



ACN

Anti-Corruption Network for Eastern Europe and Central Asia

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ISTANBUL ANTI-CORRUPTION ACTION PLAN

ARMENIA

PROGRESS UPDATE

This is the progress update on the implementation of recommendations from the Second Monitoring Round report for Armenia, adopted at the 10th ACN Istanbul Anti-Corruption Action Plan Monitoring Meeting on 28 – 30 September 2011 at the OECD in Paris.

SUMMARY

The second round monitoring report on Armenia was adopted by the Istanbul Action Plan monitoring meeting in September 2011. The progress report on implementation of the recommendations adopted in the second round was submitted on 9 April 2014 by **Mr Yeghishe Kirakosyan**, Deputy Minister of Justice of Armenia and the National Coordinator at the ACN.

This progress update was reviewed by: **Mr Daniel Thelesklaf**, Liechtenstein; and **Ms Inese Gaika**, OECD.

The progress update was discussed and adopted by the Istanbul Action Plan monitoring meeting on 16-18 April 2014.

The monitoring meeting congratulated Armenia on progress recorded in the implementation of the 10 out of 18 recommendations since 2011, and noted that no progress was recorded regarding 8 recommendations. The table below summarises the assessment, including the recommendations where progress was noted or where it was lacking.

Recommendation	Progress in implementation
<i>Recommendation 1.2:</i> anti-corruption action plan	Progress
<i>Recommendation 1.3:</i> corruption surveys	Progress
<i>Recommendation 1.5:</i> civil society involvement, awareness-raising	Lack of progress
<i>Recommendation 1.6:</i> anti-corruption institutions	Lack of progress
<i>Recommendation 2.1-2.2:</i> offences and elements of offence	Progress
<i>Recommendation 2.6.1:</i> statutory limitation periods for bribery investigations and prosecutions	Lack of progress
<i>Recommendation 2.6.2:</i> immunities	Lack of progress
<i>Recommendation 2.8.:</i> access to financial data, investigation time limits	Lack of progress
<i>Recommendation 2.9.:</i> specialized anti-corruption law-enforcement bodies	Lack of progress
<i>Recommendation 2.10.:</i> statistical data on corruption crimes	Progress
<i>Recommendation 3.2.1:</i> civil service reform	Progress
<i>Recommendation 3.2.2:</i> civil service reform	Progress
<i>Recommendation 3.3.:</i> simplification, efficiency of administrative procedures	Progress
<i>Recommendation 3.4:</i> financial control and audit	Progress
<i>Recommendation 3.5:</i> public procurement	Lack of progress
<i>Recommendation 3.6:</i> access to information	Progress
<i>Recommendation 3.7:</i> political party finance	Progress
<i>Recommendation 3.9:</i> business integrity	Lack of progress

PART I: PROGRESS IN IMPLEMENTING RECOMMENDATIONS

PILLAR 1. ANTI-CORRUPTION POLICY

Recommendation 1.2.

Ensure vigorous implementation of current and future anti-corruption strategies and action plans. In particular, ensure that actions foreseen are implemented in practice.

Ensure effective monitoring of implementation of the current and future anti-corruption strategies and action plans to assess progress made and impact of these measures on corruption in Armenia, with better involvement of civil society.

Measures taken to implement this recommendation: *(brief summary provided by the National Coordinator)*

Currently the working group established under auspices of the President's Administration of Armenia is drafting the third anti-corruption strategy, which will be titled "Integrity in Public Service". The institutional framework of anti-corruption policies will be reformed accordingly; an independent secretariat will be formed, which will be tasked with the coordination and management of the overall implementation of the Anti-corruption strategy.

The draft strategy is attached, see Annex 1.

Assessment of Progress

(assessment of progress prepared by the monitoring experts and summary of the discussion at the IAP plenary)

PROGRESS

No information was provided demonstrating vigorous implementation of anti-corruption strategy or monitoring its impact in Armenia, as it was recommended. However, Armenia has provided a draft decision of the Government of the Republic of Armenia "On establishing the Anti-Corruption Council and approving the membership composition of the Council". During the meeting it was said that the Decree was adopted in April 2014. Armenia explained that the elaboration of a new anti-corruption strategy – Integrity in Public Sector Concept – started in 2013. It was indicated that the new strategy will have four priority areas: health; police; education; and state revenues. Judging from the draft decision of the Government, which is provided in Annex, and information provided during the plenary, more attention is to be paid to practical implementation, the role of various institutions and their tasks, which was a weakness previously. Armenia also intends to set up a permanent Secretariat of the new Anti-Corruption Council employing 4 persons, in charge of co-ordination and monitoring. The problem of proper functioning of institutions and the lack of a Secretariat was signalled under the Istanbul Action Plan since 2005.

Recommendation 1.3.

Continue supporting and using research about corruption. Conduct, using a transparent methodology, and publish surveys that reveal corruption risk areas and trends of corruption in different sectors, surveys on perception and experience with corruption, and on trust in public institutions. Use results of studies and surveys in development, implementation and monitoring of anti-corruption policies.

Measures taken to implement this recommendation:

The Government Staff of the Republic of Armenia orders periodical studies and surveys, which are being carried out by an independent professional organization – Institutional of Political and Sociological Consulting. The studies are tasked at revealing the real image of corruption, real causes of corruption.

Assessment of Progress

(Assessment of progress prepared by the monitoring experts and summary of the discussion at the IAP plenary)

PROGRESS

It was welcomed by the meeting that regular surveys on corruption risks and trends in corruption are ordered by the Government. As reported during the meeting, it is done every three months. However, no information is provided since when it is done, what exactly the surveys contain and how their results are used. Hence, these efforts are welcomed, but should be explored further. During the second round of monitoring there were regular corruption surveys of households and enterprises, but conducted by civil society and funded by donors and in practice not used by the government.

Recommendation 1.5.

Take concrete measures to support and involve civil society and take joint actions and projects with it in the development, implementation and monitoring of anti-corruption policies and in anti-corruption activities.

Develop and implement Government's measures to raise awareness of the citizens about corruption and how to prevent it. Undertake Government-led efforts to build public trust, by providing practical information on citizens' rights and public services.

Measures taken to implement this recommendation:

Topics on "Corruption crimes and peculiarities of their detection", "Criminal-law policy in the fight against corruption at European and national level", "Criminological description of corruption offenses", "Directions and measures for prevention of corruption offences in the Republic of Armenia", "Potential risks of corruption practices in privatizing state property and in the sphere of public procurements", "Offer, promise, request of an unlawful advantage, acceptance of an offer or a promise as corruption offences" and "Bribery of public servants as corruption offence" have been included in the courses of trainings organised for police officers to be appointed in community police subdivisions introduced

within territorial units of Yerevan Department of the Police of the Republic of Armenia, operations deputy heads of units of the Police of the Republic of Armenia, heads of divisions for criminal investigation and juvenile matters; police officers holding mid-level positions in Road Police Service of the Police of the Republic of Armenia, head of police holding facilities of the Police of the Republic of Armenia, officers holding mid-level positions in public order maintenance units, police units on duty, inspectorate on juvenile matters and authorisation system, officers holding mid-level positions in criminal investigation divisions of the Police of the Republic of Armenia, services deputy heads of units and heads of preventive divisions of the Police of the Republic of Armenia, commanders of companies and deputy commanders of platoons in subdivisions of Yerevan and Marz Departments officers holding the positions of commanders of platoons and deputy commanders of platoons, operations deputy heads of departments and heads of units of the Police of the Republic of Armenia, officers holding mid-level positions in the General Investigation Department of the Police of the Republic of Armenia, police officers holding mid-level positions specialized in investigation in the Police of the Republic of Armenia, police officers holding mid-level positions specialized in military mobilization and civil defence in the Police of the Republic of Armenia, police officers holding mid-level positions in the criminological service of the Police of the Republic of Armenia.

Guidebook on “Bribery of public servants as corruption offence” has been elaborated and its materials have been included in the programme course studying Criminal Law of the Republic of Armenia, and in the topics of trainings in the Police Educational Complex of the Republic of Armenia.

Guidebook on “Offer, promise, request of an unlawful advantage, acceptance of an offer or a promise as individual corruption offences” has been elaborated and its materials have also been included in the programme course studying Criminal Law of the Republic of Armenia, and in the topics of trainings in the Police Educational Complex of the Republic of Armenia; and the publication activities and delivery of these guidebooks to various subdivisions of the Police of the Republic of Armenia has been already organised.

For the purpose of raising public awareness on corruption, the Public Relations and Information Department of the Police of the Republic of Armenia during 2012 has — through “02” and “Police Unit on Duty” TV Programs — broadcasted 16 video materials on detection of corruption, and the texts thereon have been posted on the website and published in the “02” weekly of the Police of the Republic of Armenia.

Implementation of individual programmes of the education and awareness policy on fight against corruption

With the view to support the implementation of anti-corruption programmes in the field of education, a Cooperation Memorandum has been signed between the Ministry of Education and Science and "The future is yours" NGO. A number of activities have been carried out within the framework of this cooperation. Particularly, in the course of 2010:

Within the framework of the "Education Against Corruption" sub-project of the "Mobilizing Action Against Corruption" project funded by the USAID, a Methodological Guidance Manual "Education Against Corruption" has been developed by the "The future is yours" NGO for the teachers of general education schools; the teachers of "Social studies" of general education schools of the Republic have undergone a three-day training. Topics covering fight against corruption have been included in the curriculum of the subject "Social studies";

in primary (handicraft) and middle level vocational educational institutions the anti-corruption topics are covered during reserved hours of the syllabi. With the support of the "The future is yours"

NGO it is envisaged to include the instruction of anti-corruption topics—within 3 class hours— in the mandatory component of the syllabus as well;

topics covering corruption and its prevention have been included in the curricula of subjects "Fundamentals of Economics", "Fundamentals of Law" and "Fundamentals of Political Science" (the instruction of one of which is mandatory for students) for professions of Bachelor's educational programme of higher educational institutions;

with the support of the "The future is yours" NGO, about 300 students from 8 higher educational institutions of the Republic have undergone training courses covering anti-corruption topics, and 35 students selected among the participants have been enrolled in the training camp under the title "Youth Against Corruption" from May-November 2010.

In 2011, USAID continued to provide support to "The future is yours" NGO within the framework of the "Education as Means to Prevent Corruption" sub-project, as an outcome of which, particularly:

a bilateral Co-operation Memorandum has been signed between the "The future is yours" NGO and the Yerevan State University (YSU) with the view to support anti-corruption educational programmes in the field of higher education. Nine inter-university meetings-discussions have been held with active involvement of young initiators;

32 instructors from different educational institutions have been trained, who further will support anti-corruption events organised within their educational institutions, such as discussions and inter-university meetings, stage performances, web site design;

a contest "Anti-corruption ten days" has been held in general education schools of marzes of the Republic of Armenia and Yerevan, as a result of which teachers of general education schools have demonstrated open classes addressing anti-corruption issues and 318 students have presented their essays, pictures and video films titled "Corruption and its destructive consequences". After summing up the contest results, 39 teachers from different marzes of the Republic have been selected as authors of best open classes;

five days anti-corruption trainings have been conducted in 19 educational institutions of Yerevan and marzes of the Republic of Armenia — of which 9 primary and middle level vocational and 10 higher educational institutions — in which more than 1000 students been involved. A group of young initiators has been formed in each of 19 educational institutions, who have held anti-corruption youth events. Model programmes and scripts of events have been included in the Guidance Booklet titled "Education as Means to Prevent Corruption" on holding anti-corruption trainings and events. With the help of the mentioned booklet students hold and conduct anti-corruption youth events in their educational institutions. The mentioned booklet has been published in 1000 copies intended for holding anti-corruption trainings and events in primary and middle level vocational and higher educational institutions.

