The third round monitoring report on Kazakhstan was adopted at the Istanbul Anti-Corruption Action Plan monitoring meeting in October 2014. This document contains progress updates on the implementation of recommendations to Kazakhstan and the assessment of progress made. The progress updates made at the following ACN Istanbul Action Plan plenary meetings are included: 23-24 March 2015.
SUMMARY

15th ACN Istanbul Action Plan Meeting on 23-24 March 2015:

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Pillar I. Anti-corruption policy

Recommendation 1.1.-1.2. Political will and anti-corruption policy

- To ensure adoption and proper implementation by responsible authorities of a new anti-corruption strategy and action plan based on a thorough analysis of the status of and trends in corruption; assessment of the earlier efforts against corruption, results of the research on corruption in Kazakhstan, including the research conducted by NGOs, statistical and other data on the performance of public authorities fighting corruption, and suggestions and analysis by public authorities, civil society and representatives of the business sector.

- To provide in the new anti-corruption strategy and implement in practice a proper mechanism for its monitoring and assessment of implementation results, which would involve an analysis of implementation of the measures, their effectiveness, achieved performance indicators, impact of the strategy on the level of corruption, and the elaboration and implementation of the necessary actions following up on the monitoring results. To ensure civil society engagement in such monitoring process and publication of all monitoring reports (assessments).


Measures taken to implement this recommendation

Government information

The Strategy has been developed in pursuance of Clause 33 of the National Plan of Measures to implement the Head of State’s Address «Kazakhstan Way – 2050: Common Goal, Common Interest and Common Future».

Its main targets correlate with the initiatives to create the Eurasian Economic Union, with the Concept of Legal Policy, programs of further modernization of the law enforcement system, of counteracting shadow economy, with the Anti-Corruption Program of the «Nur Otan» party, and are aimed at achieving the target goals of the Kazakhstan Development Strategy -2050.

The Strategy developers have taken advantage of the best anti-corruption practices of Singapore, Hong-Kong, Finland, Norway, and South Korea. The National Chamber of Entrepreneurs, Transparency Kazakhstan and the OSCE Center in Astana have jointly contributed to the development of the Draft Strategy (the expert evaluation report is attached hereto). Furthermore, the OSCE Center in Astana invited international experts to join in the drafting of the Strategy, and they provided their opinions on the draft law. The Anti-Corruption Strategy was approved by Decree #986 of the Head of State of the Republic of Kazakhstan, dated 26 December 2014.

The Anti-Corruption Strategy establishes a general framework of the State Anti-Corruption Policy and highlights priority areas for each and every government agency.

The main goal of the Strategy is to enhance the effectiveness of anti-corruption policies and reduce the level of corruption. The indicators are defined as follows:
- The quality of government services;
- People’s confidence in the anti-corruption policy of the State;
- The level of legal awareness of the population;
- Kazakhstan’s position in the Corruption Perception Index.

These tasks reflect the main seven areas of the Strategy.

A Plan of Actions for a phased implementation of the Anti-Corruption Strategy of the Republic of Kazakhstan 2015 – 2025 and counteracting informal economy is currently reviewed by government authorities.

This Plan provides for the following actions:
- Improvement of the legal framework, including regulations on the provision of government services;
- Improvement of business processes for entrepreneurs;
- Promotion of an anti-corruption culture, including through collaboration with mass media and NGOs;
- Implementation of a sociological survey on corruption.

Apart from that, the Strategy implementation envisages the development of 26 draft laws, 83 regulations, conversion into electronic form of 56 government services (50% of expert evaluation work would be done on a competitive basis and by 2020 this market indicator is expected to reach 90%).

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<td>Since the previous monitoring round Kazakhstan adopted a new Anti-Corruption Strategy for 2015-2025 (President’s Decree of 26 December 2014 no. 986). It has also started development of an Action Plan to implement the Strategy. This in general is in line with the recommendation. However in its progress report Kazakhstan did not explain how the new strategy is based on a thorough analysis of the status of and trends in corruption, whether assessment of the earlier efforts against corruption was made, whether results of the research on corruption in Kazakhstan (what studies and how taken into account), including the research conducted by NGOs, statistical and other data on the performance of public authorities fighting corruption, and suggestions and analysis by public authorities, civil society and representatives of the business sector were taken into account. The new Anti-Corruption Strategy provide for certain mechanism of monitoring and assessment of its implementation, which is also in line with the recommendations. However the mechanism itself has not been established as yet in practice and it is therefore too early to evaluate it. Also the mechanism is described in the general terms, focusing in institutional aspect, not providing details on the contents of the monitoring itself. It does include two positive aspects: involvement of the civil society in the monitoring and evaluation process and publication of annual reports. At the same time it should be noted that recommendation in this part concerns practical involvement of the civil society in the strategy monitoring process. The draft action plan, which was provided as attachment to the progress update, also does not include any analysis of the situation and details on the monitoring and evaluation mechanism. The above attests to insignificant progress aimed at the implementation of the recommendation.</td>
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Recommendation 1.3. Corruption surveys

- To develop and apply in practice a national methodology for evaluation of corruption on the basis of the respective international experience. Such methodology should cover both public and private sectors and include at least such components as the most corrupt areas, frequency and models of corruption practices, actors taking part in corruption, types of corruption benefits. To ensure regular evaluation of the corruption situation in the country based on such methodology and also to continue the practice of sectoral corruption surveys in specific, most corrupt-prone areas.

- To consider a possibility of assigning the co-ordination role in the field of evaluation of the corruption situation and conducting corruption surveys to the body which is responsible for implementation of the anti-corruption strategy.


Measures taken to implement this recommendation

Government information

By his Decree no. 900 of 29.08.2014, the President of Kazakhstan approved the Regulations on the RK [Republic of Kazakhstan] Agency for Public Service and Anti-Corruption Enforcement (the Agency). Under the Regulations, within its mandate the Agency submits to government authorities and organizations mandatory instructions to eliminate such grounds and conditions as may be conducive to corruption offenses. The Agency’s main goal is to minimize the grounds and conditions that facilitate corruption offenses.

To this end, the Agency is charged with the following tasks:
- identify the grounds and conditions for corruption in the activities of government agencies and organizations;
- submit to the Government recommendations on the minimization and elimination of grounds and conditions that may foster corruption;
- monitor and assess the implementation by government agencies and organizations of instructions to eliminate and prevent the occurrence of such grounds and conditions as may be conducive to corruption offenses.

For these purposes, the Agency has established a Department for the Analysis and Detection of Corruption Risks (further referred to “the Department”). The Department has developed Methodological recommendations for the analysis and monitoring of corruption risks associated with government agencies (see Attachment). In addition, a Research and Analytical Anti-Corruption Center (hereinafter referred to as “the Center”) was established in September 2014 within the structure of the Academy for Public Administration under the RK President.

The Center provides research, analytical and educational support, and assistance in implementing the government function of combating corruption, methodological support of mass media policies, anti-corruption training, and coordination of research work in this area.

In November-December 2014, the Agency reached an agreement with UNDP, the EU Project and the OSCE Center in Astana on joint actions.
Assessment of progress – PROGRESS

The new Kazakhstan’s Agency on Civil Service and Corruption Counteraction includes a department for analysis and corruption risks, which has developed methodological recommendations on analysis and monitoring of corruption risks in the public authorities. While positively assessing these steps, it should be noted that the said document cannot be seen as a methodology for comprehensive evaluation of corruption situation, although it can be useful from the view of sectoral assessment of corruption situation. Moreover no information was provided on the status of the document and its practical implementation. Therefore no steps were taken to develop a methodology for evaluation of corruption situation, as recommended.

It appears that the possibility of assigning the co-ordination role in the field of evaluation of the corruption situation and conducting corruption surveys to the body which is responsible for implementation of the anti-corruption strategy was not raised.

Recommendation 1.4. Public participation

- To ensure broad involvement of the civil society organizations in development and implementation of the anti-corruption policy, having excluded a selective approach towards such co-operation. To maintain dialogue with the civil society in consultations on anti-corruption policy and anti-corruption screening; to consider broadening the composition of the Interdepartmental Commission for Improvement of the Legislation in Anti-Corruption Area by inclusion of non-governmental experts. To consider introducing rules on mandatory public discussion of the most important draft legal acts with an obligation of the drafting body to publicly provide explanation in case of rejection of proposals from non-governmental organizations and other civil society institutions.

- To revise the ways of establishment and work of the public and expert councils in order to exclude intervention of the State into the process of nomination of delegates from non-governmental organizations into such councils. To spread into other areas positive experience of the National Council of the interested parties for the EITI promotion.


Measures taken to implement this recommendation

Government information

Jointly with the Ministry of Education and Science, the Agency has set up a working group to develop anti-corruption training programs. The working group includes representatives of mass media and civil society groups. Heads of the Agency’s regional departments arrange regular meetings with representatives of civil society and non-governmental organizations. 31 meetings were held in 2014.

The regional departments have drawn up plans of actions and meetings with representatives of civil society and non-governmental organizations in 2015, and established anti-corruption public councils, which include representatives of regional civil society and non-governmental organizations.
Apart from the educational programs, the working group is working on the content and methodology of anti-corruption education for different target groups, including public officers, representatives of mass media, NGOs, ethnocultural and religious associations, and business community.

The Agency ensures a broad engagement of civil society groups in the implementation of the State Anti-corruption Policy. In 2014, the Agency, jointly with NGOs, the «Nur-Otan» party and local executive authorities, arranged 37 round-table meetings, 32 seminars, 5 conferences, 37 educational and other events. All of these events were regularly covered in mass media.

Regional chapters of the «Nur-Otan» party are actively promoting anti-corruption efforts by organizing meetings with different strata of civil society (youth and students’ organizations, ethnocultural associations, regional chambers of entrepreneurs, and business associations).

