popularly formulated, deals with members’ freedom of speech. In general, parliamentarians are not liable in civil or criminal terms for the acts encompassed within this form of immunity.

The first part of Article 66 of the Constitution of the Republic of Armenia reads as follow: “A Parliament Member, during and after the term of his parliamentary powers, may not be prosecuted and held liable for actions arising from his status, including the opinions expressed by him in the National Assembly, provided these are not insulting or defamatory”.

In general, inviolability as the other type of immunity is such that, unless parliament gives its authorization, members may not be arrested or prosecuted for acts not carried out as part of their parliamentary functions. The exception is that a Parliament member can’t be arrested in the cases of flagrante delicto. The term in flagrante delicto refers to cases where a person is caught in the very act of wrongdoing.

Flowingly, the 2nd and the 3rd parts of the Article 66th of the Constitution of the Republic of Armenia reads as follow: “A Parliament Member may not be involved as an accused, detained or subjected to administrative liability through a judicial procedure without the consent of the National Assembly.

A Parliament Member may not be arrested without the consent of the National Assembly except for cases when he is arrested while committing the act of crime. In such a case the Chairman of the National Assembly shall be immediately notified”.

Concerning the immunity of judges the Constitution of the Republic of Armenia regulates the scope and procedure of inviolability conclusively. Thus, the 97th Article of the Constitution states:

“A Judge and a member of the Constitutional Court may not be detained, involved as an accused or subjected to administrative liability through the judicial process except with the consent of the Council of Justice or the Constitutional Court respectively.

A judge and a member of the Constitutional Court shall not be arrested except for cases when caught in the act of committing a crime or immediately thereafter. In this case the President of the Republic and the Chairman of the Cassation Court or Constitutional Court, respectively, shall be notified immediately about the arrest”.

22
The above mentioned procedures have their detailed regulations in the Criminal Procedure Code of RA, particularly in the 53rd, 136th, 295th as well as in the Rules of Procedures of the National Assembly of RA.

For instance, in December, 2014 there was initiated a criminal investigation against a judge of the First Instance Court of Lori district for the case on extremely large bribery17.

Meanwhile the Ministry of Justice has organized a study of international practice concerning the legal regulation of the institute of immunity of judges and members of Parliament. The study consists of 22 pages. The results of the study will be analyzed and used during the perfection of the legislation.

**Assessment of Progress - 15th Plenary**

**PROGRESS**

GoA reports certain steps to implement the recommendation, including a survey of the investigators and prosecutors on their practical experience with the issue, in which they have indicated that immunity does not present an issue in their corruption investigations and an example of a high profile case involving a judge was given to illustrate this position further. In addition, a study of the international best practices was conducted by the Ministry of Justice and will be used for further improvement of existing legislation. The monitoring experts therefore acknowledge progress made under this recommendation.

16thACN Istanbul Action Plan Monitoring Meeting, 7-9 October, 2015

**Measures taken to implement the recommendation as reported by the Government**

According to the non-official survey conducted among investigators and prosecutors, the immunity rules and procedures do not impede successful investigation and prosecution of corruption cases. There have been several cases of prosecution against judges or parliament members, where the suspect was deprived from immunity.

Meanwhile, within the scope of Constitutional reforms in Republic of Armenia, the Draft of new Constitution was elaborated. The Draft has significantly limited the immunity rules. Particularly, if current Constitution states; “A Parliament Member, during and after the term of his parliamentary powers, may not be prosecuted and held liable for actions arising from his status, including the opinions expressed by him in the National Assembly, provided these are not insulting or defamatory”, the draft states; “A Parliament Member, during and after the term of his parliamentary powers, may not be prosecuted and held liable for opinions expressed by him or voting”. Therefore, the Draft Constitution provides broader opportunity for investigation and prosecution of criminal cases involving parliament members.

The draft Constitution has also limited the immunity rules of Judges. Particularly, Judges during the term of his judicial powers may be prosecuted and held liable for actions arising from their status and held liable only upon the approval of Supreme Council of Judges”.

The Ministry of Justice of the Republic of Armenia has elaborated and circulated the draft Code on Administrative Offences, which provides liability for state officials (including those state officials who enjoy immunity) for failure to submit declaration on asset and income. The draft was discussed during the first sitting of Anticorruption Council and was approved by the Council.

**Assessment of Progress - 16th Plenary**

17 http://www_azatutyun.am/content/article/26764357.html
**PROGRESS**

In the context of the constitutional reform, Armenia reported that the draft amendments of the constitution limit the immunities of members of parliament and judges. The draft Constitution was presented to the parliament and adopted with the first reading, according to the methodology of progress updates, plenary concluded that there is progress in relation to this recommendation.

Additionally, as supplementary information, the Government reported about the planned introduction of administrative liability for officials enjoying the immunities for violations in relation to the asset declarations. Draft was approved by the Anti-Corruption Council on its first sitting.

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

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**Measures taken to implement the recommendation as reported by the Government**

The issue was discussed with RA General Prosecutor’s office, Special Investigation Service, Investigation Committee, RA National Security Service attached to Government and Ministry of Finance: RA general prosecutor’s office mentioned the main practical problems.

According to part 4 of Article 13 of the Law of the Republic of Armenia "On money laundering and terrorism financing" and paragraph Article 13.1 of the Law of the Republic of Armenia "On bank secrecy", financial data for investigating are considered bank secrets and may not be used as evidence. The frequency of using financial data for investigation is conditioned by the peculiarities of factual circumstances of criminal case, complexity of the scheme used and number of participants involved in it. However, the necessity of using the mentioned data emerges almost for every second criminal case. Thus, the Prosecutor General’s Office of the Republic of Armenia for many times offered to discuss the issue of making possible the use of financial data for investigation as evidence especially during investigation of money laundering and terrorism financing related criminal cases and legally regulate the mentioned issue.

According to the information presented by the Special Investigation Service, it has submitted 35 motions to court to get access to information that is protected as notary or bank secret. All these motions were approved by the courts.

RA law provides access to secret banking information that concerns only to the accused or the suspect. This rule makes legal barriers for the investigator to conduct and carry out urgent investigative activities, especially during those criminal cases, where the perpetrator is not found and there is an urgent need to find him. This issue was urgent also in those cases, where the necessary banking information was concerning to legal entities. The courts usually rejected
the motions of investigators to get access to secret banking information, even in cases, where the accused was a member of the company’s management.

However, the EKD/0223/07/14 decision of August 15, 2014 of RA Court of Cassation, had a positive impact on this issue and simplified the procedures of getting confidential banking information concerning legal entities. RA Criminal Procedure Code Article 172, part 3.2 states that only the information which concerns the accused or the suspect can become available to the investigator. The Court of Cassation stated, that the interpretation of this article, according to which the only confidential banking information which can be revealed based on court decision is the information that relates only to the accounts of the accused and suspect is an undue decrease of the scopes of the legal provision stated in Criminal Procedure Code. Such an interpretation of this article does not correspond to the judicial and investigative issues. As a result of such an interpretation, the private interest prevails over the public interest in the crime detection. The information concerning the accused or suspect is not only the information concerning their accounts, but also the information that concerns to legal entities, which have a close relation to the accused or suspect and there is a sound assumption that the activity of that legal person was managed or controlled by the accused or the suspect.

Besides, according to the 257th Article of the Draft Criminal Procedure Code; "The monitoring of financial transactions is the secret observation of financial transactions carried out through banks or other financial institutions.

When performing the undercover investigative action envisaged by Paragraph 1 of this Article, banks and other financial institutions shall be obliged, when demanded by the competent bodies, to create the conditions necessary for the performance of the undercover investigative action".

RA Ministry of Justice made an inquiry to RA Central Bank for a joint discussion and solution of this issue.

Moreover, the working group on the Draft Law of the Criminal Procedure Code is going to consider this point while editing the Draft Criminal Procedure Code.

It should be also noted according to the Article 13 of the AML/CFT Law the FMC submits a notification to law enforcement authorities whenever, based on the analysis of a report filed by a reporting entity or of other information, it arrives at a conclusion on the presence of reasonable suspicions of money laundering or terrorism financing. Along with the notification or, subsequently, in addition to it the FMC may on its own initiative submit to criminal prosecution authorities further data related to the circumstances described in the notification. The notification or the additionally submitted data may contain classified information as defined by the law.

Furthermore, upon the request of law enforcement authorities, the FMC provides the available information, including classified information as defined by the law, provided that the request contains sufficient substantiation of a suspicion or a case of money laundering or terrorism financing. Such information is provided within a 10-day period, unless a different timeframe is specified in the request or, in the reasonable judgment of the FMC, a longer period is necessary for responding to the request.

The provision of information constituting bank secrecy in the framework of combating money laundering is regulated by the Article 13.1 of the RA Law on Banking Secrecy. Particularly, the latter article provides that the FMC shall submit a notification to criminal prosecution authorities whenever, based on the analysis of the data provided for under that law, including data that constitutes bank secrecy, it arrives at a conclusion on the presence of reasonable
suspicions of money laundering or terrorism financing. Along with the notification or, subsequently, in addition to it the FMC may on its own initiative submit to criminal prosecution authorities further data related to the circumstances described in the notification. In accordance with the AML/CFT Law, upon the request of criminal prosecution authorities, the FMC shall provide the available information, including information that constitutes bank secrecy, provided that the request contains sufficient substantiation of a suspicion or a case of money laundering or terrorism financing.

Besides, Article 29 of the Law on Operational Intelligence Activity provides access to financial data and secret monitoring of financial transactions as an operational intelligence measure.

Based on Article 9 of RA Law on Investigative Committee the persons included in the list of candidates of Investigative Committee servants take a special educational program at the Academy of Justice. The training program will be approved in March, 2015. The program contains courses concerning fight against corruption.

**Assessment of Progress - 15th Plenary**

**PROGRESS**

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 in Armenia have been examined by Armenian authorities. Practical issues have been identified both by the prosecutors and investigators and will need to be addressed in the new Criminal Procedure Code and other legislative changes. A decision of the Cassation Court is noted by the monitoring experts as a positive step, however, they also note that more needs to be done for a comprehensive implementation of the Recommendation.
Measures taken to implement the recommendation as reported by the Government

The same proposal was suggested by the Council of Europe's MONEYVAL Committee evaluation team during their onsite visit in 2015. In particular, the Committee experts stated in their Fifth round assessment report that in respect of information constituting banking secrecy, information on transactions with securities or information constituting insurance secrecy, the powers of investigators are limited to data related to persons suspected or accused in a criminal case (art. 172 para 3.2 – CPC). A prosecutor's permission is required for seizing state secrets and a court decision is mandatory for seizing information that constitutes banking, insurance and notaries' secrecy (art. 279 – CPC). The measure is only available after a formal investigation process has been initiated. (Fifth round assessment report on Armenia p.17 para.80) As of this moment the Central Bank of Armenia and the MONEYVAL exerts are in the process of negotiation which are held to draft the defined mechanisms of lifting of bank secrecy for crime investigation purposes.

Banking secrecy in relation to Money Laundering and Financing of Terrorism (ML/FT) is effectively disseminated in the context of cooperation between the Financial Monitoring Center (FMC) and Law Enforcement Agencies (LEAs). In particular, according to Article 13.1 of the Law on Banking Secrecy of Republic of Armenia, when the information specified under the AML/CFT Law is analysed by the CBA and leads to reasonable ML/FT suspicions, then the CBA directly disseminates that information to LEAs. The same Article also regulates the provision of banking secrecy information to LEAs in addition to a dissemination previously made by the CBA or when a query is received by the CBA from criminal prosecution bodies.

The provision of banking secrecy to LEAs is also specified under Article 13 of the AML/CFT Law where – in accordance with Part 4 of that Article – the AML/CFT Authorised Body is responsible for provision of available information, including classified information as defined by the law, upon receiving a query from criminal prosecution authorities, provided that the query contains sufficient substantiation of a suspicion or a case of money laundering or terrorism financing.

The laws of the Republic of Armenia specify that banking secrecy should be provided to criminal prosecution authorities (prosecutor, investigator, inquest authority) only when there is substantial evidence that the person in question has committed a crime, for example, being involved as a suspect or accused. Such a mechanism is specified under Article 10 of the Republic of Armenia Law on Banking Secrecy (this does not relate to the cooperation between the FMC and LEAs), according to which banks shall provide bank secrecy information to LEAs in relation to a suspect or accused in a criminal case only upon the petition of the court.

Nevertheless, as opposed to criminal prosecution authorities, operational investigation authorities are not limited in access to banking secrecy with the condition requiring an identified suspect or accused, since these authorities carry out operational investigation activities before a criminal case is instigated, with an objective of early identification and prevention of crime where possible. This means that the current legislative framework ensures full access to banking secrecy information by LEAs, depending on requirements for each stage of investigation and judicial proceedings.

28 motions of receiving banking and notary confidential information by criminal cases examined in the Service have been presented to the Court; all of them have been satisfied.

The procedure operating by the legislation of receipt of information containing banking secret, particularly the legislative requirement of receiving them in relation to solely the suspect or the accused person frequently deprives the investigator from the opportunity of efficient organization and implementation of urgent investigatory actions by those criminal cases, in which the persons who have seemingly committed the crimes are not known and the primary problem lies in their discovery. The legislative formulation created obstacles for receiving information, having significance by the criminal case, concerned the legal entity, even after
involving the officer, conducting the managerial function of the organization, as an accused person, the Court sometimes would refuse the motion of receiving the information containing banking of the organization.

The position expressed by the precedential decision adopted on August 15, 2014 by the Court of Cassation of the Republic of Armenia (by YEKD/0223/07/14 numbered case) has had a positive influence on the simplification of procedures of receiving information containing banking secret of legal entities in law enforcement practice.

Particularly, the Court of Cassation of the Republic of Armenia has come to a conclusion that the commentary of the provision fixed in Part 3.2 of Article 172 of the Criminal Procedure Code of the Republic of Armenia, that based on the Court’s decision the data on the bank account on the name of solely the suspect or the accused person can be received, is an unnecessary narrowing of the content and frames of application of this legislative provision. Such commentary does not correspond to the issues of the discussed procedural (investigatory) actions; it essentially limits their role and significance for the proceeding by the criminal case. As a result the private interest unjustifiably dominates over the public interest f the discovery of crimes (fight against crime).

The analysis of the concept "on persons involved by the criminal case as a suspect or as an accused person" mentioned in Part 3.2 of Article 172 of the Criminal Procedure Code of the Republic of Armenia serves as evidence that it concerns not only the information on the name of suspect or the accused person, but also the information composing banking secret concerning the legal entity who is directly related to the criminal action (s) of the suspect or the accused, if there is a reasonable assumption that the legal entity's action has completely or by the concerning part been governed, controlled or somehow been factually directed by the suspect or accused person.

As it was previously mentioned, various trainings are being organized for investigators, special investigation servants and prosecutors. Special guides and regulations are being periodically issued to enhance investigation and prosecution skills of those bodies. Special ability raising trainings are going to be carried out in the scope of CoE/EU Eastern Partnership Programmatic Co-operation Framework Regional project on “Fight against corruption and fostering good governance; fight against money laundering”. The mentioned trainings include special educational courses relating to investigation and prosecution of financial crimes, including crimes with complex details.

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**Assessment of Progress - 16th Plenary**

**LACK OF PROGRESS**

The Government provided explanations of the existing regulations and practice regarding the bank secrecy, however, no new developments have been reported in the area. As to the second part of the recommendation, it is emphasized that the trainings are being conducted on a constant bases, however provided information is not sufficient to conclude the progress in relation to steps to ensure that investigations are conducted whenever appropriate and adequate human and financial resource are allocated including the availability of the expertise in forensics accounting and information technology. Thus, there is no progress in relation to this recommendation.

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**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.


Measures taken to implement the recommendation as reported by the Government

The Prosecutor General's Office of the Republic of Armenia has a specialized subdivision - Corruption and Economic Crimes Department of the Prosecutor General’s Office of the Republic of Armenia (hereinafter referred to as "the Department"). The Prosecutor's Office of the Republic of Armenia strengthens its anti-corruption capacities through international cooperation and exchange of experience, where prosecutors of the Department, as well as other subdivisions of the Prosecutor’s Office are involved.

The RA Law on making amendments and supplements to RA Law on Special Investigative Service, adopted on 19.05.2014, came to make several changes in the structure of special Investigative Service. The Head of the Special Investigative Service on 30.06.2014 adopted Decree N 13-L about establishment of several new departments, one of which is the department of the investigation of corruption and organized crime by state officials. The investigators were distributed the departments based on their specialization. This will provide a basis for later improvement of the professional skills of the investigators, which will bring to an increase of the investigation quality of corruption crimes.