The project "Education as Means to Prevent Corruption" has been summed up with the event under the title "Well-informed youth as a guarantee for non-corrupt society", during which about 200 active students full of initiative, with a constructive mindset from 19 higher, as well as primary, middle level vocational educational institutions of marzes of the Republic of Armenia and Yerevan have been granted certificates.

An informative visit to Georgia was also held with the view to become familiar with the reforms aimed at preventing corruption in that country. In Georgia 20 participants of the programme visited the Ministry of Justice, the Prosecutor's Office, the Parliament, the Ministry of Internal Affairs, the Police Academy, the Public Service Commission and other institutions. With the view to sum up the outcome of the programme, an anti-corruption camp was held in Aghveran where the participants visited Georgia shared their impressions with other participants of the programme. The youth involved in this process actively held debates, round table discussions and meetings with their peers at their educational institutions. The programme had a great impact both on students involved in the programme and

trainers involved in anti-corruption programmes, making them more aware, confident and intelligent. Activities aimed at capacity building of management bodies in the field of education have also been performed.

The Ministry of Education and Science of the Republic of Armenia, in collaboration with the UNDP and UNESCO, has developed a package of documents and an action plan for the assessment of capacities and training needs of structural and separated subdivisions of the staff of the Ministry of Education and Science of the Republic of Armenia. "Communication Strategy of the Ministry of Education and Science of the Republic of Armenia for 2011-2015" has also been developed and approved within the framework of this co-operation and is targeted at the improvement of management and institutional capacity building of the staff.

At the same time, with the support of UNICEF, three-day seminars for the relevant specialists of the staff of the Ministry of Education and Science of the Republic of Armenia were held in 2011-2012 with the view to build capacities for planning education policy.

Assessment of Progress

(Assessment of progress prepared by the monitoring experts and summary of the discussion at the IAP plenary)

NO PROGRESS

Most of the activities reported appear not relevant for this recommendation or have taken place before the second round of monitoring. The report in 2011 raised concerns about the lack of proactive involvement of the civil society by the government, including in joint anti-corruption activities and no information is provided in this regard. The reported efforts in the area of youth education and anti-corruption work in educational institutions are commendable, especially work conducted jointly by schools, universities and NGOs, such as camps for youth, guidance, training. However, it needs to be clarified to what extent this was done after adoption of this recommendation.

Recommendation 1.6.

In order to strengthen the institutional capacities for development, implementation and monitoring of anti-corruption policies, it is necessary to:

- i. Ensure effective oversight of anti-corruption policies at the highest political level, with participation of civil society and other key stakeholders;
- ii. Ensure a permanent Secretariat function for development, implementation and monitoring of anti-corruption policies; ensure it has clear responsibilities and sufficient human, material and financial resources;
- iii. Ensure that public institutions clearly allocate responsibilities for development and implementation of anti-corruption measures in their respective sectors, for the monitoring and exchange of information, including the reporting to the above Secretariat.

Measures taken to implement this recommendation:

Under the new "Public Policy Integrity strategy", the institutional framework is to be reformed. The permanent Secretariat will be established in the Government Staff, which will be responsible for

coordination of implementation of the anti-corruption strategic documents.

See the excerpts from the strategy in the Annex.

Assessment of Progress

(Assessment of progress prepared by the monitoring experts and summary of the discussion at the IAP plenary)

NO PROGRESS

The intentions to reform the institutional framework in Armenia, in particular to reform the Anti-Corruption Council and to set up a Secretariat, which will be responsible for coordination of implementation of the anti-corruption work, are welcome. Nevertheless, this is only a project. At present, points i and ii of the recommendation remain not implemented. As to the point iii, requiring ensuring capacity within the state institutions to take care of anti-corruption measures in their own ranks, no measures were reported.

PILLAR 2. CRIMINALISATION OF CORRUPTION

Previous Recommendation 11 - Liability of legal persons

Recognising that the responsibility of legal persons for corruption offences is an international standard included in all international legal instruments on corruption Armenia should with the assistance of organisations that have experience in implementing the concept of liability of legal persons (such as the OECD and the Council of Europe) consider how to introduce into its legal system efficient and effective liability of legal persons for corruption.

Measures taken to implement this recommendation:

The concept of the liability of legal persons has been incorporated in the draft of the Administrative offences code. The general part of the code is ready and currently the special part is being drafted. The Administrative Offences Code is planned to be adopted in 2015 according to the Judicial and Legal Strategic reform plan.

The excerpts of the relevant articles are attached: see Annex 2.

Assessment of Progress

See below, under recommendation 2.1-2.2

Recommendation 2.1. – 2.2.

- i. Armenia should explicitly criminalise the request and solicitation of an undue advantage and acceptance of an offer and of a promise of an undue advantage (Article 311 and Article 311-2 of the Criminal Code of Armenia), in line with Article 15 paragraph b) of the UN Convention and Article 3 of the Council of Europe's Criminal Law Convention.
- ii. Armenia should consider fully covering trading in influence in its criminal law in line with international standards, namely to include active side of trading in influence, request or the acceptance of an offer or promise of an undue advantage to exert improper influence, other acts apart from those committed for "mercenary purposes" and refer to third party beneficiaries.
- iii. Armenia should fully criminalise bribery in the private sector by expanding the definition of persons subjected to these provisions to include all individuals who work for private sector entities.
- iv. Armenia is encouraged to conduct further analysis of needs and possibilities to criminalise illicit enrichment.
- v. Armenia should introduce liability (criminal, civil or administrative, as it deems appropriate) of legal persons for corruption offences with appropriate sanctions.

Measures taken to implement this recommendation:

1. Article 200 of the Criminal Code of the Republic of Armenia has — by Law HO-18-N adopted on 9 February 2012 by the National Assembly of the Republic of Armenia — been supplemented with a provision according to which any person giving a commercial bribe shall be released from criminal liability in case the bribe has been extorted. New provisions have been added in relation to all relevant criminal offences, where under a time-limit of maximum three days is provided for releasing from criminal liability, during which the person giving the bribe must voluntarily inform thereon to the law enforcement authorities.
2. Amendments have also been made by the same Law in Articles 200, 311 and 311.1 of the Criminal Code of the Republic of Armenia covering passive bribery. The scope of these criminal offences has been enlarged to include "requesting money, property, rights to property, securities or any other advantage or accepting a promise or an offer to receive".
3. The Criminal Code of the Republic of Armenia has been supplemented by the same Law with Article 312.2, which criminalises receiving unlawful remuneration for the use of real or alleged influence, and which covers "receiving or requesting money, property, rights to property, securities or any other advantage or accepting a promise or an offer to receive". Thus, the specified Articles of the Criminal Code of the Republic of Armenia have been brought in line with the requirements of Article 18 of UN Convention against Corruption and Article 12 of Criminal Law Convention on Corruption of the Council of Europe.
4. In relation to bribery in the private sector it should be noted that according to the revisions of the Criminal Code of the Republic of Armenia Article 200 has been reformulated so as to state that persons, who implement instructive or special managerial functions or permanently, temporarily or with special powers hold any other position in commercial organisations, shall be subject to liability for committing the crime provided for in the given Article.
5. Article 20, Illicit Enrichment, of the UN Convention against Corruption is not covered by the criminal legislation of the Republic of Armenia. Besides, the word "may" used in Article 20 of the UN Convention against Corruption implies that States may as well adopt no measures for criminalising the given act.
6. The Law HO 256-N adopted on 5 December 2006 by the National Assembly of the Republic of Armenia has repealed the provision which was legalising the receipt of a gift in the amount not exceeding the five-fold of salary of the official.

As regards establishing liability for legal persons, we inform that the draft concept of the new Code of the Republic of Armenia has been put into circulation which envisages establishment of criminal liability for legal persons for committing corruption, economic and environmental crimes.

The following activities have been implemented for the implementation of guidance presented with respect to Recommendation 22 of the Report.

After the 2009 Third Round Evaluation Report on anti-money laundering and combating the financing of terrorism regime (hereinafter referred to as “AML/CFT”), prepared by Council of Europe’s MONEYVAL Committee and experts from the International Monetary Fund (IMF), continuous efforts are underway, in pursuit of implementing the recommendations presented in the evaluation report, for the improvement of mechanisms necessary for AML/CFT, as well as for introduction of legislation that is largely compliant with international standards.

Thus, draft laws have been prepared, with the involvement of specialists from the Financial Monitoring Centre of the Central Bank of the Republic of Armenia (hereinafter referred to as “FMC”) and from interested ministries of the Republic of Armenia, for making amendments and supplements in the Law of the Republic of Armenia “On combating money laundering and terrorism financing” and in 14 other laws, and the drafts have been sent to the Government of the Republic of Armenia after being improved on the basis of recommendations and comments from interested ministries, as well as after being submitted for regulatory impact assessment in the spheres of economy, including small and medium entrepreneurship, competition, budgeting, nature protection, healthcare, social security and anticorruption. The major amendments envisaged by the legislative package are the following:

To clarify and specify the competences of FMC and supervisory bodies as regards exercising control over reporting entities and applying measures of responsibility;

To vest the Central Bank of the Republic of Armenia with the authority to adopt regulatory legal acts in pursuit of applying the requirements prescribed by law for reporting non-financial institutions and persons;

- To improve and clarify issues as regards customer due diligence, recognising a transaction or business relationship as suspicious, documenting the analyses carried out;

-To bring in line with international standards the mechanisms for freezing, confiscation of funds or other assets linked to terrorism;

- To define a new threshold for submitting reports on cash transactions subject to mandatory reporting;

-To clarify the scope of elements of crime preceding money laundering, etc.

In 2010 the Progress Report on the fight against ML/FT in the Republic of Armenia has been discussed and approved in the plenary session of the Council of Europe’s MONEYVAL Committee reflecting the progress made during the previous one year, that is the fact of existence of draft laws of the Republic of Armenia providing for amendments and supplemented in the above-mentioned 15 laws relating to the area of combating ML/FT. Intensive activities are currently implemented for the finalization of the mentioned laws and adoption thereof as prescribed by law.

A draft 2013-2015 National Strategy for Combating Money Laundering and Terrorism Financing has been elaborated based on the Strategic Analysis of Money Laundering and Terrorism Financing Risk in the Republic of Armenia. The draft is planned to be submitted for the approval of the Interagency Commission on the Fight against Counterfeiting of Money, Fraud in Plastic Cards and Other Payment Instruments, Money Laundering and Terrorism Financing.

In 2011 five judgements have been rendered on elements of money laundering combined with preceding criminal offences, and in case of three of them the preceding criminal offences included corruption related offences, embezzlement or peculation (Article 179 of the Criminal Code of the Republic of Armenia).

Assessment of Progress

(Assessment of progress prepared by the monitoring experts and summary of the discussion at the IAP plenary)

PROGRESS

Significant efforts were taken by Armenia to address this recommendation, including amendments to the Criminal Code. The Criminal Code provisions covering request and solicitation of an undue advantage and acceptance of an offer and of a promise of an undue advantage have been changed, trading in influence has been criminalised and liability for bribery in private sector has been strengthened. Besides, Armenia has considered how to introduce into its legal system efficient and effective liability of legal persons for corruption. It is commendable that a concept on the liability of legal persons has been elaborated and it has also been reflected in the draft Administrative offences code. As part of this concept also the issue of illicit enrichment was considered by the authorities. The authorities are encouraged to finalise the drafting process as soon as possible and to introduce the proposed administrative liability for legal persons.