Such meetings and discussions are attended by representatives of the local executive authorities, law enforcement agencies and the judiciary.

The Agency’s regional departments and NGOs have concluded and started the implementation of anti-corruption joint action plans. With a view to protecting legitimate rights of entrepreneurs, similar work is carried out by public councils in collaboration with regional offices of the Chamber of Entrepreneurs.

 Assessment of progress – LACK OF PROGRESS

Kazakhstan did not provide information on measures taken to ensure broad involvement of the civil society organizations in development and implementation of the anti-corruption policy, having excluded a selective approach towards such co-operation. While reported development of education programmes is beyond the scope of this recommendation.

The most significant development in terms of implementation of this recommendation was that the new Anti-Corruption Strategy for 2015-2025 provides for involvement of civil society in the work of the council on monitoring of the strategy implementation, as well as mandatory taking into account of the public opinion during future steps of the strategy implementation. However lack of their practical enforcement does not allow concluding that progress was in actually involving the civil society in the development and implementation of the anti-corruption policy. Moreover according to the NGO comments strategy drafting process could be characterised as an open one.

Kazakhstan also mentioned some examples of cooperation with the civil society in the anti-corruption area, in particular regular meetings with the public, setting up several consultative councils under the Ministry of Education and Science.

However there is no data showing that the approach for engaging civil society did indeed change, in particular in terms of public councils and spreading into other areas positive experience of the National Council of the interested parties for the EITI promotion.

Therefore no progress was made in implementing this recommendation.
Recommendation 1.5. Raising awareness and public education

- To carry out an evaluation of how awareness-raising campaigns influenced the dynamics of qualitative and quantitative characteristics of corruption. To use the research data during development of the strategy for further awareness-raising campaigns taking into account the pursued goals and the target audiences. To direct awareness-raising campaigns to the practical aspects of preventing and fighting corruption.


Measures taken to implement this recommendation

Government information

To ensure the implementation of this recommendation as to the necessity to highlight practical aspects of anti-corruption efforts in information campaigns, the Agency focused on corruption prevention mechanisms and facilities. First of all, the main messages urging to devise effective anti-corruption educational and training facilities for Kazakhstan citizens had to be filled with an appropriate content. The Agency is developing educational programs for different target groups.

The main purpose of anti-corruption education is to foster an uncompromising attitude of the public at large to any manifestation of corruption. The nature and detrimental effects of corruption are clearly defined, values incompatible with bribery and abuse of office are emphasized, and intolerance to corrupt behavior is actively promoted. With a view to coordinating these efforts, the Agency set up a Department for anti-corruption education and public relations.

The Agency takes into account all the nuances of child development, so different teaching methods would be applied at every educational level depending on the learners’ phases of development. Children would be taught with the aid of games, arts lessons, animated and strip cartoons. Special learning computer and table games would be developed for these learners. The Agency and its territorial departments have drafted a plan for visiting schools, universities and government agencies in 2015. Lessons on anti-corruption enforcement for children and students will include real-world examples that they are familiar with and understand because at their stage of personality development it is most important to teach them to counteract corruption in a legally correct manner. The anti-corruption educational programs will include, as an integral part, youth competitions, academic Olympics, contests and debates.

The main goal of all corruption prevention measures is to teach each and everyone what they should do if someone solicits a bribe in exchange for a government service, document, license and etc. To this end, officers of the Agency and its territorial departments organize seminars and meetings with citizens to raise their awareness of their rights, of proper procedures for the provision of government services, the issue of licenses, and of various governmental functions. Education of the public at large is an effective way of neutralizing the breeding ground for corruption.

The Agency’s regional departments have formed from among their officers awareness-raising groups that are assigned to most corruptogenic institutions in designated areas to promote the State Anti-Corruption Policy.

The Agency has developed designated programs for various target groups – NGOs, mass media, business entities, public officers, and general public.
Various methods will be used for raising the anti-corruption awareness of citizens:
- production and dissemination of short documentary films, reference materials, information and promotional leaflets that would explain terms and definitions, forms of corrupt behavior, ways of corruption identification and counteraction, and methods of assistance to anti-corruption enforcement agencies;
- creation of a high-quality anti-corruption Internet content and utilization of capacity provided by social networks.

A Center for the Study of Anti-corruption Enforcement has been established under the Presidential Academy for Public Administration. The Center’s staff would simulate and analyze real-life situations of corruption offenses, and conduct sociological surveys to study levels of corruption perception.

These innovative approaches are expected to have a positive impact on the quantitative and qualitative indicators of corruption.

In 2014, the RK Agency for Economic and Corruption Crimes continued the implementation of the State Anti-Corruption Policy towards raising the anti-corruption awareness of citizens through the publication of relevant articles in the press, including the following republican newspapers which were used as information venues for launching and jointly running news columns: «Stop corruption», «Report from the court room», «Panorama of events», «Date», «Operative unit» (the «Kazakhstan Pravda»), «Zhemkorlyk – indet, ony zhoyu – mindet» (the «Egemen Kazakhstan»); «Corruption», «Fighting corruption», «Swindle», «Criminal news», «Bribery», «Fraud», «Law and order» (the «Exprtess-K»); «Sengen serkim...», «Esep» (the «Aikyn»), «Impound yard» (the «Caravan»), and etc.

In 2013, the RK Academy for Economic and Corruption Crimes (AECC) published 30,000 leaflets entitled «Together against corruption», «How and when must the financial police give me assistance?», «My rights in dealing with the financial police», which in 2014 were sent to the National Chamber of Entrepreneurs for further distribution among entrepreneurs.

One hundred (100) advertising banners on anti-corruption issues were printed and distributed among 16 territorial departments and placed in public areas across the country.

In 2014, the RK AECC went on with the broadcasting of awareness-raising anti-corruption video films in crowded downtown areas.

In 2014, two (2) audio messages on anti-corruption issues with the hotline number of the financial police were recorded by the RK AECC and broadcast on the radio; measures were taken to broadcast these audio recordings on 300 bus routes in the capital city.

In 2014, the Mangistau Region Department commissioned a video film explaining the Rules for awarding individuals for assisting anti-corruption enforcement agencies, which was dispatched to the Agency’s local departments for posting in social networks and for broadcasting on the regional radio stations by government order.

In 2014, the Eastern-Kazakhstan Region Department, in collaboration with the TV «7 Channel», made three (3) video films urging the general public to launch an uncompromising war against corruption; these videos were actively used at seminars and lectures in higher educational institutions and government organizations. The Northern-Kazakhstan Region Department commissioned video films on non-interference in the activities of small and medium-sized businesses, which were broadcast in crowded city areas.
Assessment of progress – LACK OF PROGRESS

Kazakhstan did step up efforts in conducting informational campaigns. However it did not report on how those campaigns were directed to the practical aspects of preventing and fighting corruption. There was no assessment of how awareness-raising campaigns influenced the dynamics of qualitative and quantitative characteristics of corruption. Therefore consequent campaign are planned without taking account of previous results.

Setting up within the Agency of a department for anti-corruption education and interaction with the civil society is welcome step.

Recommendation 1.6. Specialised anti-corruption policy and co-ordination institutions

- To introduce legislative amendments aimed at assigning the powers of developing and coordinating anti-corruption policy to a specific state agency.
- To ensure compliance with Articles 6 and 36 of the UN Convention against Corruption concerning the independence of the specialised anti-corruption agency.


Measures taken to implement this recommendation

Government information

The Agency is drafting a Law «On Anti-Corruption Enforcement», which would include a rule defining the authority of the government anti-corruption enforcement agency. The draft law would contain provisions aimed to consolidate the Agency’s powers to devise the State Anti-Corruption Policy, conduct anti-corruption educational and awareness-raising campaigns, and communicate with the general public.

Furthermore, the Anti-Corruption Agency, like the other government authorities, would make decisions autonomously, would be accountable to the Head of State, and all of it decisions must be consistent with the Constitutional provisions.

The Head of State’s Decree #986, dated 26.12.2014, approved a Regulation on the Agency for Government Service and Anti-Corruption Enforcement. Within its scope of competence, the Agency is responsible for administrative and criminal prosecution of persons who commit corruption offenses and crimes.

Assessment of progress – LACK OF PROGRESS

According to the information provided, no progress was achieved in reaching compliance with the recommendation since the adoption of the monitoring report.
Pillar II. Criminalisation of corruption

Recommendation 2.1.-2.2. Offences and elements of offence

- To continue harmonisation of the legislation on corruption offences (Law on the Fight against Corruption, Criminal Code, Code of Administrative Offences).
- To bring provisions on criminal liability for corruption offences in compliance with international standards, namely:
  - to establish criminal liability for: promise/proposal of a bribe, acceptance of promise/proposal of a bribe, as well as for solicitation of a bribe as completed corruption crimes in the public and private sectors; giving a bribe and commercial bribery for the benefit of third parties; trading in influence;
  - to define the notion of ‘bribe’ in the Criminal Code and to envisage that the object of corruption crimes and administrative offences can be both material and any other (non-material) benefits;
  - to consider establishing criminal liability for illicit enrichment.
- To ensure that the offence of money laundering is criminalized in line with the international instruments and definitions from the Criminal Code and the Law on Combating Money Laundering and Financing of Terrorism are consistent.
- To envisage an effective and dissuasive liability of legal entities for corruption crimes with proportionate sanctions, which should be commensurate with the committed crime. Both commission of a crime by certain officials and lack of proper control by the governing bodies / persons of such legal entity, which facilitated commission of the crime, shall trigger corporate liability. To conduct additional consultations with business representatives regarding criminal liability of legal entities and the respective draft law; to envisage deferred enactment of the law introducing criminal liability of legal entities.
- To analyse application of provisions on effective regret in administrative and criminal corruption offences and, if necessary, introduce changes which will exclude possibility of unjustified avoidance of liability.