During the scheduled service classes the servicemen of the appropriate unit on combating corruption of the General Department on Combatting Organized Crime of Police of the RA study the legislation of the RA provided for combating corruption to improve their professional skills.

The themes on „Corruption related crimes and the specifications of their disclosure”, „Criminal justice policy in combating corruption, European and National areas”, „The Criminological characteristic of corruption related crimes, preventive directions and measures of the corruption related crimes in the RA”, „Possible risks of corruption related activities in privatization of state property and public procurement", as well as the issues „On offering, promising, requesting of unlawful advantage, accepting an offer or promise as an independent corruption related crimes" and "Bribing the public sector employees as a corruption related crime” are included in the lists of the training courses envisaged for Police servicemen in Police Educational Complex.

The Guide on "Bribing the public sector employees as a corruption related crime” has been developed and included in the course of subject „On Criminal Law of the RA’, in the themes of the service classes of the Police Educational Complex as well.

During the reporting period the servicemen of several units of Police of the RA and staff of the Educational Complex have participated in a round-table discussion related to „Offering, promising, requesting of unlawful advantage, accepting an offer or promise as an independent corruption related crimes,” held in Police Educational Complex.

The department of organization and improvement of investigative activities and investigation methods organized and held special seminars every Friday, in 2014. All the investigators of the Special Investigative Service participated in these trainings. These trainings contained special courses on the techniques and means for the anticorruption struggle and investigation. The same department prepared and distributed letters (almost 23) among the investigators offering solutions for many practical issues, and corruption among others.
In 2014, a number of prosecutors of the Department, as well as other prosecutors of the prosecution system of the Republic of Armenia left for foreign states by the invitations of our foreign partners and participated in a number of events aimed at countering and preventing corruption. The prosecutors were participated in the Conference "Cooperation in the field of fight against corruption and money laundering" held in Vienna, the Republic of Austria, from 30 September-4 October 2014, in the 4th expert regional seminar of the ACN Law Enforcement Network of the Eastern Europe and Central Asia countries held by the Organization of Economic Cooperation and Development in capital of the Republic of France, Paris from 9-13 December 2014. The delegation of the Prosecutor General's Office of the Republic of Armenia attended a seminar on "Corruption Prevention" organized by the Office of the Co-ordinator of OSCE Economic and Environmental Activities and the UN Office on Drugs and Crime (UNODC) in Batumi, Republic of Georgia from 15-18 December 2014.

The materials enclosed to the reports drafted based on the business trip results have been summarized and sent to the specialized departments of the Prosecutor General's Office of the Republic of Armenia for using them as necessary.

Besides, it should be mentioned that a new department responsible for corruption crimes should be established in Investigative Committee. Actually in Investigative Committee there are Investigators specialized in detecting and investigating corruption-related offences. Moreover one of the deputies of the Head of the Investigative Committee is responsible for the corruption-related offences.

It should be also mentioned that the Ministry of Justice has applied to all law enforcement and prosecutorial bodies to create a general approach related to the specialization issue and to act accordingly.

**Assessment of Progress - 15th Plenary**

**Analysis of the Secretariat: LACK OF PROGRESS**

Information provided by the GoA on implementation of this recommendation describes the situation that was in effect during the third round of monitoring. No institutional changes have been made since then to strengthen specialization apart from a plan to create the specialized division at the Investigative Committee (this however will be only considered once it is created). No information on steps taken to foster cooperation between law enforcement and control bodies to detect corruption or to pursue a more targeted approach in the corruption-related investigations was provided.

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**Measures taken to implement the recommendation as reported by the Government**

The Prosecutor General's Office of the Republic of Armenia has a specialized subdivision - Corruption and Economic Crimes Department of the Prosecutor General's Office of the Republic of Armenia (hereinafter referred to as "the Department"). The Prosecutor’s Office of the Republic of Armenia strengthens its anti-corruption capacities through international cooperation and exchange of experience, where prosecutors of the Department, as well as other subdivisions of the Prosecutor’s Office are involved.

There is still no a special subdivision in the Investigation Committee that exercises mainly corruption cases. However, there are investigators specialized in detecting and investigating corruption-related offences in the General Department for Special Important
Crimes of the Investigation Committee. Moreover one of the deputies of the Head of the Investigative Committee is responsible for the corruption-related offences. The draft law on RA Investigation Committee has been elaborated which gives a proper solution to the issue of existence of specialized anticorruption subdivisions.

Five staff members of the Investigation Department undertook training at the Training Center SNCO of the Ministry of Finance of RA. The subject matter of training included the methodology of investigation of economic crimes. In November 2015 five staff members will also take a training on methodology of investigation of the crime of smuggling.

It should be also mentioned that the new Anticorruption strategy and its action plan preview special stipulations related to this recommendation, such as:

1. developing an appropriate methodology to determine the scope of corruption crimes and defining the exhaustive list thereof as prescribed by law;
2. differentiating clearly the subordination of preliminary investigation bodies examining criminal cases on corruption taking into account both the nature of these crimes and the characteristics of persons charged in the committal thereof;
3. ensuring that the corruption offences are examined by specialized subdivisions of preliminary investigation bodies and the control over lawfulness of preliminary investigation with respect to those cases and further the criminal charge is defended exclusively by prosecutors specialized in those cases.
4. strengthening co-operation among bodies carrying out operational intelligence activity, preliminary investigation bodies and bodies carrying out control over the lawfulness of activities thereof while detecting corruption-related offences, as well as conducting criminal proceedings with regard thereto;
5. developing scientifically substantiated and uniform methodology for the examination of corruption crimes, as well as for exercising control thereover, i.e. a set of certain principles and criteria which will enable the law enforcement officer to thoroughly identify all factual circumstances of corruption crimes irrespective of the type, nature and the person having committed the crime.

**Assessment of Progress - 16th Plenary**

**LACK OF PROGRESS**

In relation to specialization within the law enforcement and prosecution bodies, no progress has been noted by the Plenary, as the progress update only includes the list of measures to be carried out in line with the anti-corruption policy documents and nothing about the already achieved results. At the same time, reported elaboration of the draft law, which in the view of the Government would ensure better anti-corruption specialization, should be highlighted. However, no further information is provided as to how these proposed amendments would ensure higher specialization. NGOs report no progress in relation to this recommendation either.

**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.


Measures taken to implement the recommendation as reported by the Government

The Ministry of Justice has applied to all bodies concerned (Police, General Prosecutor’s Office, Investigative Committee, Special Investigative Service, National Security Service, Investigative Committee, Judicial Department, Ministry of Finance) for discussing together this recommendation. The results of the discussions will be used for making appropriate amendments.

All the information required by this Recommendation is registered in Information Centre of Police of the Republic of Armenia and in Judicial Department of the Republic of Armenia.

Besides, the FMC maintains statistics on all activities conducted. Statistical data includes information both on international cooperation and collaboration with national competent authorities. The information submitted to the FMC by national counterparts includes:

1) The number and description of criminal cases on money laundering;
2) The value of the property seized or arrested in the course of investigation of criminal cases on money laundering, on a case-by-case basis;
3) The number of criminal cases on money laundering, criminal prosecution of which has been terminated, as well as the grounds for such termination;
4) The number and description of criminal cases on money laundering in judicial proceedings;
5) The number of court decisions (convictions and acquittals) regarding criminal cases on money laundering and on other related crimes; the penalties imposed, as well as the value of confiscated and forfeited property, etc.

Assessment of Progress - 15th Plenary

LACK OF PROGRESS

Steps towards implementation of the recommendation taken by Armenia at the moment appear to be only at the level of discussing the issue and planning for an appropriate response. This cannot be considered sufficient to demonstrate progress under this recommendation.

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Measures taken to implement the recommendation

In the official web-page of the RA prosecution Statistics on the Results of Investigation and Prosecution of Corruption related crimes are available. Information includes both the number of investigations, prosecutions and convictions, and the types of offences committed. Statistics on sanctions applied, and information on the damage caused by offender are also available.18

18 http://prosecutor.am/am/corruption/corruption-documents/
The complete information in the field of fight against corruption on each corruption related crime is stored in records and registers of the information center of police of the Republic of Armenia.

Besides, the Financial Monitoring Center of Central Bank (FMC) maintains statistics on all activities conducted. Statistical data includes information both on international cooperation and collaboration with national competent authorities. The information submitted to the FMC by national counterparts includes:

6) The number and description of criminal cases on money laundering;
7) The value of the property seized or arrested in the course of investigation of criminal cases on money laundering, on a case-by-case basis;
8) The number of criminal cases on money laundering, criminal prosecution of which has been terminated, as well as the grounds for such termination;
9) The number and description of criminal cases on money laundering in judicial proceedings;
10) The number of court decisions (convictions and acquittals) regarding criminal cases on money laundering and on other related crimes; the penalties imposed, as well as the value of confiscated and forfeited property, etc.

It is important to note that the order of the head of Investigation Committee dated 19.06.2015 and numbered 22/28-184-15 established a special form for reporting of corruption crimes.

The report includes data concerning result of preliminary investigation, number of initiated criminal cases, accused persons, number of cases and persons sent to Court upon an indictment, and people arrested and measure of restraint applied. Currently is being discussed the issue of including statistics information into the report forms.

Nevertheless, the Anticorruption Strategy and its Actions Plan for 2015-2018 refer to the issue of improvement of statistics. Particularly, improvement of system of statistics for corruption offences and system of provision of reports are stipulated by the Anticorruption strategy and its action plan. The final implementation of this measure is planned to be exercised in 2018.

Assessment of Progress - 16th Plenary

PROGRESS

Whereas the anti-corruption policy documents include overhauling the statistics on corruption cases as the dedicated measure and full implementation of this measure is scheduled for 2018, progress in relation to this recommendation can still be noted as compared to the previous reporting period, the availability of more detailed statistical data has been reported in line with the requirements of the recommendation by the Government. The shadow reports of the NGOs confirm availability of the mentioned statistics on the web-page of the prosecution service of Armenia as well. While experts were not in a position to verify the level of details of the statistic available online (as the web-page is only in Armenian) the information provided by the Government and non-governmental sector was considered sufficient to conclude progress in relation to the recommendation on statistics.

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


Measures taken to implement the recommendation as reported by the Government

As a part of its efforts to build asset declaration verification system in Armenia, the Commission on Ethics of High-Ranking Officials of Armenia has elaborated and submitted to the Government a draft Decree on electronically connecting the declaration system to databases of certain state bodies, which will allow data verification. The decree was adopted during the Government session of 19 February 2015. Access to Police Passport and Visa Department, State Committee of Real Estate Cadastre, State registry of Legal Entities and Agency for Registration of Civil Acts is ensured, however access to the databases of state revenue service under the Ministry of Finance is not granted.

Meanwhile, in the framework of Public Sector Modernization Project III, resources will be allocated to the Ethics Commission for building risk based analysis system, with data verification tools.

The Chair of the Ethics Commission for High-Ranking Officials has applied to the Prime-Minister of the RA for providing an independent budget. The Prime-Minister has ordered to the Ministry of Finance and to the State Property Management Department to take relevant measures.

With support of EaP/CoE Facility Project on “Good Governance and Fight against Corruption”, the Ethics Commission has initiated and implemented training on processing and verifying asset declarations CSO representatives and investigative journalists. The trainings took place on 4-5 December 2014. About 16 participants from 7 main anticorruption CSOs of Armenia were involved in the event. Participants were trained to analyze and detect hidden income, expenditures, as well as illicit enrichment cases based on the cash flow methodology. The watchdog capacity building of CSOs, along with verification system development, may well compliment the tools of detecting hidden incomes and transactions, as well as illicit enrichment cases.

Assessment of Progress - 15th Plenary

PROGRESS

Granting of access to the Commission on Ethics of High Ranking Officials to 4 databases improves its capacity to verify asset declarations, however, it should be noted that the key elements for this and other functions mentioned in the recommendation are still missing. This step will be therefore recognized as limited progress under the first part of the Recommendation, the other two parts remain unaddressed.

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Measures taken to implement the recommendation

The Government decree N145-N\(^1\) was adopted on February 19, 2015 to develop data verification instruments and to connect electronic declaration system of the Commission on

\(^{1}\) See attached the decision
Ethics of High-Ranking Officials to the online databases of the State Registry of Legal Entities and the Civil Status Acts Registration Agency under the Ministry of Justice, the State Committee of Real Estate Cadastre, the State Population Registry of the Police and the Registry of Vehicles of the Traffic Police (access to the databases of State Revenue Service under the Ministry of Finance is not still granted).

In the reporting period, the Ethics Commission has signed Memoranda of Cooperation with the respective state institutions in order to ensure technical connectivity and interoperability of electronic declaration system with mentioned state databases. Upon technically ensuring automated information transfer, the Ethics Commission will have capacity to check the reliability of data provided in the asset declarations of high-ranking officials. Technical problem solving process is now underway though the Ethics Commission already benefits from the possibilities of data registers like personal data system of the population registry, vehicle registration database and etc. However, it should be mentioned that the legal powers of the Ethics Commission related to data verification is still to be clarified.

Meanwhile, an approach to apply sanctions for non-compliance to the norms regulating declaration submission was agreed on and a draft amendment to the Code of Administrative Offences was elaborated and circulated among main stakeholders that would introduce administrative sanctions for failure to submit an asset declaration or submitting incorrect or incomplete information. The Draft was discussed and approved by the Anticorruption Council during its first sitting. Another step towards anti-corruption legislation enforcement is the elaboration of a new Criminal Code of Armenia including provisions on the illicit enrichment criminalization which is currently being widely discussed.

As for providing the independent budget for the Commission on Ethics of High-Ranking Officials of Armenia to ensure necessary human, financial and technical resources, it is worth to mention that the Ethics Commission has come up with a suggestion to establish an interagency working group, which would prepare reform proposals for the commitment implementation specified in the EU European Neighbourhood Policy Action Plan’s financing agreement. The list of commitments includes the elaboration of necessary legislative changes to ensure that a fully-staffed Ethics Commission for High Ranking Officials becomes a permanent and financially, organizationally and functionally independent body with its own budget by the end of 2015.

Based on the Ethics Commission’s suggestion, a working group (including a Commissioner of the Commission on Ethics of High-Ranking Officials) was established by the Prime Minister’s resolution N447-A of May 27, 2015 that should work on the elaboration of a road map of governance reforms foreseen in the abovementioned EU agreement. Currently, the respective draft documents on the institutional development and budgetary independence of the Ethics Commission are submitted to the working group’s consideration and the related discussion outcomes will be reflected in the state budget of 2016 and other legal acts. Based on the EU document commitments, the working group should also focus on the issues of coordination of setting up Codes of Ethics and guiding Ethics Commissions in the public institutions and others.

On 11, September, 2015 another meeting of the Working group took place, during which abovementioned submitted information was discussed and relevant recommendations were given to the responsible bodies.

**Assessment of Progress - 16th Plenary**

**PROGRESS**

Concerning the first part of the recommendation, the mandate of the Ethics Commission for High-Ranking Official in relation to monitoring of asset declarations has not been clarified yet. Commission still does not possess the power to sanction relevant violations. In order to regulate the sanctions for failure to submit the asset declarations or for the submission of inaccurate declarations, the draft amendments to the Code of Administrative Offences was elaborated and
circulated among the stakeholders. Draft was discussed and approved on the last Anti-Corruption Council Session and its adoption is due soon.

To resolve the issue of the independent budget for the Commission for High Ranking Officials, the working group was formed with the resolution of the Prime Minister of Armenia on 27, 2015 tasked with elaboration of the separate budget for the Commission in 2016 state budget, as reported by the Government. The working group seems to be operational conducting its meetings as scheduled. Its tasks include elaboration of the necessary legislative changes to ensure that the Ethics Commission for High Ranking Officials is financially and functionally independent body with its own budget by the end of 2015. At the moment, however, CSOs consider the Commission to be passive.

Commission signed the memoranda of cooperation with the respective state institutions to ensure technical interoperability of the electronic systems and access to relevant data to use them in the process of verification of asset declarations. As reported by the Government, Ethics Commission for High Ranking Officials already has access to the personal data systems of the population registry, vehicle registration database and others.

Accordingly, Plenary has noted the progress in implementation of this recommendation.