Recommendation 2.6.1. - Statute of limitations

Armenia should increase the statutory limitation periods for bribery to ensure for effective investigation and prosecution.

Measures taken to implement this recommendation:

With regard to statutes of limitations for corruption crimes, international legal documents, as well as legislative provisions of separate countries have been studied. The conducted studies have revealed that the legislation of foreign countries does not define a special norm envisaging longer statute of limitation for specific corruption related crimes. Thus, the main issue under consideration has been settled by another way of legislative amendment. In particular, draft Law "On making amendments to the Criminal Code of the Republic of Armenia". According to the draft Law, sanctions defined for the committal of a number of crimes considered corruption should be made stricter, as result of which sanctions for crimes of medium gravity shall apply to crimes of minor gravity, while sanctions for grave crimes shall apply to crimes of medium gravity. In this way, the issue of defining reasonable statute of limitations for the criminal liability for the mentioned crimes shall be settled.

Assessment of Progress

(Assessment of progress prepared by the monitoring experts and summary of the discussion at the IAP plenary)

NO PROGRESS

Legislative amendments have been prepared to increase sanctions for corruption crimes. This, in turn, would increase the statutory limitation periods for investigating and prosecuting these crimes. Since the changes are only at the level of a draft, it is concluded that no progress is made at present.

Recommendation 2.6.2. - Immunities

Adopt rules in order to restrict the status of immunities only to the situations when prevention measures need to be taken.

Consider modifying legal provisions according to which the immunities lead to situations of exceeding the legal terms of statute of limitations. Adopt rules according to which immunities constitutes ground for suspending the statute of limitation.

Consider repealing the legal provisions requiring the consent of the National Assembly and the consent of the President for accusing or for detaining a judge or a Member of Parliament. Consider modifying the specific legal provision allowing arresting a judge in any legal situation, not only when he is caught red-handed.

Measures taken to implement this recommendation:

The rules relating to the limitation of immunities are being still discussed in the framework of the new Criminal Procedures and Criminal Code. The rules restricting immunities will be considered when the new Criminal Code will be drafted, considering the fact that the changes are of fundamental legal nature. The adoption of the new Criminal Code is envisaged in 2015.

Other proposals mentioned in the recommendation require Constitutional amendments. Currently the Commission on Constitutional amendments is functioning and the issues raised in the present recommendation are being considered.

Assessment of Progress

(Assessment of progress prepared by the monitoring experts and summary of the discussion at the IAP plenary)

NO PROGRESS

Recommendation 2.8.

Armenia should ensure that law enforcement agencies have necessary access to financial data for detecting and investigating corruption-related offences. In particular, allow access to financial data of a broader range of persons than suspects and accused persons in criminal investigations, including, for example, family members or other close persons, when there are enough suspicions that those persons participated, helped or are aware of the committed crime or when there are grounds to believe that the money are provided by the suspect without any legal justification, respecting international standards for data protection.

Armenia should extend the time period of preliminary investigations of criminal case on corruption-offences currently referred to in Article 197 of the Criminal Procedure Code.

Measures taken to implement this recommendation:

In 2012 the Police of the Republic of Armenia has developed and put into circulation the draft laws of the Republic of Armenia "On making an amendment in the Law of the Republic of Armenia "On bank secrecy" and "On making amendments to the Criminal Procedure Code of the Republic of Armenia" which envisage enlarging the scope of persons whereon the criminal prosecution body may, in the course of criminal proceedings, receive information comprising bank secret. Adoption of the draft law would solve for law enforcement bodies the issue of accessibility of financial data. However, based on joint discussions it has been decided to consider the issues, raised in the drafts, within the framework of the

new draft Criminal Procedure Code of the Republic of Armenia, and the activities in connection with this are in the finalisation stage.

Meanwhile, we would like to inform that the position of the Central Bank of the Republic of Armenia with regard to this issue is definite; in particular, the Central Bank of the Republic of Armenia proposes revising the recommendation presented in Point 2.8 “Application, interpretation and procedure” of the Report which relates to allowing law enforcement bodies to have access to financial data — that comprise bank secret — of persons other than suspects and accused persons (in particular, family members or other affiliated persons), since no amendments are envisaged for the protection, provision and disclosure regime of secrets within the framework of the current policy on protection of bank secrecy.

The Law of the Republic of Armenia on “Public service” has been adopted on 26 May 2011, which covers also service in the Police. The law defines also the code of ethics for public servants and high ranking officials.

In addition, the code of ethics for police officers has been established still in 11 April 2005 by the law establishing service discipline in the Police (Chapter 5 of the Law of the Republic of Armenia on “Approving the disciplinary code of the Police of the Republic of Armenia”, which entered into force on 28 May 2005).

According to the Law of the Republic of Armenia on “Approving the disciplinary code of the Police of the Republic of Armenia” the goals of official investigation include timely disclosure of each violation of disciplinary and ethical rules committed by a police officer.

As a result of amendments made in the Law of the Republic of Armenia on “Approving the disciplinary code of the Police of the Republic of Armenia” on 19 March 2012 the Law has been supplemented with a new Article, which envisages establishment of a police disciplinary commission. The latter will examine the materials of official investigation and the conclusion rendered on the basis thereof prior to submitting to the person responsible for initiation of official investigation for adopting a relevant decision.

The law defines that, in addition to police officers, representatives from other state bodies and non-governmental associations will be included in the membership composition of the police disciplinary commission. A draft decision of the Government of the Republic of Armenia “On establishing the membership composition and rules of procedure of the Police Disciplinary Commission” has been prepared on the basis of the Law and put into circulation, which has been presented to the consideration of international experts through the Ministry of Foreign Affairs of the Republic of Armenia, thereafter it will be submitted for the discussion of the Government of the Republic of Armenia.

Assessment of Progress

(Assessment of progress prepared by the monitoring experts and summary of the discussion at the IAP plenary)

NO PROGRESS

Insofar as access to financial data by law enforcement is concerned, the report shows that this issue is being considered and there are discussions how to solve it.

Regarding extension of time for preliminary investigations, no information was provided.

Recommendation 2.9. Specialized anti-corruption law-enforcement bodies

Clearly delineate competences of different inquiry, investigating and prosecuting bodies in detecting, investigating and prosecuting corruption-related offences, especially among the police units. Ensure other bodies apart from the Special Investigation Service (SIS) are clearly assigned to detect, investigate and prosecute corruption offences, as long as this is not defined as exclusive competence of the SIS. 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, economy and the society.

Measures taken to implement this recommendation:

Implementation of the recommendation is conditional on adoption of the new draft Criminal Procedure Code of the Republic of Armenia and other legal acts conditioned by its adoption.

A round table discussion has been organised in the Educational Complex of the Police of the Republic of Armenia on “Offer, promise, request of an unlawful advantage, acceptance of an offer or a promise as corruption offences” and “Bribery of public servants as corruption offence” with the participation of representatives from the General Prosecutor’s Office, Ministry of Justice of the Republic of Armenia, OSCE Yerevan Office, Headquarters, Legal Department, General Department of Criminal Intelligence, General Department for Fight against Organized Crime of the Police of the Republic of Armenia and the academic teaching staff.

In Armenia, there exists a decentralised management system in the fight against corruption, where the functions of developing an anti-corruption policy, control and co-ordination thereof are separated from bodies specialised in identification of corruption. In the Republic of Armenia, there exist no special state bodies responsible for the fight against corruption, but an anti-corruption system functions in the Republic, within the framework of which the mentioned functions preconditioned by the constitutional status are performed by law-enforcement bodies within the scope of their powers. Various law enforcement bodies, in particular the Police adjunct to Government of the Republic of Armenia, the National Security Service adjunct to the Government of the Republic of Armenia, the Special investigation Service of the Republic of Armenia shall be involved in the fight against corruption crimes. Corresponding functions shall also be reserved to the State Revenue Committee of the Republic of Armenia. Corruption related crimes shall be under the investigative subordination of various state bodies, thus the preliminary investigation of the given cases is conducted by investigative subdivisions of the above mentioned state agencies. Article 190 of the Criminal Procedure Code of the Republic of Armenia shall clearly define investigative subordination rules based on which the powers of the bodies conducting preliminary investigation are defined. Control over the lawfulness of preliminary investigation and inquest of corruption crimes, as well as pursuing charges of corruption crimes in court shall be carried out by the Prosecutor's Office of the Republic of Armenia.

According to Order of the Prosecutor General of the Republic of Armenia No 82 of 19 November 2008, the list of corruption crimes, which includes 31 crimes, has been revised. The list of separate corruption crimes shall correspond to the general number of corruption crimes defined by the provisions of the UN Convention against Corruption.

Moreover, crimes provided for in the following Articles of the Criminal Code of the Republic of Armenia shall be considered corruption crime: 1. Point 1 of part 2 of Article 179 (Embezzlement or

Peculation); 2. Part 3 of Article 179 (Embezzlement or Peculation committed by use of official position); 3. Point 3 of part 2 of Article 184 (Causing property damage by deception or abuse of confidence); 4. Article 187 (Obstructing lawful entrepreneurial and other economic activities); 5. Point 3 of part 3 of Article 190 (Legalisation of proceeds of crime (money laundering)); 6. Point 3 of part 2 of Article 195 (Anti-competitive practices); 7. Article 200 (Commercial bribe); 8. Article 201 (Bribing participants and organisers of professional sporting events and commercial competition shows); 9. Article 205 (Maliciously evading payment of taxes, duties or other mandatory payments); 10. Article 214 (Abuse of powers by officers of commercial or other organisations); 11. Point 1 of part 3 of Article 215 (Smuggling); 12. Article 308 (Abuse of official powers); 13. Article 309 (Excess of official powers); 14. Article 310 (Unlawful participation in entrepreneurial activity); 15. Article 311 (Receiving a Bribe); 16. Article 311¹ (Receiving unlawful remuneration by a public servant not considered an official); 17. Article 311² (Use of real or alleged influence for mercenary purposes); 18. Article 312 (Receiving a Bribe); 19. Article 312¹ (Receiving unlawful remuneration by a public servant not considered an official); 20. Article 313 (Mediation in bribery) 21. Article 314 (Official forgery); 22. Article 315² (Failure to stop unauthorised seizure of land falling under the ownership of the State or a community and to eliminate the consequences thereof, as well as failure to stop the construction of unauthorised buildings, premises and the demolition of illegal constructions); 23. Part 3 of Article 332 (Obstruction of administration of justice and investigation); 24. Article 336 (Subjecting an obviously innocent person to criminal liability); 25. Article 341 (Compelling — by a judge, prosecutor, investigator or person carrying out inquest — to testify); 26. Article 348 (Unlawful arrest or detention); 27. Parts 2 and 3 of Article 349 (Falsification of evidences); 28. Article 351 (Unlawful release from criminal liability); 29. Article 352 (Delivering an obviously unjust criminal or civil judgment or another judicial act); 30. Article 353 (Intentional non-execution of a judicial act); 31. Article 375 (Abuse of power, excess of power, or inaction of power).

According to Order of the Prosecutor General of the Republic of Armenia No 12 of 19 March 2013, the crime provided for by points 1.1 and 2 of Article 178 shall be listed as corruption crimes.