Measures taken to implement this recommendation

Government information

Four new codes came into force in 2015: the Criminal Code, the Criminal Procedure Code, the Penitentiary Code and the Code of Administrative Offenses.

The following innovations were aimed at enhancing liability for corruption crimes:
- prohibition of probationary sentencing for corruption crimes;
- prohibition to discharge from criminal liability persons who commit corruption crimes on the grounds of conciliation of the parties;
- criminal sanctions in the form of penal fines in amounts multiple of the amount of bribe in line with international standards. Failure to pay a penal fine in the amount set by the court automatically entails the replacement of the fine with imprisonment;
- mandatory confiscation of property with respect to all types of corruption crimes.

Furthermore, the confiscation rule applies to criminally obtained property and to property acquired for the account of illicit funds, which the sentenced defendant has assigned into the ownership of other persons. Another sanction for corruption crimes provides for a life-long prohibition to hold certain positions in government agencies and organizations.

In 2014, the Anti-Corruption Agency referred to court case files of 30 persons who had committed corruption crimes. On the national level, 1031 persons were convicted for corruption crimes in 2014.

In 2014, Kazakhstan enacted the Law «On the amendment of certain legislative acts on the counteraction of legitimization (money laundering) of criminal proceeds and terrorism financing», under which, inter alia, relevant amendments were introduced into the 1997 Criminal Code (the previous one) and into the Law “On the counteraction of legitimization (money laundering) of illicit proceeds and terrorism financing” (the AML/TF Law).

The new amendments to the 1997 Criminal Code revised the title and Article 193(1) thereof, and replaced the words “illicit proceeds” with “criminal proceeds” in the text of the AML/TF Law.

The same changes were introduced into the descriptive part of the relevant rule in the new Criminal Code. A new element was included in the crime – the specified acts will only be criminally liable if they are committed «on a large scale». A large scale of damage (under Article 218 “money-laundering”) is understood to mean an amount in excess of 2,000 MCI.

International experts maintain that this provision is not fully in line with international standards – under the Explanatory Note to FATF Recommendation № 3, the crime of money-laundering must refer to any type of property, irrespective of its value, which constitutes, directly or indirectly, proceeds of a crime. FATF deemed similar amendments to legislation made by other countries as inconsistent with the international standards and recommended to remove them.

However, according to the Explanatory Note to FATF Recommendation № 3, countries should determine all serious crimes as money-laundering crimes so as to cover as many predicate offenses as possible, or establish a certain threshold that should be linked either to the category of crime or to the punishment by imprisonment.

Article 218 of the Criminal Code must provide for such a threshold because such thresholds are indicated in most of the predicate crimes.

For instance, all of the crimes listed in Chapter 8 of the Criminal Code («Criminal Offenses in the Sphere of Economy») contain threshold values linked to the amount of damage, which may be substantial, large or very large.

Thus, the developers of the new version of the Criminal Code rule on the “legitimization of money (money-laundering) and (or) of other criminally obtained property” took into account all of the FATF recommendations.

It does not seem expedient to narrow criminal liability to the laundering of criminal proceeds, i.e. income derived from crimes. Income derived from minor criminal offenses and from administrative offenses can also be laundered. All the more so, as the Code of Administrative Offenses contains provisions prescribing liability
for actions that are similar to criminal offenses but cause less damage or generate smaller proceeds than the amounts specified in the Criminal Code. For instance, tax evasion by companies in the amount of less than 20,000 MCI constitutes an administrative offense. However, such unlawful proceeds may be channeled into legal economy. Similarly so, the «threshold» of criminal liability for illegal trade is 5,000 MCI, while smaller amounts entail an administrative liability. Engagement in illegal or prohibited business operations trigger off liability at 10,000 MCI.

According to the RK General Prosecutor’s Office, the Republic of Kazakhstan has implemented the above recommendation not only by introducing liability for the laundering of proceeds derived from a crime, but by including proceeds derived from administrative offenses in the money-laundering list.

The new Criminal Code is believed to comply with the international standards and to enhance the anti-money laundering efforts. The definition of a «substantial» amount of damage is largely explained by the fact that it should encourage criminal prosecution agencies to prevent the laundering of most dangerous and large amounts of criminal proceeds.

The RK General Prosecutor’s Office assures that the implementation of recommendations will continue within the framework of the Anti-Corruption Strategy of the Republic of Kazakhstan 2015-2025.

### Assessment of progress – LACK OF PROGRESS

*Amendments introduced in the Code of Administrative Offences do not concern criminal liability for corruption.*

*In its progress report Kazakhstan also questions conclusions of the Third round monitoring report with regard to the offence of money laundering. Third monitoring round report conclusions on the non-compliance of this offence in the new Criminal Code with international standards were based on clear standards established by the FATF and FATF findings in a similar situation with regard to another country. Therefore Kazakhstan arguments are not sustainable. In any case the aim of the progress update is not to question the monitoring report but to present update on the progress achieved in implementation of the recommendations.*

### Recommendation 2.3. Definition of a public official

- To harmonise provisions of the Criminal Code which determine the subjects of criminal liability for corruption crimes. To ensure application of the legislation on liability for corruption offences to all persons assigned with state powers.
- To envisage criminal liability of foreign public officials for all bribery offences and also to provide definition of such foreign public officials in accordance with international standards.


*Measures taken to implement this recommendation*

Government information
According the RK General Prosecutor’s Office, the Criminal Code provisions that identify persons who are liable for corruption would be further harmonized in line with the draft law “On Corruption Counteraction” and concurrently with the improvement of criminal legislation as provided for by the draft Plan for the implementation of the Anti-Corruption Strategy.

For instance, it would be necessary to study the issue of including jurors in the list of persons liable for corruption crimes, complete with the scope of their liability for such crimes, as is mentioned in the Third Round Monitoring Report.

**Assessment of progress – LACK OF PROGRESS**

**Recommendation 2.4.-2.5. Sanctions, confiscation**

- To analyse the application of the sanctions established by the 2014 Criminal Code for corruption offences from the point of view of their effectiveness and proportionality to crime committed.
- To provide for mandatory confiscation for all corruption offences. To consider enforcing the new confiscation provisions of the 2014 Criminal Code ahead of the schedule.
- To provide for the confiscation from those third parties who knew or must have known about the criminal origins of the property in question, together with protection for the bonafide buyers of the property to be confiscated.

**15th ACN Istanbul Action Plan Meeting on 23-24 March 2015**

**Measures taken to implement this recommendation**

**Government information**

Four new codes of law came into force in 2015: the Criminal Code, the Criminal Procedure Code, the Penitentiary Code and the Code of Administrative Offenses.

The following innovations are aimed at enhancing liability for corruption crimes:
- prohibition of probationary sentencing for corruption crimes;
- prohibition to discharge from criminal liability persons who commit corruption crimes on the grounds of conciliation of the parties;
- criminal sanctions in the form of penal fines in amounts multiple of the amount of bribe in line with international standards. Failure to pay a penal fine in the amount set by the court automatically entails the replacement of the fine with imprisonment;
- mandatory confiscation of property with respect to all types of corruption crimes.

Furthermore, the confiscation rule applies to criminally obtained property and to property acquired at the expense of illicit funds, which the sentenced defendant has assigned in the ownership of other persons. Another sanction for corruption crimes provides for a life-long prohibition to hold certain positions in government agencies and organizations.

**Assessment of progress – LACK OF PROGRESS**
As was noted in the Third round monitoring report, in the new Criminal Code confiscation is provided as an optional, possible sanction for the main offence of active bribery, intermediation in bribery, receiving of unlawful reward. Therefore mandatory confiscation is not provided for all corruption crimes, despite Kazakhstan statement in the progress update.

Recommendation 2.6. Immunities and statute of limitations

- To improve procedures for lifting immunity from criminal prosecution, in particular, to specify in the legislation clear procedures for taking such decision by the President with the participation of the Supreme Judicial Council in established cases, to specify the terms for consideration of issues related to lifting of immunity by the relevant authorities. To limit immunities to acts committed in the course of execution of official duties.
- To consider increasing the statute of limitations for bringing to administrative liability for corruption offences. To ensure consistency among provisions of laws concerning suspension of terms for imposing disciplinary and administrative sanctions.


Measures taken to implement this recommendation

Government information

Statistical data: In 2014, 7 judges were convicted for corruption crimes (under Articles 311 – 5, 312 – 1 and 177(3)(d) of the RK Criminal Code - 1).

Assessment of progress – LACK OF PROGRESS

Recommendation 2.7. International co-operation and mutual legal assistance

- To provide in the legislation measures for direct asset recovery as envisaged by Article 53 of the UN Convention against Corruption, as well as procedure for and conditions of recovery and disposal of assets in accordance with Article 57 of that Convention.


Measures taken to implement this recommendation

Government information

These procedures are clearly defined in Articles 577, 601, 608 of the new Criminal Procedure Code.
Article 608 of the CPC establishes court proceedings with respect to the execution of a sentence or of a decision of a foreign court, including those pertaining to the confiscation of property located in the Republic of Kazakhstan, or of its money equivalent.

The Third Round Monitoring Report mentions that these provisions are compliant with Articles 54 and 57 of the UN Convention Against Corruption.

**Assessment of progress – LACK OF PROGRESS**

*Third round monitoring report noted that provisions of the new Criminal Procedure Code comply with Article 57 UNCAC but do not comply with Article 53 UNCAC. Provisions of the Criminal Procedure Code which Kazakhstan refers to have already been studied in the monitoring report. Kazakhstan did not provide any new information in this regard.*

**Recommendation 2.8.-2.9. Application, interpretation and procedure, specialized anti-corruption law enforcement bodies**

- To introduce specialization of prosecutors to supervise investigations and to press charges for corruption crimes during trial.
- To ensure free access via Internet to regularly updated detailed statistic data on criminal and other corruption offences, in particular, on the number of reports of such offences, number of registered cases, the outcomes of their investigation and criminal prosecution, and the outcome of trial (among other things, data on sanctions imposed, and categories of the accused depending on their position and place of work). The above data should come together with analysis of current trends and causes of changes in trends.

