



**Anti-Corruption Network
for Eastern Europe and Central Asia**

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**Istanbul Anti-Corruption Action Plan for
Armenia, Azerbaijan, Georgia, Kazakhstan, the Kyrgyz Republic,
the Russian Federation, Tajikistan and Ukraine**

ARMENIA

UPDATE ON ACTIONS TO IMPLEMENT RECOMMENDATIONS

June 2006

This update is prepared by the Government of Armenia for the 5th Monitoring Meeting of the Istanbul Anti-Corruption Action Plan, 12-13 June 2006.

Action Required: delegates are invited to discuss this update

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I) NATIONAL ANTI-CORRUPTION POLICY AND INSTITUTIONS

1. Continue with the activities to make the Anti-corruption Council and the Monitoring Group operational and ensure their proper functioning. Special attention should be given to ensuring high moral and ethical standards of the members of both bodies, including representatives of relevant executive bodies (administrative, financial, law enforcement, prosecution), as well as from the Parliament and Civil Society (e.g. NGOs, academia, respected professionals etc.) in the Monitoring Group.

National implementation actions:

Full guarantee is given, on which very detailed information was provided in the report presented in October 2005. It is worth mentioning that during its work the commission had discussions and has made decisions about the implementation of activities planned in separate parts of the RA anticorruption strategy. The commission has given assignments for improving the work in various spheres. For each quarter the monitoring commission presents a detailed report on implementation of the anticorruption strategy to the commission. The commission had a link to the website of the government of Armenia. The implementation of the anticorruption strategy was discussed during the last meeting of the commission based on the outcome of the work done by the working group of the monitoring commission. The implementation of the activities was assessed as satisfactory. It was suggested that the monitoring commission and the heads of authorized responsible bodies should be stricter about the monitoring in the government bodies, ensuring that the assignments are done. They should also start discussions with the stakeholders/state bodies and representatives of the civil society for preparing the 2007-2009 action plans.

2. Upgrade statistical monitoring and reporting of corruption and corruption-related offences by introducing strict reporting mechanisms on the basis of a harmonised methodology. Ensure regular reporting to the Anti-corruption Coordination Monitoring Group, covering all spheres of the Civil Service, the Police, the Public Prosecutor's Offices, and the Courts, which would enable comparisons among institutions.

National implementation actions:

In the report presented in 2005 it was mentioned that the RA prosecutor's office, RA police, RA National Security Services under the government have developed and introduced and methodology for statistical registry of crimes. There is a unified system for statistical analysis of corruptive crimes. It allows obtaining of comprehensive information on registration of corruptive crimes, their identification and follow up. By the mentioned methods the bodies carrying out statistics of corruptive crimes the data and information are presented to anticorruption strategy monitoring commission. Together with the RA prosecutor's office, RA National Statistics Service and the RA police the methodology for statistical analysis of 59 criminal cases of corruptive crimes were developed. Based on this the form of presenting and concluding the relevant information was set, which was approved and applied by the monitoring commission. According to this, monitoring is conducted on regular basis, i.e. quarterly, half-yearly and annually. Outputs of the monitoring conducted in 2005 are attached to the report.

3. Consolidate law enforcement efforts in the fight against corruption and ensure better cooperation, in particular with the newly established specialized department within the Prosecution Service. Further specialize anticorruption units within the Police and ensure functional links between specialised law enforcement bodies and the specialised prosecution department. Undertake steps to minimize possible improper influence of or interference into

the work of law enforcement officials investigating corruption offences. Exchange of knowledge and information should be direct and confidential, the number of administrative decision makers (heads of different departments for example) should be minimized.

National implementation actions:

In 2005 October report it was mentioned that the coordination of investigative and preliminary investigation bodies is implemented by the RA prosecutor's office, which ensures application of the law by all the relevant bodies and their effective cooperation during the investigation of crimes and corruption cases. It should be added that, by the amendments in the constitution adopted during the referendum on November 27th, 2005 functions of the prosecutor's office were clarified. Based on this a working group for preparing juridical reforms was set by presidential order issued on February 17th, 2006. The working group is asked to develop the concept paper for juridical reforms by August 1st, 2006 and present a proper legislative package. During preparation of the legislative package the implementation of the recommendations should be discussed and various approaches developed.

4. Armenia should study examples of countries where specialized independent anticorruption bodies with a combination of repressive (investigative, prosecutorial), preventive and educational tasks and powers have been established (Hong Kong's Independent Commission Against Corruption (ICAC) might serve as the most well known example of such body).

National implementation actions:

This work was large scaled. International organisations provided assistance to this work. Particularly, the foreign expert invited by UNDP Mr. Bertran De Spevily presented the experience of Hong Kong anticorruption unit. During the International conference on "National and International anticorruption legal tools and experience" organized by OSCE in November 2005 in Yerevan RA representatives of the state government bodies and non-governmental organisations were presented the possible models for Latvia and Singapore, as well as their experience of cooperation with other bodies.

5. Continue with efforts in the area of corruption-specific joint trainings for police, prosecutors, judges and other law enforcement officials; provide adequate resources for the enforcement of anti-corruption legislation.

