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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.**

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

Recommendation	Status at the 15th Plenary
Recommendation 1:	Progress
Recommendation 2:	Progress
Recommendation 3:	Progress
Recommendation 4:	Progress
Recommendation 5:	Progress
Recommendation 6:	Progress
Recommendation 7:	Progress
Recommendation 8:	Lack of progress
Recommendation 9:	Lack of progress
Recommendation 10:	Progress
Recommendation 11:	Lack of progress
Recommendation 12:	Progress
Recommendation 13:	Progress
Recommendation 14:	Lack of progress
Recommendation 15:	Lack of progress
Recommendation 16:	Progress
Recommendation 17:	Progress
Recommendation 18:	Lack of progress
Recommendation 19:	Progress
Recommendation 20:	Progress
Recommendation 21:	Lack of progress
Recommendation 22:	Progress
Recommendation 23:	Lack of progress

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.

15th ACN Istanbul Action Plan Monitoring Meeting, 23-25 March, 2015

Measures taken to implement the recommendation

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>

³ <http://iravaban.net/en/69194.html>, <http://iravaban.net/en/68732.html>, http://iravaban.net/wp-content/uploads/2014/10/22.10.2014-POST_event-Press_release-Gyumri-arm.pdf, <http://iravaban.net/en/67528.html#ad-image-0>, <http://iravaban.net/en/66529.html#ad-image-3>

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.

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

15th ACN Istanbul Action Plan Monitoring Meeting, 23-25 March, 2015

Measures taken to implement the recommendation

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 surveys⁴. 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

⁴<http://foi.am/en/articles/item/1298/>, <http://transparency.am/en/projects/view/69>,
<http://transparency.am/hy/projects/view/83>, <http://transparency.am/en/projects/view/88>,
<http://transparency.am/en/projects/view/90>, <http://transparency.am/en/projects/view/91>,
<http://transparency.am/en/projects/view/92> <http://foi.am/hy/research/item/1426/>,
<http://foi.am/hy/articles/item/1211>, <http://foi.am/hy/articles/item/1297/>, <http://foi.am/hy/articles/item/1296/>,
http://www.prwb.am/hy/research_and_studies

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.

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

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

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Measures taken to implement the recommendation

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 NGO⁵. In the second half of 2014 a huge number of TV programs have been realized, approximately 50 programs, 30 Web and Radio programs about the fight against corruption

⁵ <http://iravaban.net/en/72627.html>

have been organized⁶. 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.

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]

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Measures taken to implement the recommendation

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.

⁶<http://iravaban.net/77971.html>, <http://www.panorama.am/am/society/2014/12/09/suren-qrmoyan/>,
<http://nyut.am/archives/296449>, <http://www.panorama.am/am/society/2015/02/19/hovhannes-manukyan/>,
<http://iravaban.net/en/59497.html>

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 led 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.

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.

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Measures taken to implement the recommendation

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 the 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.

		2014	2015	Total
1	Disseminations (spontaneous disclosures) from FMC to LEA	15	2	17
1.1	NSS	9	1	10
1.2	SRC	2	-	2
1.3	GPO	3	1	4
1.4	Police	1	-	1
1.5	Interpol National Bureau	-	-	0
1.6	Special Investigative Committee	-	-	0
2	Notifications from LEA to FMC	4	-	4
2.1	NSS	1	-	1

2.2	SRC	-	-	0
2.3	GPO	-	-	0
2.4	Police	2	-	2
2.5	Interpol National Bureau	1	-	1
2.6	Special Investigative Committee	-	-	0
3	Information requests from LEA to FMC	32	7	39
3.1	NSS	9	-	9
3.2	SRC	5	2	7
3.3	GPO	8	1	9
3.4	Police	4	1	5
3.5	Interpol National Bureau	4	1	5
3.6	Special Investigative Committee	1	2	3
3.7	Investigative Committee	1	-	1
4	Information requests from FMC to LEA	3	0	3
4.1	NSS	-	-	0
4.2	SRC	1	-	1
4.3	GPO	-	-	0
4.4	Police	2	-	2
4.5	Interpol National Bureau	-	-	0
4.6	Judicial Department	-	-	0

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.

Recommendation 6.

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

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Measures taken to implement the recommendation

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".

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 bribery⁷.

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.

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

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.

⁷ <http://www.azatutyun.am/content/article/26764357.html>

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.

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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.

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.

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Measures taken to implement the recommendation

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 Combating 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.

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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 specialisation 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.

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.

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Measures taken to implement the recommendation

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.

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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.

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

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Measures taken to implement the recommendation

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.

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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.

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

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Measures taken to implement the recommendation

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, 2012⁸.

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.

⁸The 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.”

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.

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LACK OF PROGRESS

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

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Measures taken to implement the recommendation

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.

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PROGRESS

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

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

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Measures taken to implement the recommendation

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.

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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.

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

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.

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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.

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

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Measures taken to implement the recommendation

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;

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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.

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.

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Measures taken to implement the recommendation

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 servants⁹.

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.

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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.

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

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

⁹ The specified programs will also include a training program on “Professional Integrity and Ethics in Public Administration”.

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 Acton Plan¹⁰ 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

¹⁰ http://www.gov.am/u_files/file/bkg%20angl.pdf

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 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.

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.

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Measures taken to implement the recommendation

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.

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.

15th ACN Istanbul Action Plan Monitoring Meeting, 23-25 March, 2015

Measures taken to implement the recommendation

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.

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.

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)

15th ACN Istanbul Action Plan Monitoring Meeting, 23-25 March, 2015

Measures taken to implement the recommendation

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 the demand of the (5, 10 article) 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.

Recommendation 21

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

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

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

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

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Measures taken to implement the recommendation

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.

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.

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.

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Measures taken to implement the recommendation

Upon the adoption RA law on 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 of 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 trial 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.

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

15th ACN Istanbul Action Plan Monitoring Meeting, 23-25 March, 2015

Measures taken to implement the recommendation

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.