**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 coordination the activity of ethics commissions, for providing them with methodological guidance and training, monitoring and assessing effectiveness of ethics commissions

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


**Measures taken to implement the recommendation as reported by the Government**

As it has been reported earlier, issues pertaining to the establishment, formation, rights and responsibilities, as well as the accountability of Ethics Commissions in civil service system are regulated by the Civil Service Council Decision N 844-N of September 26, 2012.

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20The activities of Ethics Commissions are regulated by the Civil Service Council Decision N 844-N of September 26, 2012. In accordance with Clause 10 of the Annex of the abovementioned Decision, “Within the scope of its authorities the Commission shall: 1) examine the issues addressed to the Commission; 2) adopt conclusions or clarifications on issues discussed, and submit mediations; 3) **upon the recommendations** of the RA Civil Service Council or the Respective Body conduct investigations and submit clarifications or conclusions; 4) **on a quarterly basis submit reports on its activities to the official entitled to establish the Commission;** 5) set its work procedure; 6) execute other authorities reserved to it by the given statute and other legal acts.”
It should be noted that within the framework of joint cooperation with EU SIGMA, a new Draft Law on Civil Service will be developed to ensure new legal approaches/solutions and to enhance the efficiency of Ethics Commissions in the Civil Service system in the course of Civil Service Reforms.

Studies have been realized, and the Ministry of Justice has applied to the Prime-Minister for establishing a working group which will discuss the issues concerning recommendations of OECD related to the Commission on Ethics of High-Ranking Officials of Armenia, this recommendation, ethics commissions in public institutions, rules of ethics and the law on "Public Service". The issue was discussed in February with the Minister-Chief of Staff of the Government of the RA and with the Civil Service Council of the RA. It was decided within 2 weeks to draft amendment to the law on "Public Service". The amendment will concern to the ethics commissions.

Assessment of Progress - 15th Plenary

**LACK OF PROGRESS**

No measures to address this recommendation directly have been reported under the Recommendation.

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**Measures taken to implement the recommendation as reported by the Government**

As mentioned in the section related to the Recommendation 10, in the reporting period the working group was set up by the Prime Minister of Armenia that would also discuss and propose a/ models of activity coordination of ethics commissions, b/ mechanisms for providing the last with methodological guidance and training, and c/ solutions of monitoring and assessing effectiveness of ethics commissions and other issues.

As has previously been reported, issues pertaining to the establishment, formation, the rights and responsibilities as well as the accountability of Ethics Commissions in Civil Service are regulated by the Council Decision N844-N, dated 26 September 2012. Additionally, it should be noted that in the frame of joint cooperation with the EUSIGMA, a new Draft Law on Civil Service is going to be developed to ensure new legal solutions to enhance the efficiency of Ethics Commissions in Civil Service in the course of Civil Service Reforms.

The new Anticorruption Strategy and its action plan states several measures regarding the implementation of this recommendation. Thus,

- Establishing units exercising supervision and control over the observance of requirements of the rules of conduct in the selected sectors of public service (ethics commissions or entities responsible for ethics-related issues), defining norms for establishment and activities thereof, ensuring their proper activity, defining obligation of submitting a report to the body coordinating their activity and the public (Point 7, action plan),

- Appointing a body responsible for coordinating the activities of the units exercising supervision and control over the observance of requirements of the rules of conduct in the selected sectors of public service (ethics commissions or entities responsible for ethics-related issues). Providing methodological guidelines and conducting a training for those units by the given body (Point 8, action plan),

- Introducing efficient mechanisms for cooperation between the units exercising supervision and control over the observance of requirements of the rules of conduct in the
selected sectors of public service (ethics commissions or entities responsible for ethics-related issues), subdivisions of staff management and entities responsible for the implementation of anti-corruption programs in each state body (Point 9, action plan).

Assessment of Progress - 16th Plenary

LACK OF PROGRESS

No tangible progress can be noted in respect of ensuring functioning of the ethics commissions in public institutions. Their mandate in relation to the issues of the conflict of interest, sanctioning of violation of ethical norms etc., has not been clarified in the reporting period. Neither has there been the coordination body designated to provide methodological guidance and training to the commissions at the sectoral level. There has been no mechanism of coordination established between the ethics commissions, neither is their work assessed or monitored. Anti-corruption action plan includes various activities in this response to the recommendation.

Thus, Plenary concluded that that is no progress in implementation of this recommendation.

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


Measures taken to implement the recommendation as reported by the Government

The Commission on Ethics of High-Ranking Officials has cooperated with OECD SIGMA program from September to December 2014 to elaborate new ethics values/code of conduct. Ethics values for the whole public service of Armenia, as well as code of conduct for high-ranking officials’ of the Executive were drafted. The documents have been reviewed by the international experts. Shortly, they will be circulated among the stakeholders, including CSOs, for comments and feedback (before its adoption).

With regard to organization of practical courses on Code of Conduct for the public servants, it should be also mentioned that the Academy of Justice with the support of OSCE country office held training course "the improvement of communication skills between the public servants of the prosecution system and citizens, and the enforcement of public servants' code of ethics", which resulted in the publication of the same-name guide in 2013, which is distributed to all state servants of the prosecution system. State servants of different subdivisions of the staff of the Prosecutor’s Office of the Republic of Armenia participated in the training courses. Moreover, the measure is planned to be implemented also in 2015.

A training course titled "Professional Ethics for Prosecutors" was organized for the attendees included in the list of candidates for prosecutors, who had passed vocational training in the "Academy of justice" SNCO in 2014, during which the persons included in the list of candidates for prosecutors had an opportunity to get familiar with the Code of Conduct of Prosecutors and international development trends of the ethics rules.
Concerning practical training to public officials about the use of code of ethics in practice, it should be noted that the issue was discussed with the Civil Service Council of the RA, and it was decided to organize such trainings.

Assessment of Progress - 15th Plenary

PROGRESS

Some steps have been taken to address this recommendation which demonstrated limited progress.

16thACN Istanbul Action Plan Monitoring Meeting, 7-9 October, 2015

Measures taken to implement the recommendation as reported by the Government

The Commission on Ethics of High-Ranking Officials has elaborated a draft code of conduct in cooperation with OECD SIGMA program in late 2014 for high-ranking officials of the executive branch of Armenian public sector. The draft document will be sent for considerations to the working group established by the Prime Minister and the related outcomes will be circulated among the public sector stakeholders. The new Anticorruption Strategy and its action plan state several measures regarding the implementation of this recommendation:

- Defining principles of ethics and rules of conduct by the Law of the Republic of Armenia "On public service" and, where necessary, by branch laws in accordance with the fundamental principles of the rules of ethics for public servants or officials of EU and OECD countries (Point 6, action plan),
- Developing and adopting the draft law of the Republic of Armenia "On making amendments to the Law of the Republic of Armenia "On public service" (Point 14, action plan), The expected outcome of this measure is that the Law of the Republic of Armenia "On public service" has been amended, the scope of activities of public servants and officials incompatible with their duties, and other restrictions thereof has been revised by ensuring their clarity and predictability. Commission on Ethics of High-Ranking Officials and the institutions specialized in separate sectors of public service have been vested with the power to submit recommendations on the application of legal enforcement measures against public servants and officials having violated the requirements of codes of conduct, including rules of conflict of interest, activities incompatible with the duties and other restrictions to competent entities or bodies. A liability for violation of the requirements of codes of conduct, including rules of conflict of interest, activities incompatible with the duties and other violations has been imposed.

It should be also mentioned that in the scope of the CoE/EU Eastern Partnership Programmatic Co-operation Framework's regional project on "Fight against corruption and fostering good governance; fight against money laundering" special measures are previewed related to the improvement of legal framework concerning ethics/codes of conduct, prohibition or restriction of incompatible activity, asset declarations. The program includes also stipulations concerning provision of practical training to public officials on Ethics and Codes of Conduct.

As for the practical trainings for the public officials, within the cooperation between the Commission on Ethics of High-Ranking Officials and GIZ, the 12 ethics trainers were awarded with the Trainer Certificate by the German DBB Academy including commissioners of the Commission on Ethics of High-Ranking Officials in 2014. In the reporting period the two of the Commissioners have delivered ethics lectures both in the Academy of Justice and the Public...
Administration Academy. Those trainings were conducted for the civil servants, candidates for the positions of judges and prosecutors and others.

**Assessment of Progress - 16th Plenary**

**PROGRESS**

Limited progress can be observed in relation to the recommendation on the code of ethics for special category of public servants and their training. Among the tangible actions reported by the Government is the draft code of conduct elaborated in cooperation with SIGMA by the Commission on Ethics of High-Ranking Officials. However this draft, which is applicable to the executive branch in Armenia, is now at the early stage of discussion within the Government. Additionally, Government reports about the certificates awarded to the trainers of, including Ethics Commission of High Ranking Officials and that 2 of them have delivered trainings in the Academy of Justice and Public Administration Academy for civil servants, candidates for the judges and prosecutors and others. NGOs also informed about the trainings for civil servants on the issues of public sector integrity.

Accordingly, there is a limited progress in implementation of this recommendation.

**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


**Measures taken to implement the recommendation as reported by the Government**

Legal relations related to merit based selection and recruitment are clearly regulated by the RA Law "On Civil Service". It should be noted, that on June 21, 2014, the National Assembly adopted the RA Law "On Making Amendments and Supplements" to the RA Law "On Civil Service", targeted at increasing the flexibility of recruitment and promotion, and efficiency of civil servants performance within the Civil Service System. Additionally, a new catalogue of "Respective Civil Service Job Descriptions" (53 in total) has been developed to improve the process of selection and recruitment within the System.

Within the Civil Service System (45 state bodies), the RA Civil Service Council is the body responsible for the coordination and monitoring of the procedure of filling vacant positions. With regard to filling the majority of vacant positions through competition, it should be noted that in 2014, about 80% of civil service vacant positions (except for junior civil service positions) were filled through competition.

**Assessment of Progress - 15th Plenary**

**PROGRESS**
Some legislative changes reported by the GoA, as well as statistical data on practical application indicate certain steps towards implementation of the Recommendation which can be considered as progress being made.

16thACN Istanbul Action Plan Monitoring Meeting, 7-9 October, 2015

Measures taken to implement the recommendation as reported by the Government

Legal relations pertaining to merit based selection and recruitment are clearly regulated by the RA Law “On Civil Service”. It should be noted that on 21 June 2014, the National Assembly adopted the RA Law “On Making Amendments and Supplements” to the RA Law “On Civil Service”, targeted at enhancing the flexibility of recruitment and promotion and raising the efficiency of performance of civil servants within the Civil Service System. In addition, a new catalogue of “Respective Civil Service Job Descriptions” (53 in total) has been developed to improve the process of selection and recruitment in the System.

Within the Civil Service System (45 state bodies), the RA Civil Service Council is the body in charge of coordinating and monitoring the procedure of filling vacant positions. With regard to filling the majority of vacant positions through competition, it should be noted that in the first half-year of 2015 about 80% of civil service vacant positions (not including junior civil service positions) were filled through competition.

It should be also noted that the development of new methodology on evaluation of civil service positions as well as the program targeted at developing capacities for the implementation of the latter both in the RA Civil Service Council and in HRM units of Respective Bodies, is currently being finalized. This will result in an opportunity to review civil service job descriptions and position passports, which in its turn will contribute to merit-based recruitment in civil service.

Besides, the new Anticorruption strategy and its working plan stipulate a number of measures related to this recommendation. Such as;

- Submitting recommendations on introduction of additional standards for selection and promotion of state servants, (Point 35, action plan),
- Introducing mechanisms for filling the vacant positions on a competitive basis in those state bodies, wherein the vacant positions are filled without a competition, as well as appointing a body authorised to coordinate the process of filling the vacant positions and carry out its monitoring (Point 36, action plan),
- Developing and approving guidelines for assessing the compliance with the rules of ethics in the process of selecting state servants (Point 34, action plan).

Assessment of Progress - 16th Plenary

PROGRESS

No progress can be observed in regards to the legislative aspect of the recommendation, however, the Government notes that the majority of the vacant positions in 2015, namely 80% of them, has been filled through competition. The Civil Service Council is in charge of coordinating and monitoring the procedure of filling vacant positions. However, these data cannot be verified by the experts. NGOs report that the Civil Service Council has interesting data online, however not aggregated and thus it is not possible to conclude what portion of vacancies have been filled based on the competition.

Additionally, the methodology of evaluation of civil service positions as well as program targeted at developing capacity for its implementation is being finalized.

Thus, merely limited progress can be observed in implementation of the recommendation.
**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 analyze 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.

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**Measures taken to implement the recommendation as reported by the Government**

The new Strategy, which has been developed and is in the process of discussions, includes stipulations regarding the procedure of conflict of interests and declaration by different categories of public servants.

As mentioned earlier, the Ministry of Justice has applied to the Prime-Minister for establishing a working group which will discuss the issues concerning recommendations of OECD related to the Commission on Ethics of High-Ranking Officials of Armenia, this recommendation, ethics commissions in public institutions, rules of ethics and the law on "Public Service". The issue was discussed with the Minister-Chief of Staff of the Government of the RA and with the Civil Service Council of the RA. It was decided within 2 weeks to draft amendment to the law on "Public Service". The amendment will concern to the ethics commissions.

The Prosecutor General's Office of the Republic of Armenia developed a draft law "On making amendments and supplements to the Law of the Republic of Armenia "On public service"", which expanded the scope of managing prosecutors having an obligation to submit declaration on property, income and affiliated persons. Thus, the concept of "high-ranking officials" in point 18 of Article 5 of the Law does not include the heads of the departments (divisions) of the prosecutor's office, prosecutors of administrative districts of the City of Yerevan and deputy military prosecutors; thus such a legal regulation, in the complex analysis with Article 32 of the Law, is not only incomplete, but is also unjustified in the sense that why for example the prosecutors of garrisons have the obligation to submit declarations on property, income and affiliated persons, whereas the deputy military prosecutors, the heads of departments (divisions) of the Prosecutor General's Office of the Republic of Armenia does not have such an obligation, etc. Such regulation does not comply with the official inferiority relations of prosecutors provided for in the Law of the Republic of Armenia "On prosecutor's office". By draft law "On making amendments and supplements to the Law of the Republic of Armenia "On public service"" drafted by the Prosecutor General's Office of the Republic of Armenia, an attempt has been made to incorporate the above-mentioned persons in the scope of the concept of "high-ranking officials" in the meaning of the Law, thus it is planned to expand the scope of prosecutors having an obligation to submit declarations on property, income, and affiliated persons and such regulation is in line with the principle of legal certainty.

**Assessment of Progress - 15th Plenary**

LACK OF PROGRESS
No steps have been reported by the GoA towards implementation of this Recommendation beyond plans which cannot be taken into account until they are realized.
Measures taken to implement the recommendation as reported by the Government

The issue of proper regulation of conflict of interest has been discussed in various platforms. Transparency International has made a deep research and organized many discussions with representatives of Ministry of Justice, Civil Service Council, Commission on Ethics of High-Ranking Officials, Media and other bodies. The discussions helped to find all existing gaps in national legislation regulating the field of conflict of interest and specify possible solutions.

Transparency International published a report titled “Analysis of legislation regulating conflict of interests and corresponding suggestions”21. The report raised the existing issues in the sphere of conflict of interest, gaps of Law on Public Service, Law on Civil Service, other laws and normative acts, as well as legal inconsistencies between laws regulating the field of conflict of interests. On 25 June, 2015 representatives of various state bodies, international institutions and non-governmental organizations participated in the launching event of the Report in Congress hotel (Yerevan). Accordingly, the necessity of adoption of a new law on Public Service is being considered.

Besides, it should be also mentioned, that the working group established by the Prime Minister’s resolution N447-A of May 27, 2015 discuss also issues concerning the revision of the Law on Public Service, including inconsistencies in different laws with the Law on Public Service.

It is important to mention that the Anticorruption strategy and its action plan stipulate regulations concerning conflict of interest. Special measures concerning making amendments to the Law on Public Service are also previewed in the Anticorruption strategy and its action plan. The CoE/EU Eastern Partnership Programmatic Co-operation Framework’s regional project on “Fight against corruption and fostering good governance; fight against money laundering” preview special measures related to the improvement of legal framework concerning conflicts of interest.

Assessment of Progress - 16th Plenary

LACK OF PROGRESS

This recommendation requires legislative amendments related to the conflict of interests and harmonization of the various legal instruments, which has not been undertaken so far. TI Armenia has conducted the research and provided the analysis of the conflict of interests regulations in the public service together with the recommendations, however, no subsequent measures have been carried out by the Government in this connection. Government reports about the creation of the working group on 27 May, 2015 tasked with addressing the second part of the recommendation.