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*Measures taken to implement this recommendation*

**Government information**

According to the General Prosecutor’s Office, the idea of introducing prosecutorial specialization by the functions of supervision over the legality of pre-trial investigation and of representation of the State interests in cases of corruption will be eventually and unfailingly examined.

According to the General Prosecutor’s Office, reports on the status of corruption-related crimes and offenses can be provided with the consent of the General Prosecutor of the Republic of Kazakhstan.

Under Decree #66 of the General Prosecutor, dated 26.06.2013, information marked “for official use only”, which includes corruption-related data, is not subject for disclosure.

At the same time, the Unified Register of Pre-Trial Investigations (the Register) was launched in 2015; the Register is an automated database that collects data on the grounds for initiating pre-trial investigations under Article 180(1) of the RK CPC, on relevant procedural decisions, investigative activities, progress of criminal investigations, informers and parties to the criminal proceedings. To enhance the transparency of
and control over case investigation, a simultaneous access to a case file would be allowed for the case investigator, his/her superior officer, and a supervising prosecutor (see Attachment).

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<th>Assessment of progress – LACK OF PROGRESS</th>
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*Access of investigator, his superior or supervising prosecutor to information in each case cannot be seen as a way of implementing this recommendation, as the latter concerns public access to statistical data and not case-specific information. The recommendation is about free access for everyone to relevant statistics including analysis of the trends. No steps were taken to implement recommendation with regard to specialisation of prosecutors.*
Pillar III. Prevention of corruption

Recommendation 3.2. Integrity of public service

**Legal framework.** To revise the existing legislative differentiation between administrative and political civil servants, in particular to substantially decrease the list of political servants, in order to ensure professionalism and real protection of administrative civil servants as well as law enforcement officers from political influence.

**Recruitment and promotion.** To continue reforming the system of recruitment and promotion of civil servants by establishing clear criteria for evaluation based on personal merit and qualifications; to eliminate the possibility of occupying administrative positions without a competitive selection; to envisage in the law a procedure for merit-based promotion and procedure for carrying out internal competitions.

**Remuneration.** To set clear statutory limitations on the amounts and frequency of additional remuneration (awards), which is not included in the basic fixed salary, and to envisage criteria for such awards in order to limit discretionary powers in taking decisions on such issues and to ensure transparency of such payments.

**Conflict of interest.** To develop and broadly disseminate among employees of state authorities practical guides on prevention and resolution of conflict of interest with taking due account of the specifics of work of certain authorities. To introduce a practice of consulting employees with respect to observance of the regulations on conflict of interests, requirements of incompatibility and other restrictions both at the level of separate authorities and on a centralized basis (by the authorized body in the field of civil service). To carry out monitoring and analysis of implementation of the regulations on conflict of interests and restrictions in the civil service.

**Internal control.** To strengthen preventive work of the internal control (security) units, including work on raising awareness of anti-corruption regulations, assistance in prevention and resolution of conflicts of interests. To ensure methodological support of and guidance to such units.

**Declaration of assets.** To amend legislation and practice of asset and income declarations in order to ensure their effectiveness, in particular, to envisage verification of part of declarations (for example, of high-level administrative civil servants, political civil servants, judges, prosecutors, employees of bodies which are most prone to corruption). To envisage mandatory publication of data from declarations of the high-level officials, political servants, judges, as well as availability of all other declarations of public servants upon request.

**Codes of ethics and anti-corruption training.** To define in the Code of Ethics the observance of the rule of law principles and ensuring professionalism of civil service as the main duty of civil servants; to revise provisions on obligatory refutation of public accusations; to ensure regular and practical training on observance of the codes of ethics (codes of conduct). To create a system of annual education and continuous training on the issues of preventing and combating corruption with the focus on the practical implementation of the legislation.

**Restrictions in receiving gifts.** To develop and disseminate detailed guidelines on the implementation of provisions on gifts in order to clarify established restrictions and liability for their violation. To carry out monitoring of the implementation of provisions on gifts and to develop proposals on their improvement.

**Protection of whistle-blowers.** To stipulate in the legislative acts detailed provisions for the protection of whistle-blowers, in particular, effective guarantees of their protection from oppression and persecution. Review provisions of the Code of Administrative Offences, which establish administrative
liability for reporting false information about corruption, as the corruption facts are difficult to prove and information about them can be purposefully presented as intentional disinformation.


Measures taken to implement this recommendation

Government information

The legal framework

Amendments to the Law «On Public Service» and the follow-up regulations came into force on 26.03.2013, including the new Register of Public Service Posts (approved by Decree #523 of the President of the Republic of Kazakhstan, dated 07.03.2013). It established a classification of administrative public officers, and, for instance, grouped public officials of the managerial level into Corps «А». The staff of public policy officials was reduced from 3,272 to 410 persons (8 times).

The staff of law enforcement agencies had to undergo requalification tests, and as a result, the number of administrative public officers in law enforcement agencies increased more than 2.8 times (from 3,151 to 9,009 persons).

Thus, more than 5,500 employees of law enforcement agencies received the status of administrative public officers who are, by law, protected from any political influence and changes within the body of public policy officials.

Recruitment and professional advancement

Under the amendments to the Law «On Public Service» (which were introduced by the Law «On the amendments and amplifications to certain legislative acts of the Republic of Kazakhstan on public service», dated 14.12.2012), the posts of administrative public officers are divided into 2 corps: Corps «А» - administrative public offices of the managerial level, and Corps «B». Administrative public offices are manned on a competitive basis, with a few exceptions.

The amendments to the Regulation on the Procedure for Holding a Public Office have minimised the possibility of non-competitive appointments by way of transfer. Such transfers would only happen within a government agency, or within its department, including territorial divisions, or between them, with a few exceptions.

The Law «On Public Service» stipulates that a public officer has a right to professional advancement according to his/her qualification, competence, merits and good faith performance of his/her official duties.

Professional advancement of administrative public officers of Corps «B» depends on their qualification, competence, merits, good faith performance of his/her official duties, and professional performance in the previous position.

Government agencies carry out annual evaluations of the performance of administrative public officers to assess the effectiveness and quality of their work.
With regard to public officers of Corps «A», the performance assessment results serve as the grounds for decisions on bonuses, training, career planning, and rotation.

If a public officer of Corps «B» receives two successive “unsatisfactory” grades within three years, that would serve as the ground for reviewing his/her professional rating. Those of public officers who may receive negative ratings would be reduced in or dismissed from office.

Thus, the effective legislation excludes the possibility of access to the public service on a non-competitive basis. Professional advancement of a public officer depends on his/her personal merits and qualities, and performance rating.

Salaries and compensation

Under Decree #304 of the President of the Republic of Kazakhstan «On certain measures to facilitate the administrative reform», dated 29.03.2007, and Regulation #1127 of the Government of the Republic of Kazakhstan «On the approval of the Rules for the payment of bonuses, financial aid and markups to the official salaries of employees of the government agencies of the Republic of Kazakhstan from the state budget», dated 29.08.2001, there were adopted rules for the payment of bonuses (use of the national language, extension of official duties, marriage, birth of a child) and the procedure for introducing salary markups for employees at the expense of salary budget savings due to available vacancies.

Under the specified regulations, bonus amounts and bonus payment frequency are determined by heads of government agencies at their sole discretion and in accordance with the budgetary program (subprogram) funding plan in the part relating to the maintenance costs of relevant agencies.

Codes of conduct and anti-corruption training

On 01.10.2013 the RK President signed a decree «On the amendment of Decree #1567 of 03.05.2005 «On the Code of Honor of Public Officers of the Republic of Kazakhstan». The new amendments cite compliance with the rule-of-law principles and professional performance of government services as the main duties of public officers. The regulation on a mandatory disproof of public allegations has been reviewed. The Agency has organized, on an ongoing basis, the training and education of government employees on compliance with the Code of Honor and anti-corruption efforts. The training and education of government officers on matters of professional ethics and anti-corruption policy will be continued.

Conflict of interests. Gifts policy

The Head of the RK Agency for Public Service and Anti-Corruption Enforcement has approved an Action Plan to implement the instructions issued at the Agency’s extended session on 26.11.2014. Under Clause 14 of the Action Plan, the Agency’s Department of Public Service and Corruption Prevention has to draft Conflict of Interest Guidelines and a Gifts Policy by 25.12.2015.

Protection of whistle-blowers

Government Regulation №1077 of 23.08.2013, approved the Rules for rewarding persons who report facts of corruption offenses or otherwise facilitate the anti-corruption efforts. These Rules were prepared in line with Clause 2-1 of Article 7 of the RK Law «On Anti-Corruption Measures». Under the Rules, persons who report facts of corruption offenses or otherwise facilitate the anti-corruption efforts are entitled to rewards in the form of a lump-sum payment.
In view of the abolishment of the Agency for Economic and Corruption Crimes, which previously coordinated activities in the area, the Agency for Public Service and Anti-Corruption Enforcement is now responsible for the monitoring of the amendment of these Rules. Furthermore, the new Anti-Corruption Strategy proposes to increase the amount of remuneration to whistleblowers so as to more actively engage citizens in such activities.

**Assessment of progress – LACK OF PROGRESS**

According to the information provided, the Civil Service and Corruption Counteraction Agency plans to develop and disseminate guidelines on conflict of interests and gifts regulations, as well as to review amount of reward to persons who report about corruption offences and assist in the anti-corruption work otherwise (as a percentage from the damage redressed). Also, as a part of the 2011-2015 Anti-Corruption Strategy, it is planned to implement gradual asset and income disclosure of all natural persons.