Separate fight against corruption crimes in the Republic of Armenia shall be conducted at interdepartmental level. In particular, Corruption and Organised Crime Department shall function under the General Prosecutor's Office of the Republic of Armenia. Since corruption offences are under subordination of various investigation bodies, therefore, the preliminary investigation thereof shall be conducted by various state agencies. But criminal cases instituted with regard to the mentioned crimes shall undergo definite criminal procedure, in the course of which functions of state bodies are clearly distinguished.

Assessment of Progress

(Assessment of progress prepared by the monitoring experts and summary of the discussion at the IAP plenary)

NO PROGRESS

Regarding clearer delineation of competences of law enforcement bodies in investigating corruption, the report describes the existing system and notes that new Criminal Procedure Code is being prepared and will perhaps allow solving the issue.

Concerning law enforcement co-operation to investigate corruption, only one round table discussion is reported.

At the plenary meeting Armenian authorities indicated the intention to ensure independent law enforcement body investigating corruption and to reform the SIS.

Recommendation 2.10. - Statistical data on enforcement of criminal legislation on corruption

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

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

Measures taken to implement this recommendation:

In the Police of the Republic of Armenia statistical reports are prepared in accordance with the list of corruption offences defined by the Order of Prosecutor General of the Republic of Armenia No 82 of 19 November 2008, in which analysis is carried out regarding each type of crime based on the dynamics of criminal offences existing in materials and criminal cases recorded and pending during the same period of the previous year, and the number of persons, including officials, subjected to liability for those criminal offences, with the indication of the number of instigated criminal cases that, with the relevant indictment, have been sent to the court. Statistical reports are currently prepared once in six months (every month, if necessary) and are sent to the Staff of the President of the Republic of Armenia and to the General Prosecutor's Office. For each type of crime the information on the size of material damage caused and the value of assets, whereon attachment has been imposed by investigators, will be covered by the new directive "On uniform record-keeping of crimes" which is currently prepared in the Information Centre of the Police of the Republic of Armenia. It will be put into circulation upon the Decision of the Government of the Republic of Armenia after adoption of the new Criminal Procedure Code of the Republic of Armenia. As regards corruption related administrative offences of state servants, after defining their list the Information Centre will have the possibility to provide the required information also on corruption related administrative offences.

With the view of carrying out co-ordinated uniform statistics of indicators relating to the pre-trial proceedings and making the forms of statistical reports on basic data pertaining to investigative activities submitted by the inquest and preliminary investigation bodies uniform, the Government of the Republic of Armenia has adopted on 23 October 2008 Decision No 1225-N "On approving the procedures for provision of indicators describing the pre-trial proceedings" and on 25 February 2010 Decision No 204-N "On making amendments and supplements to the Decision of the Government of the Republic of Armenia No 1222-N of 23 October 2008".

The Decision of the Government of the Republic of Armenia No 1225-N of 23 October 2013 shall have three annexes containing 17 tables where information on corruption related crimes shall also be filled in. The mentioned reports shall be summarised and submitted to the National Statistical Service of the Republic of Armenia.

Moreover, Order No 30 "On defining the framework for summarisation of outcomes of semi-annual and annual activities of prosecutors and on approving the exemplary forms of a reporting notice on semi-annual and annual activities drawn up and submitted by structural sub-divisions of corresponding Prosecutor's Offices and prosecutors within the General Prosecutor's Office of the Republic of Armenia" was adopted by the Prosecutor General of the Republic of Armenia on 24 June

2011, according to which the exemplary forms of reporting notices on semi-annual and annual activities by sectors shall be drawn up and submitted to the General Prosecutor's Office of the Republic of Armenia, including the Corruption and Organised Crime Department of the General Prosecutor's Office of the Republic of Armenia.

In addition, Section 11 of the revised forms of semi-annual/quarterly and annual statistical reports "On the activities of the Prosecutor's Office" submitted by structural sub-divisions of the General Prosecutor's Office of the Republic of Armenia shall be envisaged for examination results of corruption crimes and shall be drawn up and submitted each quarter. The aforementioned Section shall include 11 tables where the recommended data along with other data is also filled in.

Assessment of Progress

(Assessment of progress prepared by the monitoring experts and summary of the discussion at the IAP plenary)

PROGRESS

There seems to be some progress with the 2013 Decision of the Government No 1225-N of 23 October 2013 introducing tables with information on corruption related crimes to be submitted to the National Statistical Service of Armenia. Nevertheless, it should be further explored how this is applied and working in practice.

PILLAR 3. PREVENTION OF CORRUPTION

Previous recommendation 17 - Ethics and code of conduct

Adopt a uniformed Code of Ethics / Code of Conduct for Public Officials modelled on international standards (e.g. such as Council of Europe Model Code of Conduct for Public Officials) as well as specific codes of conduct for professions particularly exposed to corruption, such as police officers, judges, tax officials, accountants, etc. In addition, prepare, and widely disseminate, comprehensive and practical guidelines for public officials on corruption, conflict of interests, ethical standards, sanctions and reporting of corruption. Consider introducing disciplinary liability for the breach of codes of conduct. Consider the introduction of an ethics supervision body/commissioner.

Measures taken to implement this recommendation:

Number of actions have been undertaken to implement the recommendation related to ethics and integrity. The Law on Public service was adopted that includes provisions on the ethics code for public officials and high-ranking officials. Separately, the codes of ethics/codes of conduct for special services (judiciary, tax service, service in police and others) were implemented in an effort to establish ethics regulations taking into account the specifics of different services. Sanctions - up to a dismissal from the occupied position - for violations of ethics codes and activity limitations are provided in the legislation of respective services.

Meanwhile, the Commission on Ethics of High-Ranking Officials was established according to the Law on Public Service of Armenia in 2012 with the mission to promote ethics and integrity in the public service as well as to build trust between citizens and state institutions. The functions of the Commission include: a) maintaining the register of declarations of high-ranking public officials and analysis and publication of declarations; b) detecting conflicts of interests of high-ranking public officials and violations of the rules of ethics; c) publishing information on violations of the rules of ethics detected within the scope of his/her competence, as well as the measures taken in their regard and others. Separately, the ethics commissions of Parliament, the Judiciary system and Prosecutor General's office are created to deal with conflict of interest situations and ethics violations of Parliament members, judges and prosecutors. Besides, the Public Service Law also envisages a provision on formation and operation of ethics commissions for public servants in the state institutions. Currently, the mentioned ethics commissions are formed and their operational capacities are being built.

As for the consideration of the disciplinary penalties for breaching of ethics rules/code of ethics by high-ranking officials, the discussions on the implementation of sanction system have been conducted and currently the best international practices of punishments are being studied to come up with solutions that would best work in Armenia.

Recommendation - 3.2.1

Consider establishing a central coordinative body for the whole public service, taking into account the need to support the implementation of the new Public Service Law, promote the establishment and enforcement of common standards and practices for the whole public service, especially for high-level officials.

Taking into account the role of high-ranking officials in building trusts of citizens in public administration and in setting the ethical and professional example for the whole administration, ensure vigorous implementation of new ethical norms by high-level officials.

Elaborate in a participative way, adopt and ensure effective application of specific Codes of Conduct for professions and positions particularly exposed to corruption, as foreseen in the Law on Public Service.

Ensure ethics commissions are put in place and function properly in public institutions where they are required by the law. Assess effectiveness of ethics commissions, in particular in most at risk public institutions. Reinforce their independence and trust in their members.

Ensure the Ethics Commission for High-Ranking Officials functions properly and has adequate resources.

Ensure adequate disclosure of the activity developed and the results obtained by ethics commissions, including the Ethics Commission for the High-Ranking Officials.

Establish channels of coordination between the ethics commissions, the coordinating bodies for public service and the human resources management departments in each body.

Further strengthen the system of merit-based recruitment and promotion, including through the Civil Service Council/public service coordinative body, but also build up capacity of individual institutions in the application of merit-based rules.

Improve the "out-of-competition" procedure of recruitment of civil servants, e.g. introducing a system of internal competition or reducing the use of this procedure to fulfil temporary positions in emergency cases, while an open competition is started.

Include the integrity and ethics competencies to the core competencies' list to be evaluated during the selection process.

Establish a unitary pay system for all branches of the public service. Strive to increase the attractiveness, trustworthiness, openness and professionalism in the civil service through more competitive salaries in relation to non-governmental sector within the fiscal capacity of Armenia.

Measures taken to implement this recommendation:

The new law on “Remuneration of State Official” has been adopted by the Parliament in 2013, which sets a new scale for payment and remuneration of public officials. The Law sets the amount of minimal salary to 50.000 Armenian Drams, based on which the calculation of the salaries of all public servants is done. Under this law the salaries of around 600.000 public servants have been increased considerably, either doubled or by 1.5.

The draft law of the Republic of Armenia “On the code of ethics of civil servants” provides for measures ensuring adequate disclosure of activities and findings of ethics commissions, including the Ethics Commission for High-Ranking Officials.

The mentioned legal act also provides for coordination between the public service coordinating bodies and the human resource management departments in each body.

A score-based system for assessing the interview stage in the process of competition and performance appraisal system of civil servants have been introduced and are used now with a view to strengthen the systems for merit-based recruitment and promotion.

As to strengthening the personnel selection capacity of separate institutions, to this end a new system has been introduced for recruitment in junior positions of civil service. It should be noted that prior to introduction of the system, a training on assessment of knowledge, capacities and value systems of civil servants and candidates for vacancies has been organised and carried out for chiefs of staff of all bodies of civil service and employees of subdivisions.

In connection with the issue of “out-of-competition” procedure for recruitment of civil servants, we would like to note that only a civil servant, who is registered in the short-term personnel reserve of civil service as a result of reduction of staff positions, and a civil servant, who is considered an employee of the structural subdivision with the vacant position and complies with the requirements set for occupying that position, may be appointed through “out-of-competition” procedure to a vacant position in civil service.

In connection with the issue we would like to inform that the 2012-2017 Programme of the Government of the Republic of Armenia provides for establishing a uniform and fair system for remuneration of officials in all branches of public administration system, which will take into account productivity of each employee and work efficiency, as well as continuing the policy of introduction of social guarantees for raising attractiveness of employment in public sector.

In the sector of public service issues related to conflict of interests, incompatibilities and gifts are regulated by the Law of the Republic of Armenia “On public service”. In addition, the Civil Service Council has prepared a draft law of the Republic of Armenia “On the code of ethics of civil servants” which will define the principles, rules of ethics of civil servants, and legal relations pertaining to situations of conflict of interest. The draft provides also for adoption of secondary legislation necessary for the practical enforcement of the mentioned issues.

For the purpose of ensuring the fulfilment of obligation to report on suspicions related to corruption and practically guaranteeing the protection of state officials reporting on corruption, a public/civil servant must, in accordance with the Law of the Republic of Armenia “On public service”, report to competent officials on offences committed by other servants and on any illegal, including corruptive, operations related to public service. According to the mentioned Law competent authorities must guarantee the security of that public servant. The procedure for reporting and guaranteeing the security of public/civil servant has been established by the Decision of the Government of the Republic of Armenia No 1816-N of 15 December 2011.

Mandatory trainings of civil servants on “Principles of integrity”, “Introductory course on anti-corruption”, approved by the Civil Service Council of the Republic of Armenia, are currently being

conducted in pursuit of organising practical training courses on ethics in public service and involving public service employees in such training programmes. Within the period of 2012 training programme one group of civil servants has undergone the training by the same programme and the training of another group is planned for September.

The Civil Service Council of the Republic of Armenia has been involved also in needs assessment joint activities, initiated by OECD SIGMA, for the development of training programs on ethics, and — based on the results of assessment of needs of the civil service system in Armenia — training programmes will be developed with the support of SIGMA.