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

Measures taken to implement the recommendation as reported by the Government

The amendments to the law on "Public Service" concerning the specific channels to report corruption in each public institution, out of the hierarchical chain are anticipated, and a campaign to raise awareness of those measures among public servants will be launched respectively.

The new Anti-Corruption Strategy and its action plan contain specific stipulations concerning the channels to report corruption and the protection of whistleblowers. Thus, the Strategy states:

Practical measures must be undertaken for increasing and strengthening public confidence in bodies fighting against corruption:

- legally defining that persons submitting reports on corruption crimes equally enjoy special remedies defined by the Criminal Procedure Code for victims, witnesses and experts;
- providing for criminal liability by separate articles of the Criminal Code of the Republic of Armenia for causing damage to the property and health of or such a threat to a whistleblower or his/her affiliated persons for whistle-blowing, as well as for unlawful disclosure of a whistleblower by the representative of a law enforcement body;

Assessment of Progress - 15th Plenary

LACK OF PROGRESS

No steps have been reported by the GoA towards implementation of this Recommendation beyond plans which cannot be taken into account until they are realized.

16th ACN Istanbul Action Plan Monitoring Meeting, 7-9 October, 2015

Measures taken to implement the recommendation as reported by the Government

A special hotline was established in the Ministry of Labor and Social Affairs which is used also for reporting in case of corruption cases.

Regarding this recommendation it should be also mentioned that the point 61 of the Anticorruption strategy states:

Aimed at dealing with the aforementioned main issues the fulfillment of a number of comprehensive and consistent steps is highlighted. Thus, the following efficient measures should be undertaken targeted at enhancing and strengthening public confidence in bodies fighting against corruption:

1. defining, by law, that persons submitting reports on corruption crimes equally enjoy the special remedies prescribed by the criminal procedure legislation for victims, witnesses and experts;
2. providing for criminal liability by separate a article of the Criminal Code of the Republic of Armenia for damage caused to the property and health of or such a threat to a person reporting on crime or his/her affiliated persons for reporting on
crime, as well as for unlawful disclosure of a person reporting on crime by the representative of a law enforcement body;
3. defining that persons engaged in corruption crimes may be released from criminal liability or may expect to be subjected to relatively mild punishment in case of co-operating with law enforcement bodies;
4. regularly providing the public with information on the process and results of the investigation of corruption-related offences and publishing brief information on the established disciplinary, administrative and judicial practice;
5. regularly providing the public with information on dismissal of state servants or penalties imposed against them and making the substantiations public having in mind the protection of personal data and provision of other guarantees.
6. creating mechanisms in each public institution for reporting to appropriate bodies in case of corruption offences and conduct a campaign among public servants to raise the awareness on such mechanisms;
7. improving the systems of maintaining statistics and submitting reports on corruption-related offences.

Besides, the action plan of the strategy stipulates special measures, such as:
- Establishing guarantees of legal protection of persons reporting corruption crimes by law, (Point 51, action plan),
- Undertaking efficient measures for enhancing and strengthening public confidence in bodies fighting against corruption. The expected outcome of this measures is that mechanisms are established in all public institutions on reporting the relevant bodies on the corruption-related offences, and a campaign is carried out among public servants to raise the awareness on such mechanisms (Point 52, action plan).

It should be mentioned that a new mechanism of protection of whistleblowers is previewed in the new Criminal Procedure Code. Taking into consideration the fact that the deadline for functioning of the Whistle-blower protection system is the end 2015, according to the Budget support agreement signed with EU, the issue discussed will be solved as soon as possible. The provision of protection of whistleblowers in compliance with recommendations of OECD, EU, UNCAC principles, Transparency International recommended principles for whistleblowing was discussed by the Ministry of Justice with the working group on developing Criminal Procedure Code.

**Assessment of Progress - 16th Plenary**

**LACK OF PROGRESS**

Government reported about the creation of the hotline in the Ministry of Labour and Social Affairs, which can be used for the reporting of the corruption. Further information concerns only the future plans to address the recommendation on whistleblowers.

There is no progress in implementation of this recommendation.

**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 official 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.


Measures taken to implement the recommendation as reported by the Government

In the second half of 2014, 42 civil servants were trained (of which 12 Chiefs of Staffs, 15 Deputy Chiefs of Staffs, 15 civil servants occupying Chief, Leading and Junior Civil Service Positions) by programs on “Integrity in the Civil Service System” approved by the RA Civil Service Council. The programs incorporated corruption and ethics related issues.

On June 21, 2014 the National Assembly adopted the RA Law “On Making Amendments and Supplements” to the RA Law “On Civil Service”, envisaging Civil Servant “Final Evaluation/Appraisal” within the Civil Service System, beginning 2017. This new evaluation system is meant to ensure measurable performance indicators on training results and impacts. The Civil Service Council shall coordinate the procedure.

Currently, preliminary work is being conducted on developing new distance learning training programs (7 in total) for civil servants.

The Commission on Ethics of High-Ranking Officials has embarked on developing practical ethics trainings for public officials. With the support of GIZ and German DBB academy, it has elaborated a manual of ethics training for public servants. Though being electronically circulated, the manual will be published by GIZ soon. Meanwhile, a cohort of 12 trainers was trained from 24-26 September to deliver ethics trainings in the public sector with deductive training method. About 40 public officials and servants were trained from 15-17 October accordingly.

Assessment of Progress - 15th Plenary

PROGRESS

Some steps have been taken to implement this recommendation, especially in regards to design of a more comprehensive and targeted training program for public servants which now will include a guide and specially trained instructors. However, it was noted by the Civil Society that most of the efforts under this recommendation are being conducted by the non-governmental sector and there is not enough of governmental buy-in and support; they have also opined that the training should be of a wider scope and come hand in hand with the awareness raising activities.

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Measures taken to implement the recommendation as reported by the Government

As mentioned in the section on recommendation 12, in the reporting period the two of the Commissioners have delivered anticorruption/ethics lectures both in the Justice Academy and the Public Administration Academy for the civil servants, candidates for the positions of judges and prosecutors and others.

22 The specified programs will also include a training program on “Professional Integrity and Ethics in Public Administration”.

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96 civil servants holding chief, lead and junior positions have been trained by the RA Civil Service Council approved training programs /on corruption and ethics related topics/, on “Integrity in Civil Service”, “Fight against Corruption”, “Access to information and PR Support in Public Administration” respectively.

Out of ninety six civil servants:

14 have been trained by “Freedom of information” NGO according to the program approved by Decision N 305-A;

52 have been trained by “Law institute of the RA Ministry of Justice” according to the program approved by Decision N 1080-A;

30 have been trained by “Union of Armenian Government Employees” NGO by the program approved by Decision N 937-A.

As it was previously mentioned on June 21, 2014 the National Assembly adopted the RA Law “On Making Amendments and Supplements” to the RA Law “On Civil Service”, which envisages that from 2017 a “Final Evaluation/Appraisal” of civil servants in the Civil Service System will be in place. This new evaluation system is meant to ensure measurable performance indicators on training results and impacts. The Civil Service Council shall coordinate the procedure.

Activities on developing new distance training modules (7 in total) for civil servants are underway.

It should be also mentioned that the judicial servant’s Code of Conduct, its specifics and nature, as well as the necessity of mandatory storage defined by the order No-13-N issued on 06.10.2007 by the RA Council of Court Chairmen are made as a study subject for the subsequent training course organized for judicial servants conducted during May-July 2015.

Besides, it should be mentioned that the Action plan of the anticorruption strategy stipulates special measure concerning training of public servants on the topics of fight against corruption, establishing lawfulness/integrity and skills on application of the legislation on freedom of information (Point 33, action plan). Trainings on abovementioned topics will be also provided to public servants in the scope of the CoE/EU Eastern Partnership Programmatic Co-operation Framework’s regional project on “Fight against corruption and fostering good governance; fight against money laundering”.

As it was already mentioned in previous recommendations the point 8 of the anticorruption action plan states that a body responsible for coordinating the activities of the units exercising supervision and control over the observance of requirements of the rules of conduct in the selected sectors of public service (ethics commissions or entities responsible for ethics-related issues)should be appointed. The mentioned body will provide methodological guidelines and conduct training for those units by the given body.

The Ministry of Justice has agreed with GIZ to organize trainings for public servants on anticorruption, ethics, freedom of information. The trainings are planned to be organized till November, the final date is not yet decided.
the Ethics Commission of the High Ranking Officials have delivered anticorruption/ethics training as mentioned above.

Civil Service Council has approved the training programmes on integrity in civil service, fight against corruption and access to information. The distance training module is being developed as well for civil servants.

In relation to the second part of the recommendation, no performance indicators have been introduced to measure effectiveness of the trainings, neither have the methodological guidelines been provided in this regard. Further information refers submitted by the Government to the future plans in this area.

In conclusion, Plenary noted progress in relation to this recommendation in connection to the conducting of the trainings and approval of the training programmes.

**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;

Finalize inspections reforms with the involvement of the relevant stakeholders;

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

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**Measures taken to implement the recommendation as reported by the Government**

In the main directions of economic development one of the problems is introduction of the regulatory impact assessment instrument in legal acts development process.

In 2014 more than 230 draft legal acts have been assessed by the Ministry of Economy which is making Regulatory Impact assessment and giving conclusions in 2 areas

1. Economy, including SMEs
2. Competition.

In cooperation with Civil Service Council in order to strengthen capacity of civil servants in area of Regulatory impact assessment have been organized 4 trainings for civil servants from different ministries and other bodies. More than 100 civil servants participated in those 2 weeks trainings, which is include themes about the steps of ex-ante and ex-post RIAs, how to conduct public consultations, how to draft legal acts and etc. We are planning to continue those trainings next years.

As a result of implementing of RIA system in Armenia the following targets expected to be achieved.

1. Increase of the economy competitiveness.
2. Provide transparency of making decisions in the lawmaking process and increase involvement of publicity and stakeholders in decision making processes.
3. Increase the effectiveness of reviewing legal acts that will strengthen trust and confidence of the publicity and business environment towards law drafting and adaptation process.

4. Develop regulatory impact assessment criteria. As a result decision making process will be more justified.

Methodological guideline on preliminary and further assessment of the regulatory impact is being developed by GIZ.

In 2014, with support of the EU, Armenia has applied, and starting from 2015, additional programs are being realized. For instance, in the sphere of justice a new e-penitentiary system is introduced, e-notary, e-register system are being improved and actually it is possible to make online changes related to the directors. The e-Armenia Project Closing Conference took place in Yerevan on 15 December 2014. Chief of Staff of Government, Mr. Davit Harutunyan provided overview of recent developments in his presentation. He demonstrated the potential of electronic Civil Status Registry, e-Police developments and launched a new e-Citizen portal that allows people to check their data in government databases as well as receive electronic mails and SMS notifications from the government. Videos related to 6 services, such as notary, civil status act registration, etc., has been already made.

On July 31, 2014, the Government approved Armenia’s second action plan under the Open Government Partnership initiative. Of around 50 proposals submitted by the Government and civil society, 11 have been selected for inclusion in the Action Plan, which meet the values and format of the OGP project. The Action Plan has gone through several stages of public consultations, as well as repeatedly discussed at the OGP task force meetings. The obligations set out in the document are aimed at ensuring transparency and accountability in mining, healthcare, education, local government, and other areas, as well as promoting public participation, strengthening public integrity, enabling greater access to information. The Government has expressed readiness to discuss with civil society the mechanisms for the implementation of those recommendations not included in the Action Plan outside the OGP initiative. In the framework of the OGP, the electronic website of Financial portal of Ministry of Health was created. The website is www.she.am. Every interested person can find appropriate information concerning state-guaranteed free and discounted medical care and service programs. In the same time, there was planned a website, which will contain analytical information and reports of these programs. Currently this website is being built. In the system of Finance, endeavors are being made in order to get necessary equipment for the broadcasting of the sessions at the public procurement appeals board. With regards to the public awareness on the lawmaking activity of state governance bodies, there have been regulated the rules for legislative drafting rules. all the registration process of the legal acts will be made electronically. The conservation methods of normative legal acts will gradually shift from paper conservation version to electronic versions of. Electronic archiving system will be implemented. The retention and archiving of normative legal acts will be electronic, as well as the "official bulletin" will be published in electronic form. Currently the possible technical solutions for creation of such a platform are being discussed. The rules for formation of the management body of "Public Secondary Educational Institution" public nonprofit organization have been amended edited by the Republic of Armenia "state institution" non-profit organization collegial management body on the order. At the same time, the rules for annual budget planning and annual cost report of Public Secondary Educational Institutions is being elaborated and will be submitted to the Government for approval.

The Commission on Ethics of High-Ranking Officials has contributed to making the OGP platform operational for promotion of transparency and accountability. In the scope of

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anticipated platform activities, the Commission has elaborated a draft Government Decree with the aim to ensure broader openness of declaration data, by eliminating thresholds of assets and transactions subject to publicizing. The mentioned decree has been discussed with the CSOs of the OGP platform and was adopted by the Government on the February 19, 2015. The annual declarations of 2014 will be publicized according to the new procedure.

During 2014 there were carried out tax and customs reforms according to the main principles of reforms in the tax and customs sphere defined in the program of RA government. Particularly, state bodies continued the works directed to the adoption of a national policy of tax and customs according the economic development concept. There were undertaken important steps in order to prepare a favorable tax environment for the small and medium-size businesses and improve business atmosphere. The adoption of several legal regulations was aimed at the achievement of these goals. (the bill on tax exemption of business families, the bill on tax exemption of entrepreneurs functioning in borderline villages, the bill on reduction of tax burden of small and medium-size business, the bill on elimination of threshold applicable on the period of VAT payment for the goods imported through the customs border within the investment projects. These changes prepared a vital ground for the electronization of the write off process of accounting documents by enterprise representatives. The full electronization of tax accounts starts in 2015, and electronization of other accounting documentation will be made in 2016. The works for the creation of a tax code were initiated in 2014 in order to make a stable and predictable atmosphere for enterprise representatives.

There were also made necessary administrative activities in order to improve service mechanism, particularly, to implement self-evaluation and effective informative systems for tax payers and to simplify the administrative activities in the sphere of taxes and customs.

A draft decision of government on establishing the national program against tax evasion and tax law violations and measures for the fulfillment of this program during 2015-2017 was prepared and submitted to the RA government's discussion. This documents aims to reduce shadow business, create effective measures for control of intentional violations of tax legislation and make proper legislative and administrative grounds.

The project on institutional administration activities was prepared and approved by RA government. The purpose behind this project is to ensure the participation of various state bodies in the institutional administration activities in certain spheres. All state bodies are considered to show high interest and undertake effective measures in the scope of their functions for proper registration of results in their fields. The main stream of the project is focused on those fields of the economy which are more risky from the perspective of tax registration and supervision.

The tax payers’ disciplinary program was established by the order of RA minister of finance. This program establishes the main points of the measures and actions which shall be carried out in order to improve discipline among tax payers.

In our way of finalizing inspection reforms "Concept of optimization inspection system" adopted by Government in November 2014, and the law on "Inspection bodies" comes into force since January 2015. All relevant stakeholders are involved during these processes including both legal acts' content development. Relevant stakeholders including NGOs participate in Inspection reform coordination council.

**Assessment of Progress - 15th Plenary**

**PROGRESS**
Monitoring experts note considerable progress made by the GoA in cooperation with the Civil Society towards implementation of all parts of this Recommendation and would like to encourage Armenia to continue with the launched reforms and measures.

16thACN Istanbul Action Plan Monitoring Meeting, 7-9 October, 2015

Measures taken to implement the recommendation as reported by the Government

The full-fledged introduction and implementation of the regulatory impact assessment (RIA) system is one of the main priorities on the reform agenda of the Government. There is a list of targets to be achieved in the result of the RIA implementation, in particular:

- Enhancing economic competitiveness;
- Increasing transparency and public and stakeholder inclusion in decision-making in the lawmaking processes;
- Increasing effectiveness of reviewing legal acts and, hence, strengthening public and business trust and confidence towards the process of law drafting and adoption.
- Developing regulatory impact assessment criteria in order to strengthen the grounds of the decision-making.

The Ministry of Economy of the Republic of Armenia implements the RIA and gives conclusions in two areas, namely: 1) Economy, including SMEs; 2) Competition. During the first half of 2015 more than 180 draft legal acts have been assessed.