However these are just plans, not implemented in practice, which does not allow to make conclusion about progress achieved.

No information was provided on progress in the other parts of the recommendation.

**Recommendation 3.3. Promoting transparency and reducing discretion in public administration**

- To envisage mandatory anti-corruption screening of all draft normative acts. To consider the possibility of placing on the web-sites of the respective state authorities draft laws and draft normative acts of the Government and other central state authorities, accompanied with conclusions of the anti-corruption screening. To consider the possibility of assigning to a state authority functions of carrying out anti-corruption screening.

- To revise the Law on State Control and Supervision, namely to bring it in line with the Law on Private Entrepreneurship, to eliminate inaccuracies and clearly define its sphere of regulation, which should not cover internal control issues, to put emphasis on protection of rights of the inspected entities from possible infringements by the inspection bodies.

- To bring the legislative act on the administrative procedure in line with international standards of regulation of the procedure for considering administrative cases.

- To reform the system of administrative justice in accordance with international standards and best practices, namely to adopt the Administrative Adjudication Code, which should not regulate issues of bringing to administrative liability, and to set up specialized administrative courts for consideration of private persons’ claims against public administration.

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**Measures taken to implement this recommendation**

**Government information**

The function of anti-corruption evaluation is performed by the Ministry of Justice as part of the effort of legal evaluation of effective and newly drafted regulations. Pursuant to Article 3 of the Law «On justice bodies» and Article 14 of the Law «On Legal Acts», justice agencies are responsible for the legal evaluation of all
drafted regulations. The agency are concurrently improving the mechanism of anti-corruption evaluation and plan to use official web-sites of government agencies for posting draft laws and regulations developed by the Government and other central authorities, complete with anti-corruption evaluation reports.

All of the legal acts are subject for expert evaluation: laws and regulations are examined at the drafting stage, while acts of government agencies, which are listed in Article 36 (2)(4) of the Law «On Legal Acts», are examined in the course of state registration in judicial agencies.

Pursuant to the Minutes of the Meeting of the Interdepartmental Committee for Administrative Reform, dated 27.05.2014, the RK Ministry of Justice is charged with the drafting of a new version of the Law «On Administrative Procedures». Under this act, the law must be drafted in 2015, submitted to the Parliament in 2016, and enacted in 2017. At present, the Ministry of Justice is developing the Concept of the draft Law «On Administrative Procedures». This work would be completed within the approved time-schedule. Pursuant to the Minutes of the Meeting of the Interdepartmental Committee for Administrative Reform, dated 27.05.2014, the RK Supreme Court will be responsible for the drafting of the Administrative Procedure Code (the Code must be drafted in 2014-2015, submitted to the Parliament in 2016, and enacted in 2017).

**Assessment of progress – LACK OF PROGRESS**

*No new information on tangible progress in addressing the recommendation was provided.*

**Recommendation 3.4. Public financial control and audit**

- To specify the main directions of reforms in the area of the public financial control in order to clearly separate the key functions: external audit, internal audit, internal control, and financial inspections.
- To adopt and ensure enforcement of the legislative provisions on public internal audit and internal control in compliance with international standards and best practice. To approve and implement in practice general standards of internal audit and relevant guidelines and codes of conduct for internal auditors in accordance with international standards of internal audit. To establish internal audit units in the executive authorities and the Central Unit of Harmonization of Methodology of Internal Audit in the Ministry of Finance.
- To prepare and adopt a separate law on the Accounting Committee in order to regulate principles of its activity and to ensure the necessary level of functional and institutional independence of the Accounting Committee in line with the Lima Declaration and other international standards; to strengthen legislative guarantees of the financial independence of the Accounting Committee.
- To introduce a practice of detection and response to corruption risks, especially in state authorities who face a high level of corruption risk.


*Measures taken to implement this recommendation*

*Government information*
The Concept of introducing Public Audit in the Republic of Kazakhstan, which was approved by Presidential Decree #634, dated 03.09.2013, (hereinafter - the Concept of Public Audit), reflects the division of the key functions in the sphere of public audit and fiscal oversight (external and internal audit).

The Concept implementation necessitated the drafting of the Law «On Public Audit and Fiscal Oversight», which provides definitions of public audit, complete with principles, agents, objects, functions, mechanisms and instruments, as well as the scope of authority of the agencies responsible for public audit and fiscal oversight.

The draft law includes the following provisions that allow to delineate, so as to avoid duplication, the functions of agencies responsible for the external and internal public audit and fiscal oversight:

1) mandatory planning of audit and oversight measures on the basis of a risk management system, with due account of inspection plans and such changes thereto as may be proposed by the public audit and fiscal oversight agencies;
2) a functional Common Database of the public audit and fiscal oversight agencies that would be integrated with the e-government system and IT facilities of the public authorities. This IT system would post information on planned public audits and relevant findings, expert analytical activities of the public audit and fiscal oversight agencies, as well as any other information that may be required for the planning and implementation of public audits. Furthermore, the public audit and fiscal oversight agencies would be submitting documents and reports to the Common Database on a mandatory basis, and within agreed time periods would exchange information on inspection plans prior to their approval;
3) mandatory registration of inspections with the Authority for Legal Statistics and Special Accounts in accordance with the effective legislation of the Republic of Kazakhstan;
4) mandatory mutual recognition of public audit outcomes by other public audit and fiscal oversight agencies.

An additional provision introduces liability for a public auditor who refuses to recognize the results of inspections conducted by other agencies of public audit and fiscal oversight.

Discussions of the draft law covered the matter of overlapping functions, which can be avoided through delimitation of functions and powers of the respective agencies according to the types and forms of public audit and fiscal oversight; a number of coordinated decisions were made to exclude from the sphere of competence of the Internal Audit Authority the following functions:
- an integrated audit of the performance of government agencies that are part of the Government structure, including the analysis of annual assessment outputs;
- the compliance audit of the use of the Government Reserve on the instructions of the Government, as the draft law provides for an unplanned compliance audit when so instructed by the Government;
- the compliance audit of costs related to the increase of estimated expenditures under budgetary investment projects, as the draft law provides for an audit of funds use on the instruction of the Government;
- the compliance audit of the validity, completeness, timeliness and accuracy of the accrual and transfer of non-tax revenues to the national and local budgets, as the Internal Public Audit Authority is responsible for auditing compliance with legislation on government property;

Furthermore, it is proposed to make the Internal Audit Authority responsible for reduced inspections of the use of national and local budget funds, subject exclusively to the instructions of the President and Government of the Republic of Kazakhstan, parliamentary inquiries, and on the basis of data monitoring results received from the information system of the Central Budget Implementation Authority.

In line with international standards and best practices, provisions on the internal public audit and internal fiscal oversight are reflected in the Concept of Public Audit and the draft Law «On Public Audit and Fiscal Oversight».
It should be noted that this paragraph bears no relation to the activities of the Accounts Committee, as under Article 135(3) of the Budget Code, the Accounts Committee is responsible for external fiscal oversight, while the Ministry of Finance is responsible for internal fiscal oversight under Government Regulation #387 «On Certain Issues of the Ministry of Finance of the Republic of Kazakhstan», dated 24.04.2008.

Apart from the above mentioned provisions, the draft law stipulates as follows:
- establishment of internal audit services in central government agencies and local executive bodies, as well as internal audit divisions within territorial departments of central government agencies, subject to the decision of the head of a central agency and within the limits of the staff list;
- creation of an Internal Public Audit Authority that would, inter alia, perform general coordination of the activities of internal audit services, and provide methodological and advisory assistance to them.

In compliance with international practices and with a view to introducing elements of corporate governance, and organizing an effective interaction between the internal audit and risk management divisions within the structure of a government agency, it has been proposed to set up an Audit and Risk Management Council as a consultative and advisory body chaired by the head of the relevant government agency, consisting of heads of departments and structural divisions.

It has been suggested that the Council should coordinate the activities of structural divisions, the allocation of funds, the IT assistance during the planning and performance of internal audits, and the risk management efforts by arranging discussions of relevant reports, plans and programs.

In addition, the draft law establishes uniform requirements to public audits, which are set by the standards of public audit and fiscal oversight.

To adopt a set of regulations in execution of the draft law would require the streamlining of internal audit procedures, the approval of general and procedural standards, of a model risk-management system that would be used for the planning and performance of internal audits, the creation of a common database on public audit and fiscal oversight, and etc.

The draft Law «On Public Audit and Fiscal Oversight» contains a Chapter regulating the organization and activities of the Accounts Committee, with due account of the provisions of the Lima Declaration and of other international standards, competences and status of the Committee officials, and principles of collaboration with the other government authorities.

It was deemed impractical to develop a separate draft law in view of the focus on the consolidation of the effective legal framework and simplification of the law enforcement practices.

However, this fact in no way signifies non-implementation of the relevant recommendation, as primary concern is given to the content of the rules regulating the status and activities of the Accounts Committee, as well as their formalization in the format of a legislative act.

Regulatory Resolution # 3-NP of the Accounts Committee, dated 31.08.2011, approved a Model Risk Management System to be used for the planning and performance of external fiscal oversight measures (hereinafter – the RMS). The RMS goal is to identify high-risk entities, including corruption risks, in order to ensure the maximal oversight coverage of such entities.

One of the criteria is the number of earlier detected violations and a lack of corrective actions.
Besides, the Accounting Committee, upon detecting signs of a criminal offense, including a corruption offense, in the actions of officials of the inspected entity, would refer all of the relevant records to the law enforcement agencies.