Assessment of Progress

(Assessment of progress prepared by the monitoring experts and summary of the discussion at the IAP plenary)

PROGRESS

The developments reported by the Armenian authorities show progress made in the area of integrity in public service since last monitoring in September 2011, in particular in terms of practical implementation, and Armenia was commended for this.

Ethics Commission for High-Ranking Officials has been established in 2012. The Commission has become operational and fulfils some of its functions in practice. Nonetheless, the level of activity and public awareness are very low yet. The capacities of the Commission seem to be insufficient (only one support staff).

Ethics committees within public institutions are being put in place according to the September 2012 Civil Service Council Decree On Creation of Civil Service Ethics Committees. However, more detailed information is lacking, in which institutions such committees have been set up in practice and if they are operating.

Merit-based recruitment and promotion is strengthened through new score system in recruitment and performance assessment process.

Unitary pay system, more competitive salaries. Since 2013 new remuneration legislation has entered into force and the level of salaries in public service is increasing. The government programme foresees introduction of a unitary pay system till 2017.

In 2013 a draft law On the Code of Ethics of Civil Servants was developed including an obligation to disclose information by ethics committees and the Commission for High-Ranking Officials.

No progress is reported as regards a central coordinative body for the whole public service and any evidence on the respect of ethical norms by high-level officials.

Conflict of interest and gifts - Previous recommendation 18

Ensure that there is constant monitoring of the observance of rules on gift acceptance and the avoidance of conflicts of interest and that sufficient sanctions are in place in cases of non-compliance.

Measures taken to implement this recommendation:

Measures to ensure the implementation of recommendation on conflict of interest and gifts were taken including adoption of the Law on Public Service of Armenia in 2011 according to which the limitations are applied to the public servants and high-ranking public official. The last are prohibited to receive gifts,

money or services in relation to the discharge of their service responsibilities, except for the following cases: 1) gifts, rewards and receptions given at the time of official events; 2) books, hardware/software and other such materials provided free of charge for the purpose of use in service; 3) scholarship, grant or allowance awarded as a result of a public competition on conditions and criteria applied to other applicants or as a result of another transparent process.

Meanwhile, the law includes provisions on the conflict of interests of high-ranking public officials and it defines the situation of conflict of interest when a high-ranking public official, being guided by his/her interests or those of persons related to him/her means taking such action or adopting such a decision (including taking part in decision-making within a collegial body) within the scope of powers of a high-ranking public official, which, although lawful, results or contributes or may reasonably result or contribute, inter alia, to receive any benefit of him/her or the persons related to him/her. One of the main tools for constant monitoring of regulations related to the gift acceptance and the avoidance of conflicts of interest is asset declarations of high-ranking. High-ranking public officials and their spouses as well as their parents living together with them and the adult single child living together with them shall submit asset declarations. In case of a conflict of interests, the situation should be resolved in accordance with the Law on Public Service.

Separately, legislation on civil service and special services provides regulations on activity limitations including a/ other paid jobs, b/ working jointly with their related people and close relatives, c/ representation and membership of other organizations, d/ engaging in entrepreneurship and other regulations in order to manage conflict of interest situations of civil servants, judicial servants, police servants, servants of Prosecutor General's office, tax servants and others in Armenia. Accordingly, there are sanctions for violations of mentioned regulations up to a dismissal from the occupied position.

The issues of accepting gifts from other persons by a civil servant in relation to his/her professional duties are regulated by the RA Law on Public Service Articles 23(1 p.6), 29, RA Law on Civil Service Article 24(1 subpoint G).

The execution of the requirements set out by the abovementioned Articles and the control over them in the civil service system, including constant monitoring, is conducted directly by the relevant bodies. In case of failure to fulfill the requirements the civil servants are dismissed from their positions in accordance with the Article 33(1 p. J) of the RA Law on Civil Service.

The issues of conflicts of interest are regulated by the RA Law on Public Service, Articles 21(9), 28(1)(3 p.7).

The execution of the requirements set out by the abovementioned Articles and the control over them in the civil service system, including constant monitoring, is conducted directly by the relevant bodies and Ethic's Committees of the Civil Servants, which are operating in accordance with the RA Civil Service Council decree N 844-N dated 26 September 2012 on "Defining the rules of formation and functioning of Civil Service Ethics committees". In cases of failure to fulfill the requirements disciplinary penalties set out by the RA Law on Civil Service are executed regarding civil servants.

Asset declarations - Previous recommendation 19

Screen the system for the control of assets of public officials to detect any possible loopholes and develop proposals to eliminate such loopholes. Consider increasing responsibility for public officials for failure to comply with requirements to declare income, assets and liabilities.

Measures taken to implement this recommendation:

Electronic asset declaration system has been established, which is functioning since 2013. The electronic system allows avoiding errors. The vast majority of asset declarations are being filed electronically. The Ethics Commission has the right under the law to check any information provided in the declarations with the relevant authorities. It is envisaged, as a second stage of reforms, to grant electronic access to different state databases, for facilitating the work of the Commission.

The Law of the Republic of Armenia "On public service" entered into force on 1 January 2012. Chapter 7 of the Law shall regulate relationships of declaration of property and income of high-ranking officials, the control over which is carried out by the Ethics Commission for High-Ranking Officials.

Reporting of corruption - Previous recommendation 20

Enhance the obligation to report suspicions of corruption. Adopt measures for the protection of employees in state institutions against disciplinary action and harassment when they report suspicious practices within the institutions to law enforcement authorities or prosecutors, and launch an internal campaign to raise awareness of those measures among civil servants.

Measures taken to implement this recommendation:

The official duty of a civil servant to report on suspicions related to corruption is regulated by Article 22 of the Law of the Republic of Armenia "On public service", according to which the public servant (civil servant) shall, in the manner prescribed by law, notify relevant officials, including competent state bodies of the offences committed by other servants and of any illegal actions relating to public service, including of those relating to corruption. If a civil servant fails to fulfil the given duty, he or she may be subjected to liability, including criminal liability prescribed by the legislation.

In addition, Decision No 1816-N of 15 December 2011 of the Government of the Republic of Armenia shall regulate the relationships pertaining to reporting to relevant officials, competent state bodies on offences committed by other servants and illegal actions regarding to the public service, including corruption related actions that have become known to the public servant while performing his or her official duties, as well as relationships pertaining to ensuring the safety of a public servant.

The new draft anti-corruption strategy contains a separate section on public awareness, education, reporting of corruption. The main purposes it to embed the culture of reporting corruption among the public servants, which will lead to corruption prevention.

Recommendation 3.2.2.

Ensure adequate rules and practical mechanisms are in place regarding conflicts of interest, incompatibilities and acceptance of gifts in all public bodies and branches of power, including those that are not covered by the Law on Public Service.

Ensure proper enforcement of new declarations of property and income for high-ranking officials introduced by the Law on Public Service entering into force on 1 January 2012.

To ensure obligation for public officials to report suspicions of corruption and protection of public officials reporting corruption is implemented in practice, it is necessary to:

- adopt necessary secondary legislation;
- 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.

Develop a practical training course on Public Service Ethics and include it in the public service training programs offered regularly and mandatory to all public servants.

Offer a special Public Service Ethics Training Program for high-ranking public officials (500 persons), in particular political officials, Ministers, Members of Parliament, mayors and local councillors. This program could be managed by the Ethics Commission for the High-Ranking Officials, in coordination with the Civil Service Council/public service coordinating body.

Measures taken to implement this recommendation:

The issues of conflicts of interest, contradictions and acceptance of gifts are regulated by the RA Law on Public Service, Articles 21(9), 32(1)(pp1-8), 28(1)(3 p.7), 29, and RA Law on Civil Service, Article 24(1)(2)(3).

The abovementioned questions are regulated by the RA Government Decree N 1816-N dated December 15 2011 on "Defining the rules of informing the State authorities and state officials about violations and illegal actions regarding public service, including corruption by other servants, and guaranteeing the security of public servants".

The RA Law on Public Service and the abovementioned Government Degree establish that a public servant can also inform other competent State body out of the hierarchic chain in the State institution.

31 civil servants have undergone professional training in the Legal institute of the RA Ministry of Justice during 27.11.12-29.11.12 and 03.12.12-05.12.12 with the "Fight against corruption" 24 hour program established by the RA Civil service council decree M 949-A dated 01.11.2012.

With the RA civil service council decree N 1080-A dated 10.12.2012 the 72 hour "Fight against corruption" program was established, which has been included in the mandatory training program of the mandatory programs of the civil servants since January 2013.

With the support of the OECD Yerevan office and participation of the Union of Armenian Government Employees NGO the RA Civil Service Council has executed the continuous training project "Basics of Integrity", which includes interpersonal skills, codes of conduct and other components.

Another training project has been established by the RA Civil Service Council decree N 696-A. It is executed in the frames of the "Armenia against corruption" project, with the support of the USAID, by the Armenian Young Lawyers Association for the RA Regional authority civil servants and heads of staff of relevant bodies. The trainings in the frames of the abovementioned project have launched since September and have ended in November. Nearly 180 civil servants have been trained.

Assessment of Progress

(Assessment of progress prepared by the monitoring experts and summary of the discussion at the IAP plenary)

PROGRESS

A number of steps were taken by Armenia to address this recommendation.

Rules and practical mechanisms for preventing conflict of interest.

In 2013 a draft law On the Code of Ethics of Civil Servants was developed further defining legal rules on ethics and conflict of interest.

Enforcement of new declarations of property and income for high-ranking officials. Electronic asset declaration system has been established and is functioning since 2013. The Ethics Commission for the High-Ranking Officials is in charge to verify the declarations.

Anti-Corruption training for civil servants and high level officials. It is a positive development that in 2012 common mandatory anti-corruption and integrity training programmes were developed by the Civil Service Council. Civil servants have started to follow these programmes. Besides, similar training on anti-corruption issues is provided within a project involving Armenian Young Lawyers Association, the Regional authority for civil servants and heads of staff of relevant bodies.

Reporting of corruption. Shortly after the monitoring a government decision was adopted, in December 2011, regarding reporting of illegal actions in public service, including corruption.

Recommendation 3.3. - Transparency and discretion in public administration

Continue reforms aimed at simplifying regulation necessary to prevent corruption and to increase transparency and effectiveness of various administrative procedures. Increase awareness of citizens and business sector about administrative procedures relevant to them and their rights.

Measures taken to implement this recommendation:

Reforms envisaged by tax and customs strategic programmes are continuing in the State Revenue Committee of the Republic of Armenia. As a result, significant achievements in tax and customs administration were recorded in a number of directions, particularly:

New generation cash registers were put into operation on 1 July 2013 for economic operators having annual sales turnover in the amount of 500 million drams and more. New generation cash registers have a number of advantages, particularly they exclude software interferences and thus the opportunities to under declare sales turnover. On the other hand, they provide exclusive comfort for taxpayers, particularly the introduction of new generation cash registers reduces the necessity for taxpayers to submit 12 reports, since cash registers automatically and periodically provide corresponding information to database of the State Revenue Committee. If relevant software support is introduced in the nearest future, taxpayers will also be able, through the new generation cash registers, to issue tax invoices, which will make it possible to solve one problem we have been facing for a number of years. "In case of carrying out trade activities through mobile shops, the opportunity to provide such documents so far was rather limited. And due to introduction of such a new mechanism, economic operators will be able to easily carry out their commercial transactions in case of deliveries of which the purchaser was not notified in advance.