It is also aimed to strengthen the civil servants’ capacity in the area of RIA via continuous training programs. During the current year in cooperation with the Civil Service Council of Armenia training was organized for the civil servants from different ministries and other governmental bodies. More than 25 civil servants participated in those two-week trainings, covering the issues of the steps of ex-ante and ex-post RIAs, how to conduct public consultations, how to draft legal acts, etc.

The Government of the Republic of Armenia continues the work concerning the introduction of electronic services, the elimination of administrative barriers. Particularly, in the Anticorruption new strategy several measures are provided for the introduction of electronic services, which are included in the Chapter related to the establishing an efficient system of public administration of the action plan 2015-2018 for the Implementation of the Anti-Corruption Strategy of the Republic of Armenia. The Government of the Republic of Armenia, by the assistance of the European Union, in 2015 continues the introduction of electronic services and their improvement, particularly, by the contribution of the European Union, a competition was held and a contractor was elected, also an e-penitentiary system was selected by which all the sectors of the penitentiary, e-probation system and all the issues related to the justice of minors are digitalized.

With the support of European Union in the system of e-registration a program was started, by which all the services connected with legal entities and private entrepreneurs will be electronically (ex. Registration of directors etc).

Civil registration acts are connected with Institutions of health, National statistical service, Police and Ministry of foreign affairs of the Republic of Armenia.

Now the system of e-citizen is launched and the unified platform for public discussion of legal acts is at the phase of improvement. It is also important to mention that the draft on “Provision of official e-mail, as well as cases and procedure of provision of information about e-mail address” was sent to the Government of the Republic of Armenia for the confirmation.
The Republic of Armenia constantly aspires to take advantage of every opportunity to ensure a functioning democracy. In this regard the Open Government Partnership (hereinafter OGP) is highly valued as a mechanism to enhance the open, efficient and accountable operation of the government, as well as a mechanism to trigger active public participation in public administration. The OGP is a voluntary, multi-stakeholder international initiative and its central mission is to have such institutions that promote active citizen participation in decision-making and policy-making processes and to make dialogue between government and civil society.

Armenia’s involvement in the OGP initiative is notable, especially, due to the active participation of the civil society. In the last decade Armenia has hardly had as much public participation in larger programs as it witnessed in the course of the preparatory work for the draft second AP.

Jointly with the representatives of the civil society, the RA Government launched the development of the second AP, on the basis of the recommendations of the independent reporting mechanism (hereinafter IRM) and with a consideration of the unprecedented experience gained as a result of the development of the OGP – First Action Plan for the Republic of Armenia and its implementation in the autumn of 2013.

The second AP has been drawn up based on the recommendations put forth by both the Government and the civil society, involving areas such as mining, health care, education, local self-government, freedom of information and so on. 8 of the 11 commitments involved in the plan have been incorporated from the proposals received from the civil society, and the remaining 3 were proposed by the RA Government.

A new working group has been established to develop the plan and to coordinate the deriving actions (by the respective decision of the RA Prime-Minister). The new working group was composed of the representatives of 8 non-governmental organizations (hereinafter NGO), namely, all the NGOs that were interested in being involved in the working group and applied with the corresponding request. The working group is a platform that allows identifying the issues of civil society engagement and participation in good governance, to discuss and try to find relevant solutions to overcome problems, as well as to activate further cooperation with civil society.

The Second AP was approved by Protocol Decree N. 32 of the RA Government, dated July 31, 2014. The implementation of some commitments was launched in September, 2014. It has been about a year since the launch of the Plan, during which numerous meetings and discussions have been held within the framework of the dialogue platform between the civil society and the government at the initiative of both the Government and the NGOs. It should be noted that the meetings/discussions were open and were attended not only by the members of the working group, but also by the representatives of all stakeholder NGOs, state agencies, and partner international institutions.

The results of the meetings/discussions have been published on the www.ogp.am website in the form of brief overviews and have been publicly accessible. All the received recommendations, whether incorporated in the AP or not, and the comments of the RA Government have been published on the same website.

Individual commitments and their implementation processes, as well as other issues related to the OGP process have been also discussed.

Now Armenia is in the middle of implementation of our second 2014-2016 Action Plan.

The Ministry of Justice , as the other state bodies, has cooperated with NGOs, within the scope of OGP actions. The Ministry of Justice together with the “Araza” NGO has elaborated a draft Governmental decision on “Model rules of procedure of the Public Councils adjunct to Ministers of the Republic of Armenia”. The draft was discussed during the first sitting of the Anticorruption Council and will be approved by the end of September, 2015.

According to Armenia’s OGP commitment related to the increasing transparency of declarations of property and income of high-ranking officials, the Government of Armenia - based on the draft submitted by the Commission on Ethics of High-Ranking Officials - adopted a decree N 150 of February 19, 2015 on removing all the thresholds that were set for the property transaction data to be published. In the reporting period, the asset declarations submitted to the
Ethics Commission were published according to the new regulation that has increased public officials' and their related persons' asset data transparency and accessibility to the general public.

In September 2014 the Government adopted the new Concept on the Optimization of the Inspection system. The goal is to increase the overall effectiveness and transparency of the inspection system by establishing modern inspection system based on the principles of regulatory enforcement and inspections. This reform is believed to have a positive impact in terms of reducing further the corruption risks.

All relevant stakeholders are involved in the processes of inspection reforms including as well the drafting of the legal acts. Relevant NGOs are represented in the Inspection Reform Coordination Council.

In December 2014 The Law of Inspection Bodies was adopted by the Parliament. It introduces new governance system in inspectorates, allowing the Government to make institutional changes in the whole inspection system. This should lead to the reduction of the number of inspection bodies (currently 15 bodies have the right to conduct inspections). The new governance system was designed according to the OECD Regulatory Enforcement and Inspections principles.

Other important changes have been made, including:

- the establishment of the new dispute resolution system,
- the development of more transparent governance system with direct involvement of NGOs,
- the introduction of performance management mechanisms, and
- the establishment of data management IT tools to allow inspectorates to share and effectively process operational data.

The full implementation of the Law is planned to finish during next 3 years.

Currently the actions are in progress towards the further improvement of tax system, ensuring stability and developing predictable business environment. Particularly in result of the studies of international practice the drafts of tax code structure and general part have been projected which was agreed with the organizations representing the interests of taxpayers, the general part of the tax code was submitted to the World Bank for review. Currently actions are in progress towards drafting special part of tax code.

At the same time, from the point of tax policy the frame of main issues has been determined, concerning broadening of tax base, changing tax rates, reviewing taxation systems, mechanisms. Researches are conducted towards the aforementioned directions assessing state budget tax revenues, the country’s investment attractiveness, the competitiveness, inflationary pressure, the impact on anti-corruption area and their possible impacts on the effectiveness of tax administration.

In parallel, we are actively cooperating with experts involved in the tasks of drafting tax code by World Bank support and with World Bank partners.

Conditioned with the membership to the Eurasian Economic Union, actions have been performed towards harmonization of legal regulations of Republic of Armenia Customs with the adopted laws and Eurasian Economic Union’s customs legislation. At the same time package of legal acts have been drafted with the aim to make changes in liability rules designed for violation customs rules.
In relation to the Regulatory Impact Assessment, government reported about the current practices of RIA by the Ministry of Economy and the future plans of full its introduction. It was noted that in 2015, 180 draft legal acts have been assessed. Additionally, trainings have been carried out for the civil servants on the mentioned subject. However, it is not possible to assess the quality of the assessment as a part of the progress update procedure. At the same time it should be mentioned that the NGOs remain skeptical as to its quality and real use.

On e-government tools, Government reports about the initiatives in penitentiary, probation system and juvenile justice and some improvements of the e-citizens portal.

Since the 3rd monitoring round Armenia has intensified the work under OGP which led to the adoption of the second OGP Action Plan, however, lately and especially during the reporting period, the processes seem to be driven by the NGOs not the Government. After the adoption of the second OGP action plan in July 2014, no major activity has been initiated by the Government as reported by the CSOs. OGP working group has become passive as reported by the NGOs. Thus, the proactivity of the Government is lacking in the area. At the same time, NGOs seem to be active in promoting OGP at the local level, including initiating the meetings and running the portal ogp.am (run by FOICA). Government further reports about the status of implementation of 2 commitments under the OGP action plan – the government decree related to the public councils and the asset declarations.

Advancements are evident in the area of the inspection reform and the tax reform. In particular, implementation of the new concept for optimization of the inspection system as well as newly adopted law (December, 2014) on inspections is underway, that should lead to the reduction of the inspectorates. Government also reports about the changes aimed at establishing the new dispute resolution system, more transparent governance system, introduction of the performance management mechanism and IT tools to process and share the operational data related to inspections. Regarding the tax reform, the major development is related to the process of the drafting of the new Tax Code, specifically, the general part of the new tax code was submitted for review to the World Bank.

Overall, plenary concluded that that is some progress in implementation of this recommendation.

**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.


*Measures taken to implement the recommendation as reported by the Government*
Within the scopes of the European Union Twinning Project on strengthening the regulatory and institutional framework of public internal financial control and supporting the central harmonization Unit in its role of operationalizing the new systems in the Republic of Armenia a seminar was organized from 2 to 5 of February named "State internal financial control" for the public administration bodies and Yerevan municipality officials. Particularly, the staff heads of RA governmental bodies (chief financial officers) and heads of financial-economical departments participated in this event.

The purpose of the seminar was to introduce the participants with the state internal financial system (SIFS), to encourage the high ranking public officials to promote the SIFS, to present the challenges concerning the SIF system, as well as to increase the information level of administrative bodies on the financial management system and its possible risks.

As far as major changes are occurring in the structure of the RA Ministry of Finance, which affect the process of public financial control and reforms, the Ministry of Finance submitted a bill to RA government, which is aimed at prolonging the period of the measures for the financial management and control up to the 2016. This period was approved by the 15th section of RA Government's N 15 Decree, dated 11 November, 2014 on 2010-2014 activities plan of state internal financial control system implementation.

**Assessment of Progress - 15th Plenary**

**LACK OF PROGRESS**

To demonstrate progress under this extensive recommendation, the GoA has reported holding one training which would fall in the scope of the last element of the recommendation. The monitoring experts came to the conclusion that such little efforts cannot give grounds for recognition of progress under the Recommendation.

**16th ACN Istanbul Action Plan Monitoring Meeting, 7-9 October, 2015**

**Measures taken to implement the recommendation as reported by the Government**

For the improvement of the mechanisms of detecting and presenting “fraud” and “incidents of corruption” and collaboration with internal audit systems the Chamber of Control of the Republic of Armenia has taken several measures, particularly:

- The respective workers of the Chamber of Control of the Republic of Armenia, retrained according to the financial and compliance audits' guidelines (which include mechanisms of detecting and presenting "fraud" and "incidents of corruption" and collaboration with internal audit systems) developed for the Chamber of Control of the Republic of Armenia according to the International Standards of Supreme Audit Institutions and supported by World Bank, have carried out pilot audits. Particularly, in March and May pilot audits have been carried out in Human Rights Defender’s office and the office of the Judicial Reform Implementation Unit.
- In April, 2015, with the aid of GIZ a seminar on introduction of standards of measurement of implementation through self-assessment was held at the Chamber of Control of the Republic of Armenia. The seminar also touched upon the subjects of the mechanisms of detecting and presenting "fraud" and "incidents of corruption" and collaboration with internal audit systems.
- At the beginning of June, 2015, a workshop financed by a World Bank grant on the very above-mentioned subject with participation of the leadership of the Chamber of Control
of the Republic of Armenia was organized by GIZ in Tsakhkadzor. The participation of the Chamber of Control of the Republic of Armenia was supported by "Corporate Solutions Consulting" LTD and "PHP Audit" CJSC.

- With the aid of GIZ, which is involved in the work on reformation based on revised strategic development program and action plan, in June, 2015, the delegation of the Chamber of Control of the Republic of Armenia made a study tour to Lithuanian National Audit Office for a study of SAIs international best practices of development and submitting of conclusions on the yearly reports about the implementation of state budget. The results of the study tour were discussed at the seminar organized in July 2015 and then summarized and presented to the Board of the Chamber of Control of the Republic of Armenia as well as to donor organizations.

- In June, 2015, with the aid of GIZ, a workshop was held in the Chamber of Control of the Republic of Armenia on performance audit. An international expert from the German SAI took part in the workshop.

- With support of GIZ, in June 2015, a representative of the Chamber of Control of the Republic of Armenia took part in the 2nd meeting of INTOSAI Task Force on Procurement Contract Audit, held in Moscow, Russian Federation.

- In July, 2015, a workshop was held in Yerevan on the results of the study tours organized for the study of best practices of external audit of the implementation of state budget as well as on further tasks.

- In July, 2015, a regular meeting of the Group of Key Stakeholders in Public Funds’ Management (Supreme Audit Institution, National Assembly, Ministry of Finance) was held in Yerevan on the improvement of the practices of the external financial audit.

- At the end of July, 2015, a workshop was held on the draft of the Guidelines on Auditing of State Procurement developed by Transparency International Anti-corruption Center. The leaders of the Chamber of Control of the Republic of Armenia and Transparency International’s expert on state procurement and the CEO, the latter being also the head of the project on the subject took part in that workshop.

- An agreement has been reached with World Bank to carry out a pilot audit in the Ministry of Nature Protection in September, 2015. The Chamber of Control will be supported by "Corporate Solutions Consulting" LTD and "PHP Audit" CJSC.

- Another agreement has been reached to arrange a workshop with participants from GIZ, the CoC and the Ministry of Finance rearrangement of interaction between internal and external audits’ systems.

It should be mentioned, that there were some basic structural changes in Ministry of Finance (MoF), which had influenced on public internal financial control processes. Due to these, the Ministry of Finance has undertaken arrangements to make amendments in RA Government protocol decree No 44 of 11 November 2010 defining the PIFC Strategy and Action Plan for 2011-2014. The MoF elaborated a draft of PFM revised Reform Strategy of the Government of Armenia and PFM Action plan for 2015-2020 years, which will be sent to Government as soon as possible. The revised strategy also includes issues, as well as the measures aimed to be regulated related to the PIFC Strategy during 2015-2020. Some measures related to FMC are aimed to extend the terms for their implementation until 2020.

Ministry of Finance has undertaken amendment arrangements in the acting regulation defining internal auditors’ certification procedures to provide sufficient human resources to conduct internal audit at the public sector organisations and to improve certification programme of internal auditors. In particular, Decree No 118-N of 22 January on Making Amendments in Government Decree No 176-N of 13 February 2014 has been approved by Government for the purpose of provision of certification examination procedures simplification and increase of quantity of certification process participants. One stage examination, which is stipulated in the above-mentioned decree, will facilitate certification procedures.
In order to ensure that compliance audits of good quality are conducted by internal auditors the order No 541-N of 21 August 2014 on Approving the Regulation of Continuous Professional Development of Internal Auditors has been approved by the Minister of Finance. The order stipulates obligatory annual trainings for the qualified internal auditors of public sector. For assessing the knowledge that internal auditors have obtained during continuous professional development trainings, corresponding amendments in the above-mentioned order have been defined by Order N 26-N of 27 January of the Minister of Finance. According to the amendments internal auditors have to pass tests after the trainings, composed within the framework of provided material.

According to preliminary agreement with GIZ it was foreseen to conduct 5 pilot audits in state and local organizations with assistance of international experts. 2 pilot audits are already in progress. Audit manuals concerning audit techniques will be developed based on the results of pilot audits. This will improve the level of compliance audit quality.

For the purpose of capacity building of the CHU team and people engaged in the fields of internal audit and financial management and control Twinning project experts with CHU members conducted training need analysis and based on the results drafted Public Internal Control Strategy and Training Plan for 2016-2020. The draft strategy pays specific attention to the IIA internal audit standards and practice advisories, the scope of CPD training material, including practical issues of the methods and techniques applied during compliance audits. In addition, amendments have been done in the order N 1096-N of 12 December 2012 of the Minister of Finance on Approving the Regulation Model Form of Internal Audit and Features of Its Preparation Procedures by Order N 177-N of 1 April 2015 of the Minister of Finance. The order clearly defines the requirement for including the processes of presenting the information about the organization and execution of procurement procedures to internal audit unit in the Internal Audit Regulations.

Simultaneously some other amendments have been done in the order N 143-N of 17 February 2012 of the Minister of Finance on Approving the Guidelines for Developing Manuals for Internal Audit of Public Sector of the Republic of Armenia and Statute of Internal Audit by Order N 178-N of 1 April 2015 of the Minister of Finance. The order envisages the requirements for procurement audit execution issues, in particular, it is stipulated that at least 30% of all procurement processes below 20 million AMD, and all procurements above 20 million AMD should be audited.