In pursuance of the Concept of Public Audit and Fiscal Oversight, the working group composed of representatives of the Accounts Committee and the Ministry of Finance Fiscal Oversight Committee has developed Rules for the application of common risk management principles and procedures by public fiscal control (audit) agencies, [whose main task is to develop uniform risk management principles and procedures to be applied by public fiscal control agencies – duplication, translator’s note].

One of main principles of the future risk management system would be timeliness – the performance of a set of measures to identify risks within supervised entities and ensure a timely response to such risks, including corruption risks. At present the draft Rules are being examined by relevant government authorities.

Work is under way to draft regulations, including those that would set forth procedural standards for public internal audit and fiscal oversight, and a Code of Ethics for public auditors.

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**Assessment of progress – LACK OF PROGRESS**

_Despite continued work on improving the system for public financial audit and control, in particular discussion of the draft law in the parliament, development of the Rules for the application of common risk management principles and procedures by public fiscal control (audit) agencies, no new information on tangible progress in addressing the recommendation since the monitoring report was provided._

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**Recommendation 3.5. Public procurement**

- To continue reforming public procurement legislation, in particular, by substantially decreasing the number of areas which are exempt from the scope of regulation of the Public Procurement Law, by stipulating a competitive public procurement procedure - based on the law and in line with international standards - for national management holdings, national holdings, national management companies, national companies and legal entities affiliated with them.

- To establish a system of statistical recording and analysis of data on the performed procurement, complaints and results of their consideration, frequent violations and sanctions, etc. These materials should be updated and made public on a regular basis.

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*Measures taken to implement this recommendation*

**Government information**

The draft Law “On Government Procurement” (_the Draft_) was elaborated by the RK Ministry of Finance following the Head of State’s instructions made on 02.09.2013 at the opening of the fourth session of the fifth Parliament of the Republic of Kazakhstan. By RK Resolution #1412 “On the Draft Law “On Government Procurement”, dated 31.12.2014, the Draft was submitted for the consideration of the Mazhilis of the
Parliament of the Republic of Kazakhstan. The Draft envisages the reduction of the grounds (the number of sectors) for government procurement from one supplier on the basis of direct procurement contracts.

Furthermore, under Clause 2.2.4 of the RK Government Meeting Minutes, dated 21.01.2014, an Interdepartmental Working Group was established to draft a Uniform Law on Procurement that would regulate procurements made by state-owned enterprises.

At the same time, the government procurement system requires modernization.

The establishment of a Price Monitoring Centre is under way; it would eliminate dispersion of prices on goods, works and services. In this manner it would be possible to get rid of artificial price increases and “kickbacks” of 10-30% that are incorporated into the budget requests.

The procurement procedure would be simplified due to an automated selection of standard items with an annual volume of below 4,000 MCI.

The automated selection of a supplier would preclude the customer’s influence on the competitive bidding results and the appointment of the winning bidder.

A period of not more than 10 business days would be set for the customer to make payments to the supplier after the signing of acceptance acts (expect instances when collection orders are made). This would prevent deliberate delays of payment for contracted works and services.

State Standards (GOSTs) are being introduced for all types of procured goods, works and services. For instance, standard model projects of social infrastructural facilities (schools, kindergartens and hospitals) would be designed and approved in the sphere of construction of educational and health care institutions. Such standardization would simplify the competitive bidding procedures, prevent overpricing and eliminate the tailoring of projects to the capacity of certain companies.

The scope of subcontracted works and services would go down to 50%, thus increasing the responsibility of the general contractor for the quality of work and for meeting contractual deadlines. Currently the volume of subcontracted works approximates 70%. Treasury would be nominated by a single money operator so as to prevent any communication between the customer and the contractor regarding payment for the works and services.

#### Assessment of progress – LACK OF PROGRESS

*Kazakhstan reported about a draft law that reduces the number of exemptions from the Public Procurement Law. The text of the draft law was not provided.*

*This proposal is positive, as it would allow to extend the scope of competitive procurement, but as for the recommendation in general it is just an interim step, thus not allowing to mark progress.*

*The rest of the information provided is about future planned actions that cannot be yet evaluated.*
Recommendation 3.6. Access to information

- To ensure speedy adoption of the Law on Access to Public Information, which would comply with international standards and recommendations. To revise provisions on liability for non-provision or incomplete (untimely) provision of information upon request of individuals and legal entities.
- To achieve compliance with standards of the Extractive Industries Transparency Initiative.
- To avoid using liability for defamation to suppress the freedom of speech and reports of corruption; to consider repealing criminal liability for libel and insult as well as similar special offences against public officials.
- To provide effective legislative mechanisms for preventing lawsuits that seek compensation for moral damages in excessive amounts (for example, by setting court fees in proportion to the declared amount of claims, introducing shorter periods of limitations for such lawsuits, exempting from liability for expression of value judgments), and to carry out relevant training for judges.


Measures taken to implement this recommendation

Government information

The enlarged meeting of the “Nur Otan” Party Political Council held on 11.11.2014 under the chairmanship of N.A. Nazarbaev, President of the Republic of Kazakhstan, adopted the Party Anti-Corruption Program 2015-2025, which provides for the development of the draft law “On Access to Information” by the “Nur Otan” faction in the Mazhilis of the RK Parliament. It is necessary to say that NGO representatives are also engaged in these activities. Furthermore, the mass-media government authority would provide support and assistance to the promotion of this draft law.

The EITI implementation is fully in line with the quadrilateral Memorandum of Understanding signed on October 05, 2005 by extraction companies, Mazhilis deputies, government authorities and representatives of civil society; EITI is aimed to ensure compliance with the principles and standards of financial transparency of the primary sector and of the relevant government revenues. For Kazakhstan, the EITI implementation has a great international, political and anti-corruption significance.

Since 2005 seven National Reports were drawn up on the results of annual reconciliation of data on taxes and payments to the budget from mineral developers and the government data on relevant budget revenues.

These joint efforts resulted in the acknowledgement by the EITI International Board, an agency that coordinates the EITI implementation worldwide, of Kazakhstan compliance with the transparency standards followed by the award of the “EITI Compliant country” status in 2013.

To maintain the achieved level and status, further EITI implementation in the country would proceed in accordance with new international requirements.

To avoid situations when liability for defamation may be used to restrict freedom of speech and whistle-blowing; to consider the possibility of decriminalization of libel/slander, insult and similar special offenses against public officials.
According to the RK General Prosecutor’s Office, this recommendation requires additional consideration, as decriminalization of libel is not conducive to the freedom of expression, but may provoke a growth of malevolent attacks on the honor and dignity of citizens.

According to the RK General Prosecutor's Office, this recommendation runs counter to the International Covenant on Civil and Political Rights where the freedom of expression is proclaimed with a special covenant stating that the exercise of the right “carries with it special duties and responsibilities” and “may therefore be subject to certain restrictions”. Such restrictions may be imposed to “respect the rights or reputations of others” and to “protect national security or public order, or public health or morals”.

It should be noted, that the new Criminal Code in no way facilitates the introduction of any form of censorship with respect of information about government officials as it makes a distinction between knowingly false information and critical remarks that do not entail criminal liability.

In addition, Article 17 of the RK Constitution stipulates that dignity of an individual is inviolable. The State ensures the inviolability of honor and dignity of its citizens by introducing criminal liability for libel and slander. This may be explained by the high level of social danger of libel or slander. Slanderous fabrications may irreparably ruin the family or private life of a person, damage his/hers reputation, professional carrier or lead to the loss of health.

More than 20 EU countries, having joined international treaties on the decriminalization of libel (defamation), still treat the act as a criminally liable offense (Germany, France, Poland, Spain and Italy).

The FRG Criminal Code prescribes liability for a whole range of acts involving dissemination of knowingly false information, including insults, slander and libel. A public act of libel or slander is punished by imprisonment for a term of up to five years or by a fine. Libel or slander against a political official, or against a military serviceman constitutes separate criminal offenses. The Criminal Code of France prescribes punishment for such acts as a non-public insult, public and non-public defamation, a discriminatory insult and a false denunciation. Under the Criminal Code of Poland, libel and insult are punishable by imprisonment for a term of up to 1 year, and defamation in mass media – for a term of up to 2 years. The public insult of an executive official, of a constitutional entity or the President constitute separate offenses. These acts are punishable by imprisonment for a term of up to 3 years. Libel is punishable in Spain where a public insult may result in imprisonment for a term of up to two years. In Italy, defamation in mass media is treated as a punishable offence entailing imprisonment for a term of up to three years.

The Russian Federation, Ukraine and a number of other ex-USSR states have already experimented with the “inclusion-exclusion” of the “libel” and “insult” articles into/from their criminal legislation. For instance, in 2011 the Russian Federation removed both acts from the Criminal Code, but in 2012, the libel article was reinstated and significantly extended. Numerous experts in the Russian Federation insisted that decriminalization of libel had resulted in the impunity of such acts.

In view of the above, we believe that Kazakhstan, similarly to the EU states, maintains the balance of public and private interests on the issue of criminal liability for defamation as defined by the International Covenant.

As proposed by the Ministry of Justice, pursuant to the draft Law “On the introduction of Amendments to certain Legal Acts of the Republic of Kazakhstan to Improve the Civil Procedure Legislation” that was developed by the Supreme Court, the Tax Code was also amended to include a provision for the levy of a state duty on claims in defense of honor, dignity and business reputation in the amount of 1 % of the claimed
amount for individuals, and in the amount of 3 % for legal entities. This amendment is aimed at a partial implementation of Recommendation 3.6 «Access to information». The above mentioned draft Law was submitted to the consideration of Mezhilis of the RK Parliament under Government Resolution # 1420, dated 31.12.2014.

Since the Recommendation relates to the courts of the Republic of Kazakhstan, by Instruction # 12-21/4603 of Prime-Minister Masimov K.K, dated 12.01.2015, the proposal to vest the execution of this part of the Recommendation with the Supreme Court was dispatched to the Ministry of National Economy. OECD suggested introducing short statutory limitation periods as a mechanism to avoid claims for moral damage with excessive compensation requirements.