New generation cash registers are mobile devices, which in addition to functioning as cash registers, contain card readers, has the function to send and receive information through network connection, to be integrated with other devices, to make software changes and other functions.

The on-line process of lottery winnings for cash register checks is also one of the peculiarities of using new generation cash registers.

In 2013, a number of activities were carried out for the development of analytical skills in the State Revenue Committee, revealing types of transactions and products of risk sectors for taxation purposes.

Draft selection criteria for transactions for post-clearance control have been elaborated and now efforts are underway for integrating the given criteria in the TWM automated system, as well as for their actual assessment.

The following activities were carried out for introducing personalised registration system of income tax and compulsory cumulative payments into "Taxpayer 3" electronic management system;

- forms of monthly summarised income tax calculation and of simplified income tax calculation were put into use;

- activities were carried out for the improvement of data exchange process with third parties;

- software support for the statement "on assuming liability by the organisation as a tax agent of withholding (levying) income tax and of paying to the state budget";

- terms of reference for summarised annual income tax calculation were elaborated;

- simplified calculation on annual income was elaborated;

- in 2013, "EKENG" CJSC was provided with information on natural persons that concluded a contract with the help of identification cards with the Tax Inspectorate/Tax Tax Inspectorate of the State Revenue Committee adjunct to the Government of the Republic of Armenia.

The schedule of implementation of "Modernisation of Bagratashen, Bavra and Gogavan border crossing points of Armenia" project was approved by the Decision of the Prime Minister of the Republic of Armenia No 911-A of 19 September 2012 and the State Revenue Committee adjunct to the Government of the Republic of Armenia was defined as the body responsible for the co-ordination of the envisaged activities.

A corresponding working group of State Revenue Committee and of State Service for Food Safety was established for the purpose of elaborating terms of reference of the electronic system for

providing relevant certificates for goods placed under the supervision of State Service of Social Security and conveyed across the customs border of the Republic of Armenia under the principle of "one-stop shop".

Terms of reference of the electronic system for providing relevant certificates for goods placed under the supervision of State Service of Social Security and conveyed across the customs border of the Republic of Armenia under the principle of "one-stop shop" was elaborated, which will be provided to the State Service of Social Security following the amendment thereof.

For the purpose of elaborating "National Programme for facilitation of procedures applied at state border crossing points of the Republic of Armenia", a working group was established in the National Security Council, within the framework of which the mentioned project is discussed and elaborated. The aim of the National Programme is to introduce "one-stop shop/a single window principle" at the state border crossings.

Comparative analysis of the existing Customs Code of the Republic of Armenia, as well as other legal acts and the EU Customs legislation was carried out, which is one of the most important outcomes of the National Programme. Moreover, such a detailed comparative analysis of customs legislation has been carried out for the first time. In the course of the meeting, the members of the Management Committee and observers discussed the progress of the National Programme and further actions. The representatives of the EU delegation and the Management Committee evaluated the current phase of progress of the National Programme as positive. Activities are underway.

Within the framework of EU Twinning Programme, "Customs Value" manual was elaborated and posted on "Publications" subsection of "Customs Information" section of the website of the Customs Service of the Republic of Armenia (www.customs.am), the aim of which is to provide interested parties with information on rules of definition of customs value, on methods of customs value definition established by the Customs Code of the Republic of Armenia. The manual also contains information on legal grounds for customs value definition, concepts stipulated by the Customs Code of the Republic of Armenia and applied for the definition of customs value, actions carried out in case of disagreements relating to the customs value defined by the customs authority or the official thereof and the appeal procedure. The creation of the manual aims at broadly covering all issues relating to customs value for the purpose of making them more accessible and easily comprehensible for interested parties.

For the purpose of putting taxpayer service centres of the State Revenue Committee at Haypost departments (branches) into operation, the procedure for the functioning thereof has been approved by the corresponding Order of the State Revenue Committee adjunct to the Government of the Republic of Armenia.

Within the framework of the implementation of Financing Agreement for "Modernisation of Tax Administration project" signed between the Republic of Armenia and the International Development Association on 9 July 2012 and ratified by the National Assembly of the Republic of Armenia on 4 December 2013, it is envisaged to replenish one service centre with relevant equipments and facilities. Currently, bidding documents are being prepared for that purpose.

Activities have been underway for planning changes in the report forms preconditioned by the latest legislative amendments. Currently, 71 report forms were introduced in the electronic reporting system.

As of 30 June 2013, the number of taxpayers submitting electronic reports amounted to 43488, whereas the number of taxpayers issuing electronic tax invoices — 5394.

Subsystem for creation, management, search, printing, scanning of electronic alert-notices lists are introduced. As a result of comparing tax invoices 41055 electronic alert-notices were sent, 5133 out of which — for the 1st quarter of 2013.

Assessment of Progress

(Assessment of progress prepared by the monitoring experts and summary of the discussion at the IAP plenary)

PROGRESS

Some progress in increasing effectiveness of administrative procedures with introduction of a new, more automatized system for businesses to submit their tax and annual declarations to the State Revenues Service.

In respect of the part of the recommendation calling to continue reforms aimed at simplifying regulation, it is reported under Recommendation 3.9. (see below) that in October 2011 the state agency was established by the Government with the mission to significantly reduce the regulations burden on businesses and citizens.

Recommendation 3.4. - Financial Control and Audit

Ensure that in the course of its audits of the Control Chamber makes systematic efforts to detect “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.

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

Continue to provide training to the heads of administrative bodies and financial management staff in administrative bodies of central and local governments on prevention of corruption.

Measures taken to implement this recommendation:

Pursuant to the information submitted by the Control Chamber of the Republic of Armenia, though the Control Chamber constantly attempts to be guided, in its activities, by the requirements of the Lima Declaration and the audit standards approved by the International Organisation of Supreme Audit Institutions (INTOSAI), there are, however, numerous unsettled problems that notably obstruct further progress of the Control Chamber.

Such problems also include the considerations that are specified in the second round of report, in particular:

- the issue of the independence of the Control Chamber;
- the issues of improving the activities of the Control Chamber to detect “fraud” and “corruption incidents”;
- the issue of developing cooperation with the law enforcement authorities in alerting them on suspicions of corruption;
- the issue of using the experience of the Control Chamber in organising trainings for public servants;
- ensuring cooperation with newly established internal audit units in private sector;
- the issue of establishing an additional function for the Control Chamber to submit recommendations for the purpose of raising the reliability of the public procurement system.

The Control Chamber has developed and approved, with the aim of addressing the mentioned and any other important issues, the Programme for Strategic Development of the Control Chamber of the Republic of Armenia and 2011-2016 Action Plan for Implementation thereof. The stated document has been coordinated with the EU SIGMA project. The action plan includes clear actions that are to be carried out using both own and partners' resources. To this end, the Control Chamber is holding active negotiations with international and donor organisations at this stage.

Thus, the guidance regarding the Control Chamber, included in the Second Round of the Monitoring Report on Armenia, Istanbul Anti-Corruption Action Plan, are in the process of implementation.

As regards financial control and audit, a number of activities have been carried out to this end, in particular:

Methodological instructions for applying the Standards of the Republic of Armenia for the Professional Practice of Internal Auditing that are designed for assisting internal auditors in applying the internal auditing standards correctly, were approved by the order of the Minister of Finance of the Republic of Armenia, in December 2011.

Internal audit manuals and guidelines for drafting a regulation were approved by the order of the Minister of Finance of the Republic of Armenia in February 2012. The mentioned guidelines establish all the procedures for internal auditing in organisations of the public sector, as well as the sample forms of reporting in accordance with international standards.

The general requirements for the internal audit unit and the Internal Audit Committee were also approved by the order of the Minister of Finance in February 2012.

The uniform system for information management of internal audit has been developed and has already been introduced and tested in 17 public administration and local self-government bodies of the Republic of Armenia due to which the documentation of planning, implementation, reporting and inspection procedures are carried out through the relevant computer software.

Pursuant to the schedule approved by the Annex to the Decision no 179-N "On making amendments to the Decision of the Government of the Republic of Armenia no 1233-N of 11 August 2011", during the 1st half of 2012, internal audit system was introduced in 54 public administration bodies, and appropriate activities, aimed at introducing internal audit system, were carried out in organisations and state non-commercial organisations that from 1 January 2011 to 31 December 2011 had a turnover or a gross income of more than AMD 500 million and with state participation of more than 50 per cent.

Currently, training of internal auditors is underway for the purpose of studying the new legislation. As of 25 June 2012, 75 employees from internal audit units of public administration bodies participated to the specified training courses.

The order of the Minister of Finance of the Republic of Armenia "On approving the procedures for holding qualification examinations that set the appropriate professionalism level of internal auditor and for continuous professional training of internal auditor" has been drafted, which will be submitted for approval after discussions with the concerned authorities. The above-mentioned procedure that will be implemented from January 2013, establishes the procedure for holding qualification examinations and for conducting continuous professional training for internal auditor. The Decision of the Government of the Republic of Armenia "On approving the procedures for conducting assessments of internal audit system of an organisation by persons not related to the activities of the organisation, for the purpose of guaranteeing and improving the internal audit quality of organisations, as well as the procedures for cooperation with external audit bodies in the sphere of internal audit" has been drafted that has been submitted to the consideration of the concerned bodies.

On 23 June of this year, the Law of the Republic of Armenia "On making amendments and supplements to the Law of the Republic of Armenia "On organising and conducting inspections in the

Republic of Armenia”” was adopted by the National Assembly of the Republic of Armenia which provided for introduction of a new risk-based system for conducting inspections. Pursuant to Article 2 of the Law, the Government of the Republic of Armenia establishes the methodology of risk-based inspections and the overview of the standards that define the potential risk. For the purpose of complying with the stated requirement of the Law, the bodies defined by the Law that conduct inspections, shall elaborate and submit to the approval of the Government of the Republic of Armenia the methodology of risk-based inspections in their sphere and the overview of the standards that define the potential risk. Based on the above-stated, the Inspectorate of Financial Control of the staff of the Ministry of Finance of the Republic of Armenia (hereinafter referred to as “the Inspectorate”) has elaborated, and the Government of the Republic of Armenia adopted, on 23 February 2012, the Decision no 207 of the Government of the Republic of Armenia “On approving the methodology of risk-based inspections to be conducted by the Inspectorate of Financial Control of the staff of the Ministry of Finance of the Republic of Armenia and the overview of the standards that define the potential risk”. In 2013, the annual programme of inspections to be conducted by the Inspectorate will be prepared based on the standards that define the potential risk, as approved by the above-stated Decision.

Assessment of Progress

(Assessment of progress prepared by the monitoring experts and summary of the discussion at the IAP plenary)

PROGRESS

A number of important steps seem to be taken in order to strengthen and implement in practice the internal audit system in Armenia, in particular developing secondary legislation, methodological materials and providing training.

Recommendation 3.5. - Corruption in public procurement

Ensure that the Procurement Complaint Review Board acts as an independent review body to receive and treat appeals against any public procurement; ensure real independence of its members; disclosure of its decisions; provide for a clear procedure for making appeals.

Provide practical tools, such as ethics and anti-corruption training, best practices, technical advice, tailor-made support and monitoring and other to procuring authorities and Procurement Complaint Review Board, once it is established.

Fully implement and ensure effective use of e-procurement system to enhance transparency and competition in public procurement.

Implement mechanisms to ensure that results of procurement technical specifications random analysis, that could indicate suspicions of irregularities or corruption crime, are immediately sent to the prosecutor or to the relevant administrative authority.