Besides, EU Twinning project organized a workshop on 2-5th February 2015 on Public Financial Internal Control for the heads of the administrative bodies and financial management staff from 42 state bodies and Yerevan municipality. The workshop aimed to present Public Financial Internal Control system, encourage the contribution of the high level managers, present the challenges for PIFC reform programme, as well as to raise the awareness of Financial Management, Control and possible risks.

Assessment of Progress - 16th Plenary
PROGRESS

Limited gradual progress has been noted in relation to the recommendation. As reported by the Government, CoC conducted pilot audits in a number of Government agencies in line with the newly adopted compliance audit manual in accordance with ISSAIs. Also, the Government reported about a number of trainings, seminars and workshops at the Chamber of Control to address among other issues, improving the mechanism of detecting the fraud and incidents of corruption and the Chamber of Control alerting law enforcement on the suspicions of corruption. As regards IA, Certification Program for Internal Auditors has also been revised by MoF, but no information has been provided as to the quality of improvements to the program.
Plenary welcomed updating PIFC strategy by the MOF to cover period 2015-2020 (about to be sent to the Government for approval), but no independent evaluation of the effectiveness of the measures to implement the previous PIFC 2011-2014 strategy and action plan has been performed and it cannot be demonstrated that the new strategy reflects existing risks and challenges of the FMC reform. Therefore, while the experts would like to recognize progress made in the area of internal and external audit, a lot more can be done to implement financial management and control (FMC) elements, where no tangible progress was noted. Plenary strongly encouraged Armenia to address the other elements of the recommendation in the same spirit.

Overall, **limited progress** could be noted in this area.

**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.


**Measures taken to implement the recommendation as reported by the Government**

A lot has been done in the Republic of Armenia to enhance the electronic procurement system (ARMEPS) in the recent months. With the support of the World Bank the Armenian Ministry of Finance has almost completed tendering for three additional modules initially outside the scope of ARMEPS, namely - electronic planning, electronic contract management and statistics/reporting. It is also envisaged to include the electronic procurement system as a part of a bigger GFMIS (Government Finance Management Information System) that will be comprised of public accountancy, budgetary system, treasury system and public procurement. Now the authorities are working on technical specifications for the system. The Government Decision on electronic procurement system was amended in December 2014. In accordance with the latest amendments from April 1st 2015 all state bodies and city communities have to conduct open, simplified procurement procedures and procurement under framework
agreements via ARMEPS. Thus Armenia is moving towards covering all contracting authorities and all procurement procedures by the electronic procurement system.

All of the relevant information is published in the www.gnumner.am website. Open tender notices are published in the website also in English and in Russian and in case suppliers need invitations in English or Russian they can ask the contracting authorities to provide the translated versions. They will have to pay just the costs of the translation and delivery.

In the Republic of Armenia a new draft laying down mechanism for qualification of procurement coordinators and their trainings has been drafted. The draft is now being discussed by the Government and Armenia is hopeful to have the new mechanism in place in the near future. Mainly it is envisaged that every procurement official should take this training at least once in three years. Head of the contracting authority should submit to the Procurement Support Center list of its employees who need to be trained. PSC then comprises groups and timesheet for the trainings for that year. The topics are submitted by the PSC to the Ministry of Finance and have to be approved by the latter. Armenia is now discussing the possibility of including practical assignments in the course of trainings alongside with the amendments to the law.

Procurement support center is providing selective reviews of tender documentation (including qualification criteria and tender specifications from point of view of non discrimination) of the announced procurement procedures and it publishes its findings (both positive and negative) in the www.gnumner.am website. Also the explanations of Contracting Authorities to the PSC findings is being published in the same website and the decision of the PSC on accepting or not accepting the explanations is also published.

Members of the Procurement Review Board are obliged to sign documents related to the absence of conflict of interest and this document is published in the www.gnumner.am website. Members of the evaluation committee also are signing such document which is not published though. As now the public procurement law is being amended and we will take the recommendations on declaration of conflict of interest into account.

The Republic of Armenia has drafted new version of the decree N 168-N regarding the details of each procurement procedure and phase. One of the main improvements of the decree relates to the list of procurement subjects that can be procured from single source. The list is essentially reduced now and education services, healthcare services, telephony services are taken out from the list.

It was obvious that substantial part of single sourcing was for education and healthcare services. As it is mentioned under point 6, now these services are taken out from the list of single sourcing from 31st of December 2015 and Armenia hopes now the numbers will drop dramatically. Another measure introduced in the new 168-N decision is that the pre-qualification requirement when using negotiated procedure with publication of announcement is eliminated. So in cases of urgency contracting authorities can use also this procedure as it is also a rapid one but provides for more transparency and competition. Also in cases of single sourcing it is envisaged to have a mini tendering, i.e. Asking for price quotation from at least three suppliers and also publishing the invitation in the www.gnumner.am website.

**Assessment of Progress - 15th Plenary**

**PROGRESS**

Taking into account information provided by the GoA, the monitoring experts recognize limited progress made under this recommendation and would like to stress the need to further monitor effectiveness of the introduced measures.
**Measures taken to implement the recommendation as reported by the Government**

A lot has been done in the Republic of Armenia to enhance the electronic procurement system (ARMEPS) in the recent months. In accordance with appropriate decisions of the Government, amendments have been made to the electronic procurement decree, based on which from 1st of April 2015 simplified procedure for the procurement of the needs of state bodies and open, simplified and framework agreements procedure conducted by city communities shall be carried out electronically. From June 13th 2015 procedure of negotiated procedure with announcement conducted by the abovementioned contracting authorities shall be carried out electronically. This means that currently all competitive procedures (except for competitive dialogue) for the procurement of the needs of the RA state bodies and city communities are being carried out electronically through the electronic procurement system whilst before 1st of April 2015 only open procedure and framework agreements procedure for the procurement of needs of state bodies were being carried out electronically.

Simultaneously with the support of the World Bank a contract was signed on 30th of April 2015 for the procurement of three new modules - procurement planning, contract management and reporting modules, that are envisaged to be deployed from October 2015. With the purchase of the modules, all the stages of the procurement process will be automated as a result of which implementation of procurement processes will be more efficient and transparent.

Currently measures are undertaken to start conducting negotiated procedure without announcement on the basis of urgency electronically until the end of 2015.

All of the relevant information is published in the www.gnumner.am website. Open tender notices are published in the website also in English and in Russian and in case suppliers need invitations in English or Russian they can ask the contracting authorities to provide the translated versions. They will have to pay just the costs of the translation and delivery.

The Government Decision N 99-N dated 12.02.15 approved the regulations for the award of qualification to the procurement coordinators and continuous professional development of the qualified procurement coordinators. Mainly it is envisaged that every procurement official should take this training at least once in three years. Head of the contracting authority should submit to the Procurement Support Center list of its employees who need to be trained. PSC then comprises groups and timesheet for the trainings for that year.

The Decree of the Minister of Finance N 247-A dated 27.04.15 has approved also the program and topics for the continuous professional development of contracting authorities envisaged by the RA Law “On Procurement”.

In May-June 2015 the Procurement Support Center has compiled and published on the www.gnumner.am website the timetable and groups for the trainings in 2015 and from 2nd of July 2015 trainings have commenced.

Procurement support center is providing selective reviews of tender documentation (including qualification criteria and tender specifications from point of view of non discrimination) of the announced procurement procedures and it publishes its findings (both positive and negative) in the www.gnumner.am website. Also the explanations of Contracting Authorities to the PSC findings are being published in the same website and the decision of the PSC on accepting or not accepting the explanations is also published.
Members of the Procurement Review Board are obliged to sign documents related to the absence of conflict of interest and this document is published in the www.gnumner.am website. Members of the evaluation committee also are signing such document which is not published though. As now the public procurement law is being amended and we will take the recommendations on declaration of conflict of interest into account.

The Government Decree N 105-N dated 30.01.15 has amended the main regulation implementing the Law "On Procurement". One of the main improvements of the decree relates to the list of procurement subjects that can be procured from single source. The list is essentially reduced now and education services, healthcare services, telephony services are taken out from the list.

It was obvious that substantial part of single sourcing was for education and healthcare services. As is mentioned under point 6 now these services are taken out from the list of single sourcing from 31st of December 2015 and Armenia hopes now the numbers will drop dramatically. Another measure introduced in the new 168-N decision is that the pre-qualification requirement when using negotiated procedure with publication of announcement is eliminated. So in cases of urgency contracting authorities can use also this procedure as it is also a rapid one but provides for more transparency and competition. Also in cases of single sourcing it is envisaged to have a mini tendering, i.e. Asking for price quotation from at least three suppliers and also publishing the invitation in the www.gnumner.am website.

Simultaneously the Decree N 105-N dated 30.01.2015 (entered into force 01.04.15 and discussed with Sigma and "Transparency International" anticorruption center experts) has regulated the following recorded main issues:

- The previous regulation provided opportunity for the contracting authority to extend the validity period of the contract before its expiry for an unlimited period and that was making possible to set such a procurement performance term that was resulting in decrease of competition and corruption practices.

The new regulation limits the mentioned powers of the contracting authority by allowing to extend the term of the contract only once and only up to 30 calendar days.

- Under the previous regulation the Suppliers were not submitting technical specifications of the goods they are suggesting together with other tender documents as a result of which the contracting authority was not able to assess the equivalence of goods at the tendering stage. The assessment of equivalence was possible only when the goods were delivered to the contracting authority and that was endangering the implementation of projects by the contracting authority and was increasing the risk of abuse.

The new regulation made the submission of technical specification of the goods together with the bid and its evaluation at the tendering stage mandatory. Moreover, if the technical specification of the good is assessed as satisfactory it is included in the contract to be signed.

- In accordance with the previous regulation in case of procurement of construction works the Suppliers were providing the estimates of unit prices for different types of works by themselves without taking into account the unit prices envisaged in the estimates that were drafted based on the expertise. As a result prices for different types of work, that have to be mandatorily performed inter alia at the initial stages, were submitted essentially higher (that was in fact considered as an advanced payment) and the works that had to be performed in the final stage or during upcoming years were submitted essentially lower than the prices of the estimate.
The new regulation envisages that in case of procurement of construction works the Suppliers will not submit estimates filled in by themselves and the payment for the performance will be made by multiplying percentage ratio of the savings recorded against the estimated price by the unit price of the work envisaged in the estimate that was drafted based on the expertise.

- In accordance with the previous regulation the contracting authority was checking selectively if the Suppliers have tax debts as a part of checking Suppliers eligibility envisaged in the legislation. This fact was allowing the contracting authority to manage the procurement process.

The new legislation makes it mandatory to check the information on the tax debts of the suppliers ranked 1st and 2nd through appropriate authorities.

- The previous legislation envisaged that state and community non state organizations had to conduct their procurement processes by themselves. This was not ensuring efficiency as the mentioned bodies are lacking appropriate skills as well as the procurement was not being organized electronically and with economically favorable terms.

The new regulation envisages that the procurement for the needs of state or local non-commercial organizations that are under the supervision of the state and local self-government bodies will be organized by the staff of the supervising body while leaving the functions of the approval of the procurement request, bid assessment, deciding the winner, accepting the result of the contract and making payments to the organizations. In this case the procurement will be carried out electronically.

- In order to decrease the volume of mediated procurement for all cases of procurement through framework agreements eligibility and qualification of the Suppliers will be checked. In accordance with the previous regulation the Suppliers were submitting only price proposal.

- In cases of procurement of goods it is envisaged to make mandatory the presence of quality certificate and original packaging.

- The relations pertaining to the acceptance of the contract results are regulated. Namely, it is envisaged that the acceptance act of the contract subject can be approved only if there is a positive conclusion of the official who has drafted the technical specification. It is also envisaged that on the day when the goods are accepted to the warehouse the acceptance act, the conclusion and the order of acceptance to the warehouse should be submitted to the financial service of the body which will give opportunity to control operatively whether the goods are delivered and check the day when they are delivered.

- A new mechanism for decreasing the price of the contract if the price of the goods has decreased in the market is installed.

- The power of the contracting authorities to terminate the contract with without applying any sanctions against the Supplier that performs his/her contractual obligations improperly is limited.

- The powers of the contracting authorities to cancel the procurement procedure based on the fact that the need ceased to exist, is limited and can be done only with the approval of the RA Government. The limitation will increase responsibilities of contracting authorities when organizing procurement procedures, will eliminate improper attitude towards procurement planning and process organization.

Besides the abovementioned and in order to ensure appropriate control over the procurement processes by the heads of the bodies, the legislation of RA on internal audit makes
it mandatory for the internal audit department of the bodies to conduct internal audit of all the procurement above 20 million AMD including the performance of the contract.

**Assessment of Progress - 16th Plenary**

**PROGRESS**

A number of significant steps undertaken by the Government of Armenia were noted by the experts. As compared to the previous reporting period, a number of amendments have been introduced to the procurement secondary legislation in response to the recommendations. More specifically, the use of e-procurement system has been extended to cover municipalities as well, along with central government bodies. Additionally, the cases of simplified procurement as well as negotiated procurement procedure with notification are now mandatorily processed through the electronic system, thus making the public procurement process more transparent and competitive. It is also worth mentioning that the list of goods eligible for single sourcing has been amended to exclude education, healthcare and telephone services. Although there is no data available to measure the exact effects, which will be looked into in the course of future monitoring, experts believe the amendment will substantially reduce the share of single sourcing in total procurement, as these services formed the majority of single source procurement in Armenia, and will ultimately reinforce competition in the affected sectors. The Government has also reported that it has acquired three new modules (procurement planning, contract management and reporting) to be launched in October 2015 which will hopefully make the procurement process more transparent and remedy the lack of trust of the business and donor communities in the integrity of the contract award process. As regards conflicts of interest, the government has reported that the members of the procurement review board and members of the evaluation committees are now required to formally sign conflicts of interest declarations, however no information has been provided as to the verification of those declarations, cases of violations, and sanctions applied, if any, which will be revisited during the next reporting periods. Additionally, FOICA has reported about the increased transparency in the framework of implementation of the OGP second Action Plan of Armenia: broadcasting sessions of the state procurement appeal council online at www.e-gov.am.

Accordingly, plenary concluded that that there is progress in implementing the recommendation and encouraged Armenia to pursue its efforts in aligning the procurement system with the international standards.

**Recommendation 20**

Analyze 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)


Measures taken to implement the recommendation as reported by the Government

The draft law “On amendments and additions to the law of the freedom of information” has been presented to the National Assembly of the Republic of Armenia. Meanwhile, the Ministry of Justice has an agreement with GIZ with the help of which the FOI Law will be reviewed and brought in line with international standards.

The Government of Armenia has ordered to all ministries to appoint the officials that are responsible for the freedom of information according to the statement of the article 13 of the law “On freedom of Information”. All state bodies have appointed the officials that are responsible for the freedom of information and they have prepared special sections in their official websites about the official who is responsible for the freedom of information and contact information about the official.

Besides, the Government of the Republic of Armenia has ordered to all territorial management bodies to appoint the officials that are responsible for the freedom of information and to provide information about the official in their websites. The recommendation of the Government of RA was done by all territorial management bodies.

Besides, the Ministry of Justice has elaborated a draft decision of the government according to demands of the law “On the freedom of information”.

A number of meetings have been organized by the Ministry of Justice, by the "Freedom of Information" NGO. The draft decision has been discussed with different representatives of non-governmental organizations and they have introduced their proposals which are being discussed. Actually, the Draft is in a phase of discussions.

The Commission on Ethics of High-Ranking Officials has taken steps for the implementation of actions set in the Commission's Communication Strategy developed recently. All the members of the Commission's team have undergone training on communication to develop public relations knowledge and skills to foster the culture of openness and transparency. Meanwhile, implementation of other public communication activities are planned in the framework of cooperation with the WB, including communication campaigns with social ads, respective videos on ethics values and others.

In 2014, 1240 community servant were trained on the implementation of the law “On the freedom of information”.

Assessment of Progress - 15th Plenary

PROGRESS

Based on the information provided by the GoA and inputs from the Civil Society, the monitoring experts recognize limited progress under this recommendation and further note that while steps to analyze existing FOI Law have been taken, the drafting process is still at the stage of the discussions and it would be important to see that the new legislation is in line with international standards once it is adopted. They also note that a positive step has been made towards implementation of the part of the recommendation that relates to designation of FOI officers in
the state bodies and efforts made to provide them with training. However, they would like to draw Armenia’s attention to the need for implementation of the rest of the elements of the Recommendation without which FOI regime of Armenia will continue to fall short of international standards.