Article 178 of the Civil Code provides for a general period of limitation of three years. At the same time, for some types of claims, other (special) limitation periods - longer or shorter than the statutory period - may be established: for instance, a 3-month limitation period to defend an LLP member’s pre-emptive right to purchase a share in the event of its violation (Article 216(3) of the Civil Code); a 1-year limitation period to invalidate deals executed by means of fraud, violence or threat, as well as bondage deals, or deals executed due malicious collusion between a representative of one party with the other party (Article 162 of the Civil Code); a 1-year limitation period for freight and mail carriage contracts, a 6-month limitation period for passenger, luggage and cargo-luggage carriage contracts (Article 93 of the Law “On the Railway Transport”).

Furthermore, the Law “On Mediation” is currently widely used to avoid litigation for compensation of non-economic.

In view of the above, we believe that the matter of duration of limitation periods is fairly well regulated by the effective legislation.

Value judgments, except for libel and insults, represent statements that are not based on facts. Articles 130 and 131 of the Criminal Code establish criminal liability for such offences as libel (dissemination of knowingly false information that discredits the honor and dignity of a person or undermines his/her business reputation) and insult (indecently expressed debasement of the honor and dignity of a person). Within the framework of the second round of monitoring it was agreed that Kazakhstan had implemented the Recommendation on libel and insult decriminalization. Thus, the effective legislation does not provide for liability for the expression of value judgments.

**Assessment of progress – PROGRESS**

*The parliament of Kazakhstan, after a long pause, has restarted work on the draft law on access to information, which complies with the recommendation. Adoption of the relevant law is also provided for in the new Anti-Corruption Strategy for 2015-2025 adopted by Kazakhstan.*

*Kazakhstan also reported about a draft law submitted by the government to the parliament concerning court fee for lawsuits seeking compensation of damages for protection of honour and dignity in proportion to the amount of compensation requested – 1 per cent from the amount of lawsuit filed by a natural person, 3 per cent of the amount for legal persons. This complies with one of the recommendation’s parts.*
Recommendation 3.7. Political corruption

- To revise legislation on political parties’ financing by limiting the maximum size of private donations and membership fees, removing unjustified limitations on such donations, defining the term “donations” which should include non-material benefits, and by clearly prohibiting financing of parties by companies with state participation.

- To consider allocating budgetary funding to parties which received a certain percentage of votes (for example, 2-3%), even if they were unable to pass the election threshold.

- To ensure transparency of party finances, including during elections, in particular, by setting detailed requirements for the contents and form of annual reports, which have to undergo prior control by the state body, ensuring publication of detailed reports on both receiving and spending of funds by parties and candidates in the course of election campaigns. To consider cancelling the possibility of revoking election registration for providing false information in declarations and violating the financing rules.

- To ensure independence of the body in charge of control over political parties’ financing, assign to it a duty of carrying out regular monitoring and control over observance of the legislation on financing and transparency of political parties and election campaigns.

- To strengthen integrity rules for political servants, which are not covered by the Law on the Civil Service (conflict of interest, codes of ethics, financial control, liability for corruption and related offences).


Measures taken to implement this recommendation

Government information

To enhance the integrity rules for public policy officials who are not covered by the Law on Public Service (conflict of interests, codes of ethics, financial control, liability for corruption and related crimes)

The draft Law “On Corruption Counteraction”, which is developed by the Agency, includes specific provisions regulating the conflict of interests, measures of financial control, liability for corruption crimes and offences, which apply to persons empowered to perform government functions or to persons of equal status, including public political officials.

Assessment of progress – LACK OF PROGRESS

The draft law development is at its initial stage and cannot be evaluated as progress as yet. Moreover the main part of the recommendation concerns financing of political parties reform, where no new measures were taken.
Recommendation 3.8. Judiciary

- To amend legislative acts in order to strengthen the independence of the judiciary and judges, in particular: to change the legal status and the arrangement for providing for the activities of the Supreme Judicial Council, where the majority of members should be judges elected by their peers; to limit, to the maximum extent possible, the influence of political bodies (the President, and Parliament) on the appointment and dismissal of judges; to consider the possibility of having administrative positions in courts be elected by judges’ vote in the relevant courts; to revoke court chairmen’s powers in relation to careers of judges, their material provision, or liability; to envisage in the law a detailed procedure for making judges subject to disciplinary liability, as well as - in accordance with the principle of legal certainty and the right to defence - to limit the number of, and provide clear definition of, the grounds for disciplinary liability and dismissal, envisage a uniform system of bodies disposing of such issues and the possibility of appeal against their decisions in court; and to specify in law the salary rates for judges and an exhaustive list of all possible wage increments, eventually cancelling bonuses for judges.

- To limit to the maximum extent possible subjective influence on the procedure for selecting judges, to ensure publication of detailed information at all stages of selection (list of candidates, results of tests and other components of the qualifications exam, results of competition, etc.) and to ensure access of the public and representatives of the mass media to the respective meetings. To consider introducing mandatory training at the Institute of Justice to be able to qualify for the judicial selection and to consider re-subordination of the Institute of Justice to the body of the judiciary.

- To introduce mandatory declarations (without a link to tax obligations) of assets, income and, possibly, expenses of judges and their family members, with subsequent publication.


Measures taken to implement this recommendation

Government information

To change the legal status of and operational procedures for the Supreme Judicial Council where the majority of judges should be elected by other judges.

The Constitution stipulates that members of the Supreme Judicial Council (hereinafter –SJC) must be nominated by the Present. Powers of the President in respect of SJC are also defined in the Constitutional Law “On the President of the Republic of Kazakhstan”. SJC is established to execute the constitutional powers of the Present and to support his functions. The SJC legal status is set forth in the relevant law.

SJC includes the General Prosecutor, deputies of the Senate and Mazhilis of the RK Parliament, and the Chair of the RK Defence Bar. The State Legal Department of Presidential Administration is the working body of SJC.

In pursuit of Presidential Decree # 964, dated 21.11.2014, the number judges among 13 members of SJC has been increased to 8.

Conclusion. This Recommendation can only be implemented in full if relevant amendments are introduced in the Constitution and other legislative acts.

To minimize the influence of political entities (President, Parliament) on the appointment and dismissal of judges.

Pursuant to the Constitution, the Chair and judges of the Supreme Court are appointed to and dismissed from position by the Senate of the Parliament upon recommendation of the President as advised by SJC.
Chairpersons and judges of local and other courts are appointed and dismissed by the President upon the SJC recommendation.

At the same time, the appointment and dismissal procedures for judges are defined in such a way that the final decision is made by phases: at first judicial bodies formulate the decision, and only at the last stage the decision is approved by the political authorities.

Only persons who pass the qualification test of the SJC Qualification Commission may be appointed judges. The status and composition of this collegial body are regulated by law; the Commission includes judges delegated by the Judicial Jury on a rota basis.

Candidates have to complete internship in a court as provided by the rules set forth in the relevant Presidential Decree. The internship results are examined at a plenary session of a regional or equal-status court. Candidates to the Bench are selected on a competitive basis by SJC that must have an appropriate representation of judges.

In the same manner, the judiciary plays a decisive role in the dismissal of judges. In accordance with Article 2 of the Law “On the Supreme Court of the Republic of Kazakhstan”, the termination of judicial powers due to dismissal, resignation, transfer to another position, attainment of the retirement age or the professional age limit, disciplinary proceedings, professional incompetence, or other reasons, come within the authority of SJC. Prior to submission to SJC, the issues of professional incompetence or disciplinary liability of judges are reviewed by the judicial community at plenary sessions of regional or equal-status courts and of the Judicial Jury.

**Conclusion.** The exact implementation of this Recommendation requires the amendment of the Constitution and of other legislative acts.

*To consider the possibility for election of judges to administrative positions in courts by the vote of the staff of such courts*

It has been mentioned that Chairpersons of local and other courts are appointed and dismissed by the President upon SJC recommendation, in accordance with the Constitution and other legislative acts.

At the same time, the recommendations of international experts to enhance the role of the judicial community in the delegation of administrative powers to judges are being implemented.

An ever growing attention is given to further development and promotion of the personnel reserve for senior administrative positions in courts or for positions of Supreme Court judges. Candidates to the personnel reserve are selected by the relevant Republican and regional commissions. To be selected to the personnel reserve, judges should have sufficient service records in the position of judge, good performance indicators, organizational skills and impeccable reputations.

Later on, when candidates to administrative judicial positions are nominated, priority is given to the personnel pool members, while the possibility for nominating other judges to such positions is extremely low. Candidates to vacant positions of court chairpersons or chairpersons of judge panels are discussed at plenary sessions of regional or equal-status courts and of the Supreme Court, and are elected by vote.

**Conclusion.** The exact implementation of this Recommendation requires the amendment of the existing procedures for the formation of judiciary, which are set forth by the Constitution.

*To revoke the authority of court chairpersons on issues related to career growth, remuneration and responsibility of judges.*

In accordance with the Constitutional Law “On the Judicial System and Status of Judges in the Republic of Kazakhstan”, candidates to vacant positions of chairpersons of courts and chairpersons of judicial panels in local and other courts, chairpersons of judicial panels and judges of the Supreme Court are discussed at plenary sessions of courts on an alternative basis upon the recommendation of the Supreme Court Chairperson. Resolutions of the regional or Supreme Court plenary sessions give the Supreme Court Chairperson the grounds for submitting a list of candidates to SJC for consideration on an alternative basis.
Resolutions of the regional court or the Supreme Court plenary sessions, or recommendations of the regional court or the Supreme Court Chairpersons give the Judicial Jury grounds to examine the file of a particular judge. Thus, the functions of court chairpersons, including the Supreme Court Chairperson, on matters of careers and responsibility of judges are significantly restricted by the powers of the judicial community, namely the plenary sessions of courts and of the Judicial Jury. The mandate of the Supreme Court Chairperson to extend the term in office of a judge until the attainment of the professional age limit can only be executed with account of the opinion of the collegial judicial body, namely SJC. The logistical and social security issues fall within the competence of an independent entity – the Department of operational support of courts under the Supreme Court, and its territorial divisions. The performance of this authority is also evaluated at court plenary sessions. Moreover, in view of the existing procedures for court funding, external agencies supervise the logistical and financial support of court operations and the optimal use of funds allocated from the republican budget. Conclusion. The exact implementation of this recommendation requires the amendment of the existing procedure of forming the judiciary corps, which is set forth in the Constitution.