Assign to the Chamber of Control the additional task of making recommendations (general and for specific bodies) on improving integrity in public procurement.

Take actions to improve confidence of enterprises in the impartiality of public procurement decisions and to reinforce competition in quasi-monopoly/oligopoly sectors.

Measures taken to implement this recommendation:

Since 1 January 2012, the use of e-procurement system of the Republic of Armenia has been implemented, as a result of which open procurement processes are organised electronically by the public administration bodies of the Republic of Armenia, through www.armeps.am website. In particular, almost 35 open procedures were organised electronically during the first half of 2012. Monitoring over the implementation of the use of e-procurement system has also been exercised by the Ministry of Finance of the Republic of Armenia, and customers and procurement participants have been provided with necessary methodical assistance. Works are underway aimed at revealing the inconsistencies that exist between the procurement processes organised by the procedure established by the procurement legislation of the Republic of Armenia and though the mentioned website at the time of application of open and simplified procedures, framework agreements provided for by the Law of the Republic of Armenia "On procurement", as a result of which measures will be taken to eliminate them.

Pursuant to the new Law of the Republic of Armenia "On procurement", adopted on 22 December 2010 by the National Assembly of the Republic of Armenia and entered into force on 1 January 2011, that complies with the standards established by the EU, Complaint Review Board was established that was composed of not only the representatives of the state authorities of the Republic of Armenia, but also of the representatives of the communities, the Central Bank of the Republic of Armenia and the non-governmental organisations representing the private sector. The list of the members to the Complaint Review Board is published in www.gnumner.am website of the authorised body (Ministry of Finance of the Republic of Armenia).

The Procedure for the Activity of the Procurement Complaint Review Board was approved by the Procurement Complaint Review Board on 5 March 2012.

Seminar-workshops were organised for the members of the Procurement Complaint Review Board by the experts of the EU SIGMA project in February and May of 2012, as a result of which the participants were introduced with the EU procurement directives.

In cooperation with the GIZ, a new project has been launched which is envisaged for regulating the procurement information flows submitted to the Ministry of Finance of the Republic of Armenia, as well as for carrying out activities aimed at standardisation of such information flows and preparation of electronic databases.

For the purpose of assessing the qualification of procurement coordinators, examinations on procurement legislation of the Republic of Armenia have been organised for assessing the knowledge of 78 procurement coordinators from the ministries of the Republic of Armenia. As a consequence, 59 procurement coordinators have passed the mentioned examinations and have been included in the list of qualified procurement specialists, which shall be published by the Ministry of Finance of the Republic of Armenia. The specified process is still ongoing: currently, procurement coordinators from other public administration bodies of the Republic of Armenia take examinations, while procurement coordinators of other customers will take the examinations till the end of 2012.

Assessment of Progress

(Assessment of progress prepared by the monitoring experts and summary of the discussion at the IAP plenary)

NO PROGRESS

The information provided indicates that there are steps taken in the area of public procurement after the second round of monitoring. Nevertheless, it does not refer to the specific requirements of this recommendation.

Recommendation 3.6. - Access to Information

In order to ensure proper implementation of the Law on Freedom of Information, ensure that necessary mechanisms related to keeping records of information and to classification of confidential and otherwise publicly not available information are in place. Ensure that a register is in place for each public institution of all information it holds.

Consider ensuring a mechanism for complaints relating to requests under Freedom of Information Law. Fully decriminalise defamation in any form by repealing Article 344 of the Criminal Code and by providing that damages to one's reputation can be redressed only through civil proceedings, which should not result in exorbitant monetary sanctions.

Ensure concepts of laws and draft legislation are disseminated to those who will be subject to them and that laws are made public and discussed sufficiently in advance of their entry into force.

Measures taken to implement this recommendation:

Currently the Government is preparing a legislative/institutional reform in the area of data protection, based on the EU best practices. Considering the fact that in many European countries, the freedom of information and data protection are dealt in parallel, the Ministry of Justice, will draft the relevant legal acts for establishing the necessary institutions and legal environment for regulating both the freedom of information and personal data protection.

Article 344 of the Criminal Code has been repealed and defamation has been decriminalized.

Currently all the draft laws are being discussed publicly with the relevant target groups, before adoption. Generally the hearings are being organized at the Parliament before the adoption of the relevant Law.

Assessment of Progress

(Assessment of progress prepared by the monitoring experts and summary of the discussion at the IAP plenary)

PROGRESS

Article 344 of the Criminal Code has been repealed and defamation has been decriminalized addressing one of the elements of the recommendation 3.6.

Recommendation 3.7. - Political corruption

Ensure that political parties disclose their financial data, including in-kind donations, assets, goods and services bought or rented under market prices, bank loans and contracts with foundations, associations and other bodies related to them.

Ensure adequate number of permanent staff of the Central Electoral Commission and its Control and Verification Service, and guarantee that the nominations are based on merits, qualification, experience and political independence.

Ensure effective coordination between the Central Electoral Commission and the Chamber of Control to try to identify possible corruption risks of use of public procurement in financing political parties.

Ensure that new conflict of interest rules for political officials set by the Law on Public Service are enforced and all the relevant data is disclosed.

Consider improving transparency in the relationship between politicians and business by disclosing the agenda and the register of visits of Members of the Parliament and high-ranking officials.

Measures taken to implement this recommendation:

The legal relationships of funding of political parties and electoral campaigns are regulated by the Law of 3 July 2002 “On political parties” and the Electoral Code adopted on 26 May 2011.

The last paragraph of the mentioned section of the Report specifies that no restrictions are provided for by the Law of the Republic of Armenia “On political parties” with regard to the amount of donations to political parties by natural and legal persons. It should be stated in this connection that a relevant amendment was made to the Law of the Republic of Armenia “On political parties” on 9 February 2012, according to which: “The total amount of donation made to the political party, and of the works performed for and the services delivered to a political party, expressed in monetary terms (hereinafter referred to as “donation”), in the course of one year, may not exceed one-million-fold of the prescribed minimum salary, including:

- 1) ten-thousand-fold of the prescribed minimum salary, when received from one commercial organisation;
- 2) thousand-fold of the prescribed minimum salary, when received from one non-commercial organisation;
- 3) ten-thousand-fold of the prescribed minimum salary, when received from one natural person. (Article 25(2) of the Law of the Republic of Armenia “On political parties”).

By the way, pursuant to Article 3 of the Law of the Republic of Armenia “On minimum salary”, the basis for calculating the minimum salary shall be AMD 1000.

Limitations are envisaged for donations to election funds of the candidates for the President of the Republic, the deputies of the National Assembly, the head of community and members of council of elders. Though such limitations existed also previously, the amounts of contribution made to election funds of the candidates were reviewed due to the change of the principle of creation of election funds of candidates and political parties by the new Electoral Code. So, the change of the principle is that legal persons have been deprived of the right to make contributions to election funds, and conditions have been created so that such funds are largely made up of voluntary contributions of natural persons having the right of suffrage (Electoral Code of the Republic of Armenia, Article 25(2) and (3)).

Thus, the maximum amount of expenditures in the election fund of the candidate for the President of the Republic shall not exceed 100 000-fold of the minimum salary, from which up to 5000-fold may be paid by the candidate, 25 000-fold - by the political party having nominated the candidate, and the other 70 000-fold should be made up of voluntary contributions of natural persons having the right of suffrage, in the amount of 100-fold of the minimum salary paid by each natural person. (Electoral Code of the Republic of Armenia, Article 88).

The maximum amount of expenditures in the election fund of the political parties running in the elections to the National Assembly under the proportional electoral system, the alliances of political parties shall not exceed 100 000-fold of the minimum salary, from which up to 15 000-fold may be paid by political party running in the elections under the proportional electoral system or by the political parties included in the alliance of parties, and the other 85 000-fold should be made up of voluntary contributions of natural persons having the right of suffrage, in the amount of 100-fold of the minimum salary paid by each natural person. (Electoral Code of the Republic of Armenia, Article 122).

The maximum amount of expenditures in the election fund of the candidates for deputies under the majoritarian electoral system shall not exceed 10 000-fold of the minimum salary, from which up to

1 000-fold may be paid by the candidate, 2 000-fold — by the political party having nominated the candidate, and the other 7 000-fold should be made up of voluntary contributions of natural persons having the right of suffrage, in the amount of 100-fold of the minimum salary paid by each natural person. (Electoral Code of the Republic of Armenia, Article 122).

Certain limits are also envisaged for the maximum amount of the expenditures of the election funds of the candidates for a head of community and a member of council of elders and for the contributions made to the fund, which, for every specific case, is based on the number of the electors of the community where the elections are conducted. (Electoral Code of the Republic of Armenia, Article 140).

Transparency and control of funding of political party and electoral campaigns

Important recommendations regarding the transparency of funding of political parties and electoral campaigns and control over them have also been made by GRECO in its Third Round of Assessment Report on “Transparency of funding of political parties in Armenia”. The recommendations have been taken into account while making amendments and supplements to the Law of the Republic of Armenia “On political parties” and adopting the new Electoral Code. In particular, in order to ensure a higher level of transparency and publicity of funding of political parties, the Law of the Republic of Armenia “On political parties” has enshrined that political parties shall, in addition to publishing their financial statements through mass media, be obliged to publish such financial statements in the official website of public announcements of the Republic of Armenia (Law of the Republic of Armenia “On political parties”, Article 28(2)).

It has been envisaged that the political parties possessing assets with the value exceeding the ten-thousand-fold of the minimum salary defined by law and the political parties having received funding from the State Budget as prescribed by law, shall be obliged to publish the statements only after undergoing audit and along with the audit opinion. (Law of the Republic of Armenia “On political parties”, Article 28.1).

Significant progress has also been made in the sphere of transparency of funding of election campaigns. In particular, pursuant to Article 25(1) of the Electoral Code: “Candidates, political parties running in the elections under the proportional electoral system, alliances of political parties shall open an election fund for the purpose of funding their election campaign.”. Pursuant to part 7 of the same Article: “Banks where temporary special accounts are opened, shall submit a statement on financial inflows and outflows of elections funds of candidates, political parties and alliances of political parties to the Oversight and Audit Service of the Central Electoral Commission with a periodicity of three working days after the expiry of the time limit specified by the Electoral Code for registration of electoral lists of candidates, political parties and alliances of political parties. The Oversight and Audit Service shall summarise such data, compile a brief statement and post it on the website of the Central Electoral Commission.”

Candidates, political parties, alliances of political parties shall submit a declaration, in their turn, to the Oversight and Audit Service of the Central Electoral Commission on the contributions made to their election funds and the use thereof, on the tenth and twentieth day after commencing the election campaign, as well as not later than three days before the relevant time limits defined by this Code for summarising election results. Copies of documents substantiating the campaign expenditures shall be attached to declaration (contracts, payment orders, invoices, etc.). (Electoral Code of the Republic of Armenia, Article 27(1)).

Candidates, political parties, alliances of political parties shall submit a declaration, in their turn, to the Oversight and Audit Service of the Central Electoral Commission on the contributions made to their election funds and the use thereof, on the tenth and twentieth day after commencing the election campaign, as well as not later than three days before the relevant time limits defined by this Code for

summarising election results. Copies of documents substantiating the campaign expenditures shall be attached to declaration (contracts, payment orders, invoices, etc.). (Electoral Code of the Republic of Armenia, Article 27(1)).