16th ACN Istanbul Action Plan Monitoring Meeting, 7-9 October, 2015

Measures taken to implement the recommendation as reported by the Government

Having in the regard the significant act of freedom of Information in the field of prevention and detection of Corruption, the Government of RA is working on the improvement of FoI legislation. Particularly, the draft of the Government’s decision related to the freedom of information was elaborated. The decision adjusts as the rules of provision of information by public bodies and eliminates possible failures and floes in provision of information. A number of meetings have been organized by the Ministry of Justice, by the "Freedom of Information" NGO. The draft decision has been discussed with different representatives of non-governmental organizations and they have introduced their proposals which are being discussed. Actually, the Draft is in a final phase of adoption.

During the first Sitting of the Anticorruption Council, Shushan Doydoyan, the President of the NGO "Freedom of Information Center", presented the current situation in the field of freedom of information. The discussion was held on current problems related to the abovementioned topic.

Based on the results of the presentation and the discussion, the Head of the Anticorruption Council/Prime Minister has assigned the Minister of Justice of the Republic of Armenia:

(a) to submit draft secondary legislative acts regulating the field, to the Staff of the Government of the Republic of Armenia within a two-month period,

(b) from the view of simplifying, to the extent possible, the field of freedom of information, to review the legislation regulating the field of freedom of information, and if necessary, to make relevant proposals.

It should be mentioned that the RA Law “On Freedom of Information” was analyzed and reviewed by GIZ international experts, on July, 2015. The results of the review were presented to the Ministry of Justice of the RA. Taking into consideration the presented results appropriate works are carried out by the Ministry of Justice.

All state bodies have appointed officials responsible for the freedom of information and they have prepared special sections in their official websites about the official who is responsible for the freedom of information and contact information about the official.

Upon initiative of the Ministry of Justice of the RA and with assistance of the GIZ a training on Fight against corruption including the role of freedom of information in prevention of corruption vwas organized for the representatives of mass media on 3-4 July, 2015 in Tsaghkadzor, Armenia.

As a result GIZ organized a competition for journalists on best anticorruption article.Besides, Freedom of Information Center announces for the 13th time the recipients of the "Golden Key and Rusty Lock" awards on 28 September 2015 in Yerevan24. The award ceremony

was devoted to the International Right to Know Day. RA Vice Prime Minister welcomed the guests on this occasion and stressed the importance of transparency and openness in the government system of Armenia. The Head of OSCE Office in Yerevan and the Head of the EU Delegation to Armenia welcomed this initiative, The host of the event President of the Freedom of Information Centre of Armenia Shushan Doydoyan welcomed the guests and announced the winners. The Best Freedom of Information Reformer was recognized the deputy minister of Justice. Award for the institutions which has best implemented Open Government Partnership Commitments was awarded to the Staff of the RA Government;

In the reporting period the Commission on Ethics of High-Ranking Officials has been productive in implementing its Communication Strategy and developing tools to raise awareness of public officials to foster openness and transparency of their assets and interests. Particularly, the communication tools including advertising, social advertisements and infographics related to the activities and functions of the Ethics Commission as well as transparency of asset declarations were prepared within the framework of cooperation with the World Bank. Those products will be circulated via the media channels based on the communication plan and agenda.

As it was mentioned, The Ministry of Justice has agreed with GIZ to organize trainings for public servants on anticorruption, ethics, freedom of information. The trainings are planned to be organized till November, the final date is not yet decided.

### Assessment of Progress - 16th Plenary

**PROGRESS**

Progress can be noted in implementation of this recommendation. Government cooperated with the local NGOs and international partners to implement necessary measures. Major developments for the reporting period are: expertise of the existing legislation by the international expert, development of bylaws, appointment of the freedom of information officers in Government bodies and the trainings on the issue of FOI.

In relation to the first part of the recommendation - analyse and revise legislative framework on FOI - the Government reported that the law on Freedom of Information of Armenia was reviewed by the international expert with the support of the GIZ and opinion was prepared.

The Freedom of Information Center of Armenia cooperates with the Government to propose the amendment to the laws, conduct training as well as measure the performance in this area. FOICA was invited to submit their opinion and cooperate, including present at the ACC first session. Government Decree was developed and finalized. Additionally, various other reported events are the training of journalists on FOI with the support of GIZ, competition among journalists on anti-corruption articles and FOICA Armenia’s award ceremony conducted at the high level devoted to the theme the international right to know, where the Deputy Minister of Justice was named as the best reformer of freedom of information. Additionally, Government reported about the planned trainings to be supported by the GIZ in the future on the issues of FOI. Notably, FOICA has developed and is operating the FOI index which includes measuring the implementation of the proactive publication of information.

Appointment of FOI officers has been finalized and information about the contact persons published on the respective websites. NGOs confirm that the appointment of FOI officers in line ministries, regional administrations and Government adjunct bodies has been finalized.

Additionally, Training of 18 FOI officers on the FOI legislation has been reported by FOICA in cooperation with the Civil Service Council.
The Plenary has acknowledged progress in implementation of this recommendation.

**Recommendation 21**

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<tr>
<th>Ensure that political parties disclose their financial data, including bank loans and contracts with foundations, associations and other bodies related to them.</th>
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<tr>
<td>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 Service should be given the power and corresponding tools to assess and verify the validity of declarations.</td>
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<tr>
<td>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.</td>
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<tr>
<td>Consolidate the legislation on asset declarations, conflict of interests, and incompatibilities by regulating in a coherent manner the competence of the Ethics Committee.</td>
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*Measures taken to implement the recommendation as reported by the Government*

In the Chapter 6 of the RA Electoral Code (23-28 articles) relating to the financing of elections there is clearly stated the mechanisms of the financing of elections, formation, use and control of pre-election funds, which regulates all these mentioned issues in a new way and excludes the leaving out of control the circumvention of thresholds during the pre-election campaign.

On the mentioned recommendation we report that article 26, part 2 of the RA Electoral Code establishes: “Candidates, as well as political parties and political party alliances participating in the elections under the proportional electoral system shall use only the resources of the pre-election fund to finance pre-election campaigning via the mass media, to rent halls and premises, to prepare (post) campaign posters, to acquire print campaign and other materials, and to prepare any campaign material (including print materials) to be provided to voters. The maximum amount of expenses made from the pre-election fund for such purposes shall be prescribed by this Code.

In case the goods and services prescribed by this Part are delivered at a price lower than the market price or are acquired prior to the creation of the pre-election fund, then they shall be included in the expenditures of the pre-election fund at their market price.”

Article 28, part 3 of the Law of the Republic of Armenia on parties establishes that accounting of means spent by a party for preparation and conduct of election campaigns is performed in segregate.

According to the 33-N (normative) decision of the RA CEC of February 16, 2012 “on official clarification of various interpretations of Electoral Code article 26”, the products and services procured for free are still liable to regulation under legally prescribed order by CEC.

Once again we announce that according to the Law on Parties, political parties are obliged to publish their financial reports not only by the means of Mass Media but also on the official
website (www.azdarar.am,) of the public notification of RA (28 article, part 2, Law on Parties of RA).

The parties which amount of assets exceeds the 10 thousand-folds of the minimum salary and those parties who receive donations from the State budget are obliged to announce their reports only after being audited with the audit report (28 article, part 1, Law on Parties of RA).

It is also established the maximum amount of parties expenditures during a year, the frame of the subjects who have the right of donations and maximum amount of donations provided by the latter. Particularly the total amount of the services and works done for parties can not exceed 1 million-folds of minimum salary during a year, including

1. From of one trade organization – 10 thousand-folds of the minimum salary prescribed by the law,

2. From the side of one non trade organization- 1 thousand-folds of the minimum salary prescribed by the law,

3. From one individual - 10 thousand-folds of the minimum salary prescribed by the law (25 article, part 2, Law on Parties of RA).

It should be noted that according to the GRECO recommendation an amendment to the Law on Political Parties and the Electoral Code by the National Assembly made in 2012 and a new 28.1 article was envisaged, which established that the parties which amount of assets exceeds the 10 thousand-folds of the minimum salary are obliged to announce their reports only after being audited with the audit report and prescribed by the same law those parties who receive donations from the State budget are obliged to announce their reports only after being audited with the audit report.

It is necessary to mention that the RA Law on audit activity defines that audit standards are normative legal acts which comply with international audit standards, audit conduct and which regulate the methods and procedures for provision of audit and audit-related services.

Conductor of audit shall decide on the patterns and methods of work of its own, based on the requirements of normative legal acts on auditing.

Audit standards, as well as requirements for auditor’s conduct shall be established by the Republic of Armenia government, pursuant to international standards and rules of conduct.

According to the same Law audit activity is entrepreneurial activity and is subject to license. There are also prescribed some provisions, which exclude the auditor’s dependence from the organization (including from political party), to which audit service is served. (12 article, part 4, Law on audit activity of RA). For carrying out an effective control over financial transparency of political parties and pre-election campaign, one entire body, Control and Verification Service of the Central Electoral Commission has been established in 2011 which supervises both the financial activities of political parties and the financing of pre-election campaign.

It should be mentioned that the current legislative frameworks give an opportunity to carry out proper and effective supervision over financial activities of political parties, as well as financial activities in the phase of pre-election campaign.

It should be noted that the procedure of establishing the Control and Verification Service (RA Electoral Code, Article 28, part 1) and the number of employees (RA Electoral Code, Article 28, part 3) is clearly prescribed by the Law.

As for the frames of powers of the Control and Verification Service and the defined tight deadlines for their implementation, particularly the period of two days prescribed by the Law.
for the study of declarations on the contributions made to pre-election funds and the use thereof, generally, this is due to the tight deadlines prescribed by the Electoral Code for electoral processes, which can not affect on the efficiency of the Service activities.

It should be noted that the Service is not limited to that period of two days, as before the submission of the first declaration by candidates, political parties and political party alliances, banks in which special temporary accounts have been opened, shall submit a statement of revenues and expenditures of pre-election funds of candidates, political parties, and alliances of political parties to the Control and Verification Service of the Central Electoral Commission once every three working days after the end of the time limit prescribed by the Code for the registration of candidates or electoral lists of political parties or political party alliances. The Control and Verification Service shall summarize such data, compile a brief statement, and post it on the website of the Central Electoral Commission.

Parallel to the above, candidates, political parties, and political party alliances shall submit to the Control and Verification Service of the Central Electoral Commission a declaration on the contributions made to their pre-election funds and the use thereof, on the 10th and 20th day after the start of the pre-election campaign prescribed by the Code, as well as no later than three days before the relevant period for summarizing election results as defined by the Code. From the above mentioned, it is clear that before the submission of a declaration by candidates, political parties and political party alliances, the Control and Verification Service already possesses the information on revenues and expenditures of funds, which gives an opportunity to compare it with the declarations and documents confirming the expenditures submitted by the candidates, political parties and political party alliances; and compile a brief statement within the time limit prescribed by the Law.

Assessment of Progress - 15th Plenary

LACK OF PROGRESS

Armenian authorities reiterated the same arguments used at the time of the 3rd round of monitoring and did not present any new information under the Recommendation. Therefore no progress can be recorded in its implementation.

16thACN Istanbul Action Plan Monitoring Meeting, 7-9 October, 2015

Measures taken to implement the recommendation as reported by the Government

In the chapter 6 of the RA Electoral Code (23-28 articles) relating to the financing of elections there is clearly started the mechanism of the financing of elections, formation, use and control of pre-election funds, which regulates all these mentioned issues in a new way and excludes the leaving out of control the circumvention of thresholds during the pre-election campaign.

On the mentioned recommendation we report that article 26, part 2 of the RA Electoral Code establishes: “Candidates, as well as political parties and political party alliance participating in the elections under the proportional electoral system shall use only the resource of the pre-election fund to finance pre-election campaigning via the mass media, to rent halls and premises, to prepare (post) campaign posters, to acquire print campaign and other materials, and to prepare any campaign material (including print materials) to be provided to voters. The maximum amount of expenses made from pre-election fund, then they shall be included in the expenditures of the pre-election fund at their market price”.

Article 28, part 3 of the Law of the Republic of Armenia on parties establishes that
accounting of means spent by a party for preparation and conduct of election campaign is performed in segregate. According to the 33-N (normative) decision of the RA CEC of February 16, 2012 “on official clarification of various interpretations of Electoral Code article 26”, the products and services procured for free are still liable to regulation under legally prescribed order by CEC. Once again we announce that according to the Law on Parties, political parties are obliged to publish their financial reports not only by the means of Mass Media but also on the official website (www.azdarar.am) of the public notification of RA (28 article, part 2, law on Parties of RA).

The parties which amount of assets exceeds the 10 thousand-folds of the minimum salary and those parties who receive donations from the State budget are obliged to announce their reports only after being audited with the audit report (28 article, part 1, Law on Parties of RA). It is also established the maximum amount of parties expenditures during a year, the frame of subjects who have the right of donations and maximum amount of donations provided by the letter. Particularly the total amount of the services and works done for parties can not exceed 1 million-folds of minimum salary during a year, including 1. From of one trade organization – 10 thousand-folds of the minimum salary prescribed by the law, 2. From the side of non trade organization- 1 thousand-folds of the minimum salary prescribed by the law, 3. From one individual – 10 thousand-folds of the minimum salary prescribed by the law (25 article part 2, Law on Parties of RA).

It should be noted that according to the GRECO recommendation there was made an amendment in the Law on Political Parties and in the Electoral Code by the National Political Parties and in the Electoral Code by the National Assembly in 2012 and it was envisaged a new 28.1 article, which was established that the parties which amount of assets exceeds the 10 thousand-folds of the minimum salary are obliged to announce their reports only after being audited with the audit report and prescribed by the same law those parties who receive donations from the State budget are obliged to announce their reports only after being audited with the audit report. It is necessary to mention that the RA Law on audit activity defines that audit standards are normative legal acts which comply with international audit standards, audit conduct and which regulate the methods and procedures for provision of audit-related services. Conductor of audit shall decide on the patterns and methods of work of it’s own, based on the requirements of normative legal acts on auditing. Audit standards, as well as requirements for auditor’s conduct shall be established by the Republic of Armenia government, pursuant to international standards and rules of conduct. According to the same Law audit activity is entrepreneurial activity and is subject to license. There are also prescribed some provisions, which exclude the auditor’s dependence from the organization (including from political party), to which audit service is served. (12 article, part 4, Law on audit activity of RA).

For carrying out an effective control over financial transparency of political parties and pre-election campaign, one entire body, Control and Verification Service of the central Electoral Commission has been established in 2011 which supervises both the financial activities of political parties and the financing of pre-election campaign. It should be mentioned that the current legislative frameworks give an opportunity to carry out proper and effective supervision over financial activities in the phase of pre-election campaign. It should be noted that the procedure of establishing the Control and Verification Service (RA Electoral Code, Article 28, part 1) and the number of employees (RA Electoral Code, Article 28, part 3) is clearly prescribed by the Law. As for the frames of powers of the Control an Verification Service and the defined tight deadlines for their implementation, particularly the period of two days prescribed by the Law for the study of declarations on the contributions made to pre-election funds and the use thereof, generally, this is due to the tight deadlines prescribed by the Electoral Code for electoral
processes, which can affect on the efficiency of the Service activities. It should be noted that the Service is not limited to that period of two days, as before the submissions of the first declaration by candidates, political parties and political party alliance, banks in which special temporary accounts have been opened, shall submit a statement of revenues and expenditures of pre-election funds of candidates, political parties, and alliance of political parties of the Control and Verification Service of the Central Electoral Commission once every three working days after the end of the time limit prescribed by the Code for the registration of candidates or electoral lists of political parties or political party alliances. The Control and Verification Service shall summarize such data, compile a brief statement, and post it on the website of the Central Electoral Commission.

Parallel to the above, candidates, political parties, and political party alliances shall submit to the Control and Verification Service of the central Electoral Commission a declaration on the contributions made to their pre-election funds and use thereof, on the 10th and 20th day after the start of the pre-election campaign prescribed by the Code. From the above mentioned, it is clear that before the submission of a declaration by candidates, political parties and political party alliances, the Control and Verification Service already possesses the information on revenues and expenditures of funds which gives an opportunity to compare it with the declaration and documents confirming the expenditures of funds, which gives an opportunity to compare it with the declarations and documents confirming the expenditures submitted by the candidates, political parties and political party alliances; and compile a brief statement within the time limit prescribed by the Law.