To include in the law a detailed description of disciplinary proceedings against judges, and, in line with the principle of legal responsibility and dismissal from office, to create a single system of agencies that would examine such matters and provide for a possibility to challenge their decisions in court. The matter of disciplinary liability of judges falls within the competence of a single collegial body – the Judicial Jury, - which is composed of representatives of all judicial instances. Resolutions of the regional or Supreme Court plenary session, or recommendations of the regional or Supreme Court Chairpersons offer the Judicial Jury the grounds to examine the personal file of a judge. In accordance with the Constitutional law “On the Judicial System and Status of Judges in the Republic of Kazakhstan”, disciplinary offences in the form of gross violation of the law during trial, disreputable misconduct, violation of judicial ethics, or gross violation of labor discipline are punished by a reprimand, letter of warning, dismissal from the position of court chairperson or chairperson of a judge panel for undue performance of official duties, or by dismissal from the position of judge. Under the Regulation on the Judicial Jury, that was approved by Presidential Decree # 643, dated 26.06.2001, judges may only be liable for disciplinary proceedings on the grounds set forth in the Constitutional Law “On the Judicial System and Status of Judges in the Republic of Kazakhstan”. The resolution of the Judicial Jury is not subject to appeal. At the same time, the Constitutional law “On the Judicial System and Status of Judges in the Republic of Kazakhstan” provides for the SJC refusal to issue recommendation on the dismissal of a court chairperson or of a chairperson of a judge panel, which serves as the ground for the Judicial Jury to reverse or review its own resolution.

To define in the law the amount of compensation to judges and an exhaustive list of all possible salary markups, as well as a possibility for the elimination of bonuses for judges Judges get remuneration in accordance with provisions set forth in the Presidential Decree “On the Unified Remuneration System for Public Officers”. The rate of remuneration depends on a set of multipliers linked to court levels (Supreme Court, regional court or district court), official positions (chairperson, chair of panel, judge) and seniority. Bonuses to judges are paid in accordance with the Rules for the payment of bonuses, financial aid and markups to official salaries of public officers in the Republic of Kazakhstan from the state budged; the Rules were approved by Government Resolution # 1127, dated 29.08.2001 (hereinafter – the Rules). This form of incentive is standard and can be awarded to any public officer, including judges, for good performance. Payment of awards for trial outcomes is prohibited.
Conclusion. To implement this recommendation to the letter, the existing system of judiciary remuneration should be changed and relevant amendments should be introduced into legislative acts, including constitutional laws.

To minimize subjective influence on the selection of judges, to ensure the publication of detailed information at all stages of selection (list of candidates, testing results and other components of the qualification exam, contest results etc., and access to relevant meetings for the public and mass media)

Pursuant to the Law “On the Supreme Judicial Council of the Republic of Kazakhstan”, selection of candidates to vacant positions of judges in local and other courts is done by SJC on a competitive basis. Procedures of SJC meetings and other organizational issues are defined by SJC Rules and Regulations. The State Legal Unit of Presidential Administration is a SJC working body. The competition is an open procedure; SJC resolutions are made public immediately upon their adoption.

Mass-media and court web-sites post information about:
– Persons who passed the qualification exam for the position of judge;
– Candidates serving internship in courts;
– Candidates competing for vacant positions of judges;
– Candidates recommended for the positions of chairpersons and chairs of panels in local courts;
– Announcement of competitions.

Mass media are invited to SJC meetings.

This way the public participation is ensured at all stages of judges’ selection.

Conclusion. This recommendation can only be implemented in full, when relevant amendments are introduced into the SJC Rules and Regulations, and into other legal acts.

To study the possibility of mandatory training at the Institute of Justice as an eligibility criterion for candidates to the bench and of assigning the Institute to a judicial authority

The Judicial Academy under the Supreme Court was created in 2003 at the premises of the Institute of Advanced Training for Judges and Judiciary Personnel; in 2005 the Academy was renamed the Institute of Justice and merged with the Presidential Academy of Public Administration.

The Institute of Justice (hereinafter – the Institute) is a higher educational establishment that trains personnel for the judicial system under a special Master’s Degree program.

The share of the Institute graduates among judges is growing consistently, and 90% of judges are estimated to hold the Masters’ Degrees of the Institute by 2018.

Jointly with the Agency for Public Service, the Supreme Court plans to enhance the role of the Institute in the training of judicial personnel. The training of judicial staff at the Institute is also regulated by the Strategy of Judicial Education 2012-2016, approved by Resolution of the Supreme Court Chairman # 31, dated 03.12.2012.

Conclusion. To implement this recommendation to the letter, the existing system of judiciary training should be changed, and relevant amendments should be introduced into effective legislation.

To introduce mandatory declaration of property, income and, if possible, expenses of judges and their families (apart from tax obligations), and public disclosure of such declarations

According to the Law “On Anti-Corruption Enforcement”, judges, being public officials empowered to administer justice in accordance with the procedure set forth in the Constitution and the Constitutional Law “On the Judiciary System and Status of Judges in the Republic of Kazakhstan”, and their spouses have to declare their incomes and property.

Further steps to improve the income declaration procedure for judges are based on the common principle that applies to all public officers in all branches of power.

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1 Recommendation to publish detailed information is implemented (see OECD Report).
Conclusion. The implementation of this recommendation requires the alteration of the constitutional principle declaring the equality of all persons before the law, regardless of their social status or position.

In shaping approaches to the implementation of recommendations based on the monitoring results (the second and third rounds), one should bear in mind that the effective law in the Republic of Kazakhstan is represented by the Constitution and laws that are consistent with it, and by obligations of the Republic of Kazakhstan resulting from international treaties or other sources. The Constitution has the ultimate legal force.

Kazakhstan is a unitary state with a presidential form of government. President of the Republic of Kazakhstan is the Head of State, the superior public official who defines the key areas of domestic and foreign policy. President of the Republic is a symbol and guarantor of unity of the people and the state power, of inviolability of the Constitution, of the rights and freedoms of a person and a citizen. President of the Republic ensures the coordinated functioning of all branches of the state power. The state power in the Republic is executed according to the principle of its division into legislative, executive and judicial branches, which interact by using the system of checks and balances.

In accordance with the Constitution, Kazakhstan respects the principles and norms of international law, pursues the policy of cooperation and good neighborly relations between states, of equality and mutual non-interference in domestic affairs.

Assessment of progress – LACK OF PROGRESS

Despite the increase in the number of judges in the High Judicial Council, who now comprise the majority in its composition, which is a positive development, implementation of the recommendation in this part should concern permanent legislative changes as to the principle of this body composition.

No new information on implementation of other parts of the recommendation was provided.

Recommendation 3.9. Private sector

- To consider legislative and other measures for establishing proper systems of reporting, information disclosure, internal and external audit, financial control and ensuring general transparency of national management holdings, national holdings, national development institutes, national holding companies and other similar legal entities.

- To conduct a monitoring of activities of expert councils at state authorities and to engage representatives of business organizations in dialogue on anti-corruption mechanisms in the public and private sectors. To set the minimal period of consultations to be held with the business community, and the deadline for publication of draft legal acts before their adoption.

- To facilitate, in close co-operation with business unions and civil society organizations, promotion and enforcement of internal corporate compliance programmes having taken due account of the best international practice and standards, in particular, Annex 2 to the OECD Council Recommendation of 26 November 2009.


Measures taken to implement this recommendation

Government information
To consider legislative and other measures so as to establish proper systems of reporting, disclosure of information, internal and external audit, financial oversight and overall transparency of national managing holdings, national companies, national development institutes, and of other similar legal entities.

Since 2012, the Accounting Committee has been implementing the investment project “The Integrated Information System of the Accounts Committee” (hereinafter IIS-AC), which is scheduled to become operational in 2015.

To ensure an automated exchange of information between the Accounting Committee and the Ministry of Finance, both authorizes signed a joint Instruction “On the Interoperability of IIS-AC and of the Integrated Automatic Information System “e-Minfin” of RK Ministry of Finance” (hereinafter IAIS “e-Minfin”) # 84-n/k, dated 23.05.2014.

Within the framework of information exchange, the Ministry of Finance should provide to the Accounting Committee the following data:
- performance outputs of the Financial Oversight Committee at the Ministry of Finance, auditing results per region in relation to the implementation of the republican budget, and audit plans;
- a list of Joint-Stock Companies and Limited Liability Partnerships with a state share in the authorized capital, which are registered as republican SOEs.

The Concept of Public Audit envisages the development by the Accounts Committee of a Common Database for the purposes of Public Audit and Fiscal Oversight.

Furthermore, there is an ongoing close interaction with the public and mass media. Full information on the supervisory, analytical, international and social activities of the Accounts Committee is regularly posted on its official web-site and disseminated among the mass media. Mass media briefings are arranged to hear reports of members of the Accounts Committee on audit and inspection outputs.

**Assessment of progress – LACK OF PROGRESS**

No new information on implementation of the recommendation was provided. Information that was provided concerns mainly public financial control and audit which are not covered by this recommendation.