The Oversight and Audit Service shall, within two days after receiving the declarations on the use of means of election funds of candidates, political parties, alliances of political parties, verify, prepare a statement based on the results of the verification and submit it to the consideration of the Central Electoral Commission. After being discussed in the session of the Commission, the statement and the declarations shall be posted in the website of the Central Electoral Commission (Electoral Code of the Republic of Armenia, Article 27(4) and Article 28(6)).

Previously, control over the current financial activities of political parties was exercised by the Ministry of Justice, and the Oversight and Audit Service of the Central Electoral Commission exercised supervision over the funding of election campaign. Consequently, the fact that these two functions were carried out by different bodies and the lack of coordination between them, made it impossible to have the overall picture of financial activities of political parties. To improve the situation, as well as to examine the alleged violations of regulatory norms regarding the funding of political parties and to impose sanctions, as appropriate, it was necessary to create a single body that would exercise supervision over the funding of political parties and election campaign and would be empowered with necessary powers.

Thus, Article 28 of the Electoral Code adopted on 26 May 2011 stipulated: “In order to exercise supervision over the use of funds provided to electoral commissions, the staff of the Central Electoral Commission, contributions made to election funds, their calculation and expenditures, the Central Electoral Commission shall create an Oversight and Audit Service. The Oversight and Audit Service shall also exercise supervision over current financial activities of political parties”.

It was stipulated by the third part of the same Article that the post of the Head of the Oversight and Audit Service shall be a civil position and that he shall be appointed by the decision of the Central Electoral Commission and may not be a member of any political party; while the other two employees of the Service shall be civil servants.

For the purpose of ensuring the practical application of this legislative norm, the Central Electoral Commission adopted the Decision no 54-N “On creating an Oversight and Audit Service and establishing the procedure for the activity of the Oversight and Audit Service” on 11 August 2011. Then, the Decision no 67-N of 26 January 2012 of the Government of the Republic of Armenia “On making amendments to the Decision no 56-N of 5 February 2004 of the Government of the Republic of Armenia” has stipulated the following: “The Ministry of Justice of the Republic of Armenia shall be recognised as the state authorised body exercising supervision — except for the supervision over the current financial activities of political parties — over the compliance, by political parties, with the requirements of the Law of the Republic of Armenia “On political parties”. The correlated analysis of the above-mentioned legal norms makes it clear that the state authorised body that exercises supervision over the current financial activities of political parties, is deemed to be the Central Electoral Commission of the Republic of Armenia, represented by the Oversight and Audit Service established thereby. Then, for implementation of Article 28(3) of the Law of the Republic of Armenia “On political parties” the Central Electoral Commission, by its Decision no 26-N of 6 February 2012, established the procedure for submission of financial statements to the Central Electoral Commission of the Republic of Armenia by political parties, the form of the statements and the procedure for filling it in, based on which the political parties submitted their financial statements to the Oversight and Audit Service of the Central Electoral Commission of the Republic of Armenia in 2011.

In our opinion, it is not appropriate to speak about effective supervision over the funding of political parties and election campaign by the Oversight and Audit Service of the Central Electoral Commission without having any power to examine the alleged violations of the regulatory norms

concerning the funding and, where necessary, to impose sanctions. Thus, the logical continuation of the above-mentioned reforms was the relevant amendments and supplements made to the Administrative Offences Code of the Republic of Armenia on 9 February 2012, as a result of which the Administrative Offences Code was supplemented with four new articles (189.13, 189.14, 189.15 and 189.16), which imposed liability for failure to provide the state authorised body with the report on the funds received and spent by the political party for the reporting year or to publish it, for failure to provide the state authorised body with the documents defined by law, failure to make non-cash contributions to political parties exceeding 100-fold of the prescribed minimum salary, failure to transfer the donations, received by political parties, exceeding the amount defined by the law or not permitted to the State Budget within the defined time limits defined by law or failure to transfer them to the donor. By virtue of Article 214 and 223.2 of the same Code, the Central Electoral Commission has been considered as the authorised body for investigating cases relating to administrative offences provided for by Articles 189.13, 189.14 and 189.15 of the Code. In our opinion, the above-stated reforms ensure necessary favourable environment for more effective supervision over funding of political parties and election campaign.

Certain penalties have also been envisaged for violating the procedure established for funding of election campaign. In particular, pursuant to Article 26 of the Electoral Code: “Where it is substantiated that the goods or services rendered for election campaign are not included in the expenditures of election fund in their market value, the Central Electoral Commission shall make a decision that a candidate, a political party, an alliance of political parties shall be obliged to transfer an amount in the three-fold of the expenditures not included in the expenditures of election fund to the State Budget”.

Where it is substantiated that the expenditures made for election campaign of a candidate, a political party, an alliance of political parties have exceeded the limit of election fund defined by the Code, electoral commission shall make a decision that a candidate, a political party, an alliance of political parties shall be obliged to transfer to the State Budget an amount in the three-fold of the amount exceeding the limit of election fund prescribed by this Code.

Where the difference between the limit of the amount spent for election campaign and of the amount defined by Article 26(3) and (4) to be paid to the State Budget and the limit of the election fund defined by this Code is more than ten per cent of the limit of election fund prescribed by this Code, the court, upon application of the electoral commission, shall repeal the registration of the candidate or of the electoral list of the political party, or the alliance of political parties.

By summing up the above-stated and referring to the new recommendation 3.7 of the Report, it should be stated that they are fully reflected in legal acts regulating the legal relationships of funding of political parties and election campaign.

In particular:

1. Pursuant to Article 28(2) and (3) of the Law of the Republic of Armenia “On political parties”: “Every year not later than 25 March following the reporting year, political parties shall be obliged to publish in printed media, under the procedure prescribed by law, a statement on the funds received and spent by the parties during the reporting year, and, in the cases provided for the law, the audit opinion thereon, as well as to post it, under the prescribed procedure, in the official website of public announcements of the Republic of Armenia.

The statement on the funds received and spent by the party during the reporting year shall contain data on sources and amounts of funds deposited on the account of the party, spending of such funds, as well as the property in possession and its value.

The Electoral Code of the Republic of Armenia has ensured, in its turn, the publicity of contributions made to election funds of candidates, political parties and alliances of political parties and of declarations regarding the use thereof, as well as that of the statements prepared based on such declarations. Thus, the Code has enshrined that the Oversight and Audit Service shall, within two days

after receiving the declarations on the use of means of election funds of candidates, political parties and alliances of political parties, verify, prepare a statement based on the results of the verification and submit it to the consideration of the Central Electoral Commission. After being discussed in the session of the Commission, the statement and the declarations shall be posted in the website of the Central Electoral Commission.

2. The staff of the Central Electoral Commission of the Republic of Armenia, and the Oversight and Audit Service have the required number of staff employees. The Oversight and Audit Service, in addition to the head of the Service, whose post is a civil position, has two more employees that are considered as civil servants, and they have been selected and appointed in strict compliance with the requirements of the legislation on civil service. The issue of civil independence of the Head and employees of the Service has also been addressed by legislation. In particular, pursuant to Article 28(3) of the Electoral Code: "The Head of the Service may not be a member to any political party" and as regards the employees of the Service, the principle of political restraint of civil servants specified by Article 5(e) of the Law of the Republic of Armenia "On civil Service" shall apply.

Besides, Article 28(5) of the Code provides a possibility of involving up to five specialists in the Oversight and Audit Service on contractual basis for up to one month period at national elections, elections to the Yerevan Council of Elders and local self-government bodies. Selection of the specialists shall also be carried out based on their qualification, experience and other standards.

The Electoral Code has also enshrined that: "For the purpose of exercising supervision over the contributions made to election funds, the calculation and expenditures thereof, every faction of the National Assembly shall, within a period of ten days after calling national elections and elections to the Yerevan Council of Elders, shall appoint one auditor having received an auditor's qualification in the Republic of Armenia and having the right of suffrage. Auditors appointed to the Service by the factions of the National Assembly shall work on a voluntary basis. Their activities shall cease on the fifth day following the publication of results of the elections."

As regards the development of effective cooperation between the Central Electoral Commission and the Oversight and Audit Service, it should be mentioned that effective collaborative relations have been established between them which makes it possible to address promptly any problem regarding the public funding of political parties.

Assessment of Progress

(Assessment of progress prepared by the monitoring experts and summary of the discussion at the IAP plenary)

PROGRESS

A new Law on Political Parties was adopted in 2012. It strengthens the requirements for transparency of financial statements of political parties which should be published in mass media and on the Internet, including a new requirement to only publish audited reports to those parties, which received state funding. There are also requirements in the Electoral Code regarding accountability for funds raised and their use during electoral campaigns.

There seems to be progress as regards the oversight of financing of electoral funding by strengthening the Oversight and Audit Service of the Central Electoral Commission.

No information is provided to assess progress as regards conflicts of interest and transparency in the work of politicians/high-level officials.

Recommendation 3.9. - Integrity in the private sector

Develop a dialogue between government and private sector on prevention of corruption and further involve private sector in development and simplification of business legislation.
Raise awareness by government on integrity in business, corporate responsibility and public-private partnerships.

Measures taken to implement this recommendation:

On October 13, 2011, the State Agency National Centre for Legislative Regulation Project Implementation Unit at the Government Staff of the Republic of Armenia (NCLR) was established by the Government Decree of the Republic of Armenia. The aim of the NCLR is to significantly reduce the regulations burden on businesses and citizens.

The organization describes the relations of the state with the citizens & businesses, compares with the best practices in the world, prepares package of proposals with corresponding regulatory government bodies to reduce the regulatory burden, discusses it with the businesses, NGOs and presents it for the approval of the Reform Council.

During the project implementation at least of 30 percent of current regulations will be cut off, and up to 20-30 percent of regulations will be significantly simplified, as a result of which the financial burden on businesses and citizens will be considerably reduced.

The Government has approved number of legislative proposals, prepared by the NCLR. In parallel with the mentioned process, there are number of reform agendas and processes, which are aimed at simplifying the business environment for the private sector. Armenia has increased its rankings under the Doing Business ranking, and currently continues to implement reforms in that direction.

In connection with the issues raised in Subsection "Corporate ethics, government-private sector dialogue" of Sector 3.9 ("Integrity in the private sector") of the Report, we would like to inform that the Corporate Governance Code of the Republic of Armenia (hereinafter referred to as "the Code") has been approved by the Decision no 1769 of 30 December 2012 of the Government of the Republic of Armenia. The Code has been drafted due to the constructive dialogue launched among the Government of the Republic of Armenia and the Central Bank of the Republic of Armenia, NASDAQ OMX ARMENIA as the operator of the stock exchange of Armenia, European Bank for Reconstruction and Development (EBRD) and International Finance Corporation (IFC) aiming at drafting optional provisions that should be applied by the listed companies, banks, insurance companies, pension funds and state-owned companies for the purpose of improving their corporate governance practice.

Assessment of Progress

(Assessment of progress prepared by the monitoring experts and summary of the discussion at the IAP plenary)

NO PROGRESS

The information provided is not specific to the recommendation. For example, the report indicates that the Government of Armenia adopted a Corporate Governance Code in December 2012, but it is not said if business was involved in its preparation and if Government has raised awareness about this code, as a tool of to increase business integrity. In October 2011 a new state body responsible for regulatory reforms was set up, but it is not indicated if that has helped to more involve private sector in simplifying business regulation.

PART II: OTHER MAJOR ANTI-CORRUPTION DEVELOPMENTS

(Description of other major anti-corruption developments, which were not covered by the recommendations, such as any new policy, legislative, administrative, or case law developments since the adoption of the report, to be provided by the National Coordinator).