It should be also mentioned that an agreement was made between Council of Europe and the Ministry of Justice to organize one mixed Elections Observation Mission with focus on transparency, effective administration, campaign and party financing in the scope of the CoE/EU programmatic Co-operation framework (PCF) for the Eastern Partnership countries Annual plans of Action 2016.

**Assessment of Progress - 16th Plenary**

**LACK OF PROGRESS**

Government refers to the existing regulations in the area of political finances, however, no new developments are noted apart from the future plans to organise joint elections observation mission with the Council of Europe within the framework of Eastern Partnership. NGOs also note lack of progress in implementing this recommendation.

**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.


Measures taken to implement the recommendation as reported by the Government

Upon the adoption RA law on making amendments and supplements to the Judicial Code of the Republic of Armenia on 03.07.2014, a new written testing strategy of criminal, civil and administrative laws was developed, which was aimed at verifying candidates’ logical abilities, aptitudes to quick reaction, ability to differentiate primary and secondary issues, understand texts at one read and deal with numeral information. There was established a requirement of a psychological advisory test at the RA Council of Justice for those candidates, who satisfied the minimum requirements. The purpose of psychological test is to check the sense of responsibility, ability to listen, self-management, moderate use of influence and other non professional features that have significant importance for the specialization of a judge.

The above mentioned law provided legal regulations for the transparency of the qualification procedures, which are aimed at providing the objectiveness of these processes. In particular, the whole process of written qualification examination is being telecommunicated, and the video records of written examination and the interview at the Council of Justice are available to public.

As a result of these legal reforms the guarantees for objectiveness of judicial selection process were improved.

In the scope of budgetary application of judicial system of 2015, approved by N 29L decision of Council of Court Presidents adopted on 011 August, 2014, the amount of expenditures of RA judicial system foreseen for 2015 has been grown in comparison to the judicial budget approved in 2014. In addition to other expenses, the budgetary application for 2015 has foreseen the compensation costs for scientist lawyers of Council of Justice.

From the perspective of self management of judiciary and internal independence of judges at the system of checks and balances, it was necessary to create such a judicial self managing system that would provide grounds to ensure the independence of judges from external intervention, as well as from internal intervention of superior judges or presidents of courts. The previous self management system was exercised by presidents of courts as by mediators. The judges did not personally participate to the governance of the system.

Upon the adoption RA law on making amendments and supplements to the Judicial Code of the Republic of Armenia on 03.07.2014 the Ethics Commission of Council of Court Presidents, the Training Commission and the Disciplinary Commission of Council of Judges ceased to exist. The powers of the Ethics Commission of Council of Court Presidents and Disciplinary Commission of
Council of Judges were transferred to the Ethics and Disciplinary Commission of General Assembly of Judges. The Training Commission was also created by the General Assembly of Judges. Particularly, there are 7 members at the Ethics and Disciplinary Commission, among them two judges from First Instance Courts of Yerevan, two judges from regional First Instance Courts and three judges from the Court of Appeal. The members of Council of Justice and the presidents of courts cannot be members of Ethics and Disciplinary Commission.

The Training Commission has five members; one judge from RA Court of Cassation, one judge from RA Court of Appeal and 3 judges from First Instance Courts.

As a result of these reforms there was recorded an improvement concerning the integration of judges into the self management process and the opportunity to participate in the decision making process with regards to the decisions concerning the judges.

The existence of a special system for the distribution of cases among judges has a crucial impact on the effective operation of judicial system. That is one of the guarantees stated in the Article 97 of RA Constitution for the independence of judges. Previously the pattern of arbitrary distribution of cases was being established by the Council of Court Presidents. Upon the adoption of RA Law, when RA law On making amendments and supplements to the Judicial Code of the Republic of Armenia on 03 July, 2014, rules for distribution and redistribution of cases among the judges at the courts of first instance, appeal and cassation, as well as the rules concerning the computing regulations with regards to the distribution of cases were established. As a result of these reforms the process of distribution of cases became more objective and definite.

The program of case distribution operates based on the principle of data confidentiality and excludes any external intervention. Any illegal intervention to this process constitutes a criminal offence.

It is necessary to note, that after entry of the case data to the court database it (excluding the secret information provided by law) becomes available to the public. Particularly, everyone can search and find any necessary data at the electronically managed public information website, called Datalex.

The judicial disciplinary rules which were adopted by the General Assembly of Judges, defines the guarantees for prevention of judicial influence into other judges. On 05, September 2014 the General Assembly of Judges has adopted decision 01N which defines the disciplinary rules for judges. These rules came to replace the disciplinary rules adopted by the same body on 23 April, 2010. According to the new rules the judge adopts judicial decisions personally and independently. The judge can enter into advisory discussions with other judges for solution of complicated judicial cases, but in any circumstances, the appointed judge shall make final decision independently.

In the same time the 2nd part of Art. 153 of RA Judicial Code, which defines the grounds for disciplinary responsibility of judges , has been amended by the Art 7 of RA Law On making amendments and supplements to the Judicial Code of the Republic of Armenia. The abovementioned regulation constitutes that a judge can be subjected to disciplinary liability only if he/she intentionally or by a rough negligence has made an obvious and rude violation of a judicial rule.

The 5th part of this Article states that the failure to inform the Ethics and Disciplinary Commission about any intervention into justice administration process or other powers of judge entitled by law or any other influence on judge that is not provided by law constitutes a basis to subject the judge to disciplinary responsibility.
As a result of these reforms the criteria for disciplinary actions against judges were improved in accordance with the international standards and experience. The reason of this amendment was to exclude the reservation of two absolutely contrary powers to one body.

Previously the Disciplinary Commission of Council of Justice had a right to constitute a disciplinary action based on the motion of the Commission of Ethics. The Disciplinary Commission had also a right to submit a motion to Council of Justice in order to subject a judge into disciplinary liability.

RA Council of Judges' N021 decision on the establishment of the rules of Ethics and Disciplinary Commission of the Council of Judges, regulates the relations concerning the schedules of sessions of the commission, the forms of decisions and their adoption methods.

These legal acts constitute procedural rules for the guarantees of fair trial. These rules concern to the discussion procedures of the materials concerning the judges. In particular the head of the Commission orders one of the members (the reporter), or individually carries the observation of the application, information or motion or the observation of other materials. The reporter makes an observation of the application, motion and other documents within the time period defined by the head of commission.

Within the session the reporter presents the members and the judge (if the latter is invited) the content of the application, motion and other documents. The reporter is entitled to demand additional information or ask the judge to present written explanations. The Commission shall involve the corresponding judge while discussing any issue concerning his case. The judge has the rights provided under Art. 160 of RA judicial Code. The commission is entitled to demand additional information or ask the judge to present written explanations. The sessions of the commission are being recorded.

According to art 160 of RA Judicial code, the judge is entitled to get acquainted with the materials of the case, make extracts for the documents, get the copies, ask questions present objections, explanations and make motions, present evidences and participate to the process of their observation, and to participate to the trail personally or through an attorney.

During the discussion of the disciplinary case the judge enjoys the guarantees provided by the Art 19 of RA Constitution and Art 6 Part 1 of the European convention of Human Rights and Fundamental Freedoms.

Assessment of Progress - 15th Plenary

PROGRESS

The monitoring experts recognize some progress made under this recommendation, including continuation of the constitutional reform, implementation of the case management system, improvements of the budgetary support, coming into force of the amendments into Judicial Code with changes that it has entailed regarding disciplining of judges, etc. However, not all of the elements of the Recommendation have been fully addressed and further progress will need to be closely monitored under the 4th round of monitoring of Armenia to assess the real impact of these steps in practice.

16th ACN Istanbul Action Plan Monitoring Meeting, 7-9 October, 2015

Measures taken to implement the recommendation as reported by the Government
It should be mentioned, that the draft of the New Constitution is in a final phase of discussions. The draft assures balanced participation of Legislative, Executive and Judicial authorities in appointment of judges. First of all, the project clarify and limit performance of RA President in appointment of judges, making it ceremonial (On article 138 (3) If the President of the Republic within the periods prescribed by the Constitution, or if no such period is prescribed, then within ten-days period, does not take necessary measures in respect to the act to be adopted by him, such act shall be considered adopted by virtue of law). Judges of first instance courts and appellate courts shall be appointed by the President of the Republic upon presentation by the Supreme Judicial Council. Taking into consideration the special place of the Cassation Court in the judicial system the draft states that the Judges of the Cassation Court shall be elected by competitive procedure. Based on the competition results, the Supreme Judicial Council shall present to the National Assembly three candidates for each place of a judge of the Cassation Court. The candidate elected by at least majority vote of three fifths of the total number of parliamentarians of the National Assembly shall be appointed by the President of the Republic.

The issues related to the time of expiration of the office of Court chairmen have been regulated in the framework of constitutional solutions, which will help to increase significantly the chance for a judge to be appointed as a Court chairman, which in its turn will prevent the possibility of holding the dominant role of the current invariable Court chairmen.

It is previewed that while providing legal regulations related to the appointment of the Court chairmen, the Court chairmen are judges, first of all, as the other judges, and the only difference between them is that in addition to the main functions of the judges, the Court Chairman have also organizational functions. The draft provides restrictions regarding the time of expiration of the office of Court chairmen.

Based on the international best practice and international documents, the draft provides a limited time period of expiration of office for the Court chairmen- 3 year term without the right of being reappointment after the expiration of office for Judges of first instance courts and appellate courts, and six-year term without the right of being reappointed for the Cassation Court Chairman.

The other significant step for ensuring internal independence of judges is the restriction of inclusion of Court Chairmen in Judicial self-governance highest authority.

According to the draft a new Supreme Judicial Council will be established instead of the Council of Justice. In difference with the acting Constitution, the status and mission of the Supreme Judicial Council are clarified, it is an independent state body that shall safeguard the independence of courts and judges. (article 172).

In the draft the content of powers of the Supreme Judicial Council is significantly different from the content of powers prescribed in acting Constitution. Thus, the decisive role of responsibilities for the disciplinary matters are assigned to the Supreme Judicial Council with a full sovereignty format. It is also clarified the scope of authorities who have power to terminate the judges office. Acting Constitution prescribes that the right of final decision concerning the termination of the judges office, as well as the right to arrest and to attract the judge as an Accused is assigned to the President of the Republic. In the draft the resolution of these issues are reserved to the Supreme Judicial Council. While it should be also mentioned that in case of submission of judges to the disciplinary liability the Supreme Judicial Council acts as Court. The Decisions of the Supreme Judicial Council shall be final and undisputable. Besides, the draft states, that the Supreme Judicial Council pprove the estimate of its costs and the cost estimates of courts, and present them to the Government for incorporation in the draft State Budget, and carry out general oversight over the use of budgetary resources of courts.

It is important to mention that in accordance with the RoA Law number HO-47-N “On making amendments to the RoA Judicial Code” issued on 10 June 2014, the RoA Judicial Code in

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25 See attached New Constitution (chapters 1-15)
addition has been amended with a new chapter 2.1 titled “Case distribution in courts”. Based on the latter on 18 May 2015 the RoA Council of Courts Chairmen issued a decree N 25L “On repeal of defining the specifics of caseload distribution within the RoA courts and on the repealed decree N 11L of July 21, 2011 of the RoA Council of Courts Chairmen”.

As a result of the endorsement of the abovementioned legal acts the random selection system of caseload distribution is invested in all RoA first instance courts and in the RoA Court of Appeal.

**Assessment of Progress - 16th Plenary**

**PROGRESS**

The ongoing Constitutional Reform in Armenia encompasses the institutional reform of Judiciary. As reported by the Government, the draft Constitution was adopted with the first reading by the Parliament, including the revised provisions on independence of judiciary, among them new procedure for appointment of judges limiting the role of the President in the process, limitations to serve as chairpersons of courts; changes in the composition and mandate of the Supreme Judicial Council in relation of the disciplinary proceedings and financial independence of judiciary. In the meantime, civil society reports about the continued malpractice of using disciplinary proceedings against judges as the tool to influence them.

Additionally, the introduction of the automatic case assignment system in the first instance and appellate courts was reported. NGOs however, point out that the process of distribution of cases lacks transparency.

The experts have not examined the draft Constitution itself as it is not the subject of the progress update procedure, full assessment will be conducted during the monitoring stage, however, in view of the provided information and the reports of the NGOs the limited progress can be concluded in relation to the recommendation 22 since the previous monitoring round.

**Recommendation 23**

Conduct assessment of corruption risks involving the private sector

In cooperation 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


**Measures taken to implement the recommendation as reported by the Government**

The Ministry of Justice of the Republic of Armenia is cooperating with the Chamber of Commerce and Industry of the Republic of Armenia, Union of Manufacturers and Businessmen (Employers) of Armenia (UMB(E)A), Medicine Producers and Importers Union. The missions of these organizations are the improvement of business environment, promotion of export and investments, improvement of the economic legislation and protection of interests of local manufacturers. The results of the cooperation with these organizations are being used for making amendments in the new strategy.
On 17 February the mentioned organizations also participated in the meeting organized by Organization for economic co-operation and development anti-corruption network for eastern Europe and central Asia and by the Ministry of Justice of the Republic of Armenia where the results of the 3-rd round monitoring of the Istanbul Anti-corruption action plan of the Organization for economic co-operation and development anti-corruption network for eastern Europe and central Asia Small and medium enterprise cooperation association was discussed.

Assessment of Progress - 15th Plenary

LACK OF PROGRESS

The monitoring experts believe that only initial steps towards implementation of the Recommendation have been taken by Armenia so far which is not enough to constitute progress under this monitoring exercise.

16thACN Istanbul Action Plan Monitoring Meeting, 7-9 October, 2015

Measures taken to implement the recommendation

During the first Sitting of the Anticorruption Council, the Head of the Anticorruption Council/Prime Minister declared that the issue of transparency and integrity in Business sector is an important basis for the prevention of corruption and growth of economy. Thus, the Prime Minister offered to create a special platform for cooperation with business sector representatives in the scope of fight against corruption. The group of business representatives has to meet periodically and discuss existing issues in the business sphere and offer solutions to the Council. The Anticorruption Council has to find proper solutions for the given issues. Thank to such cooperation, the fight against corruption in the business sphere will become more efficient.

As a result, The Ministry of Justice, along with Transparency International, organized a workshop with representatives of small, medium and large business representatives. The workshop was very productive, as the businesspersons and entrepreneurs are more informed about corruption risks in the business sector, and they raised important issues.

Currently the Ministry of Justice worked on organization of a working group to discuss existing issues in the business sphere. Particularly, the Ministry of Justice has underlined the most urgent issues that have to be discussed and solved, and applied to the Ministry of Economy to get up to 10 candidacies of specialists to participate in the relevant meetings, concerning the prevention of corruption in the business sphere. Existence of such a group will ease the fight against corruption in business sector and will help to identify measures that are necessary for establishment of integrity.

On 15 September, 2015 a discussion was organized between the Deputy Minister of Justice of RA Suren Krmoyan and the representatives of the Ministry of Economy, concerning the issue of prevention of corruption in Small and Medium Business area. The discussion was aimed to the involvement of Medium and Small entrepreneurs in the fight against corruption, regarding this issue for implementation and development of more effective mechanisms, as well as for issues of business sector’s awareness raising. The Deputy Minister asked the participants to assist the Medium and Small Businesses, to transfer to the Ministry of Justice information on accomplished works aimed to the creation of transparent environment in Small and Medium


27 http://moj.am/article/1376
Businesses. The information will be summarized and if necessary it will be presented to the public and based on the results there will be implemented educational and awareness raising projects. During the meeting participants discussed the ways to create favorable terms and conditions for newly opened SME-s, also to exclude the application of penalties for less important infractions, in such cases they offered to consider the using of awareness and warning institution. In the end of the meeting an agreement was acquired to intensify the cooperation for maximum effectiveness of solving the problems of this area.

**Assessment of Progress - 16th Plenary**

**PROGRESS**

Government informed about the launch of the new platform for businesses under the ACC on the first session of the Council to identify the challenges business face and design the ways to address them. The meetings in the framework of this platform shall be conducted on a regular basis. The Ministry of Justice in cooperation of TI Armenia has organized workshop with the business representatives, where the issues of concern for the businesses and the corruption risks have been discussed. Further, the Deputy Minister of Justice has cooperated with the ministry of Economy to design the ways of making the platform operational.

The newly established ACC does not include the representatives of businesses. The risk assessment has not been conducted and the strategy and the action plan do not include measures in relation business integrity as reported by NGOs.

Thus, there is **limited progress** in relation to this recommendation.