National implementation actions:

Training of officials dealing with investigation of corruptive crimes is done by the scientific-educational centre of the RA prosecutor's office. The training is organized as mandatory sessions and as seminars on selective topics. RA Prosecutor has already adopted the curriculum of 2006, according to which all the employees should attend a two-week training session during 2006. With the assistance of OSCE Yerevan office the scientific-educational centre has translated the document and it is being used as a manual "How to fight against corruption".

6. Conduct awareness raising campaigns and organise training for the relevant public associations, state officials and the private sector about the sources and the impact of corruption, about the tools to fight against and prevent corruption, and on the rights of citizens in their interaction with public institutions.

National implementation actions:

At present professional NGOs and other organizations campaign for identification of corruption risks and train the participants and present proposals to state officials on anticorruption

activities. Examples are the activities of “Achilles” drivers association, consumer’s association, Union of merchandisers NGOs, businessmen and other associations. The outputs of the monitoring are summarized by anticorruption monitoring commission.

7. Ratify Council of Europe Criminal and Civil Law Conventions on Corruption; sign and ratify the UN Convention against Corruption.

National implementation actions:

Convention of criminal rights on “Corruption” and additional records were adopted by decisions of RA National Assembly # N105-3 and N106-3, 8th of June 2004. RA National Assembly adopted Convention of Civil Rights (decision #. N-158-3, 8th December 2004) on “Corruption” signed in Strasbourg on November 4, 1999.

UN convention on “Struggle against Corruption” was signed in New York, USA by the Ambassador extraordinary and plenipotentiary of Armenia in USA on May 19th, 2005. Adoption of the convention is in process in the RA National Assembly.

II) LEGISLATION AND CRIMINALISATION OF CORRUPTION

8. Amend the incriminations of corruption offences to meet the requirements of international standards as enshrined in the United Nation’s Convention against Corruption, the Council of Europe’s Criminal Law Convention on Corruption and the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions. In order to make the provisions criminalising bribery offences more transparent and foreseeable consider replacing existing complex fragmented provisions by a lesser number of general provisions addressing passive and active bribery. The provision which legalises the receipt by a public official of a gift not exceeding five times minimum salary under certain circumstances, should be repealed. Furthermore, criminalise trading in influence.

National implementation actions:

RA National Assembly approved changes in criminal code in May 20th, 2005, according to which the concept of an official in corruption crime cases is reviewed (article 308), as a result of which foreign officials go through criminal responsibility for on job crimes and international deals.

The draft law on making amendments in the RA criminal code was approved and presented to the RA National Assembly by the Government of Armenia on April 13th, 2006. As a result of the draft law the articles 200« 311 and 312 were amended in the legislation. The aim of the amendment was to set the concept of bribe, and consolidate the framework of officials to the international contracts. The exception, according to which receiving gifts equal to 5 times the minimum salary was not considered to be bribe, was completely removed (approximately \$10).

9. Review the existing levels of the statute of limitations for corruption offences to ensure that current relatively low time limits for basic bribery offences do not hinder effective detection, investigation and prosecution.

National implementation actions:

In the report of October, 2005 it is already mentioned that not for all kinds of corruption cases there are the same time limits set, since crimes are of different levels of heaviness. On 20th May

2005, the National Assembly of Armenia adopted the law on Introducing amendments in civil code, according to which the time limit for reimbursement for the caused damage by corruptive activities is set 10 years. There is no new progress.

10. Adopt clear, simple and transparent rules for the lifting of immunity and review the categories of persons benefiting from immunity and the scope of such immunities to ensure that they comply with international standards and cannot be abused for shielding persons from criminal liability for corruption offences.

National implementation actions:

The Republic of Armenia is now dealing with the issues connected with depriving immunity of certain people. In RA immunity is given to the RA president, members of constitutional court, judges, members of electoral committees, members of parliament and the ombudsman. The anticorruption council proposed the authors of the constitutional amendments to include relevant recommendations in the package.

As a result of the referendum on making amendments in the constitution passed on November 27th, 2005 the framework of immunity for relevant officials was clarified and set. Development of corresponding legal acts for making amendments in the constitution is in process, according to which the number of people having right to immunity will be reduced and procedures for depriving from immunity will be clearly set. For example according to the draft law for making amendments in the election code which is being discussed now members of territorial electoral committees are not entitled to immunity

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

National implementation actions:

There is no progress; the issue is submitted to the RA Minister of Justice for discussion.

12. Amend the legislation on confiscation of proceeds from crime to comply with international standards (such as the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime). Ensure that the confiscation of proceeds applies mandatory to all corruption and corruption-related offences. Ensure that the confiscation regime allowed for confiscation of proceeds of corruption, or property the value of which corresponds to that of such proceeds or monetary sanctions of comparable effect, and that confiscation from third persons is possible. Review the provisional measures to make the procedure for identification and seizure of proceeds from corruption in the criminal investigation and prosecution phases efficient and operational.

National implementation actions:

In the report of October, 2005 it is already mentioned that the Republic of Armenia has joined the Strasburg convention on “finding money laundering cases through criminal routes and confiscation of the money”.

In the result the RA National Assembly adopted the RA law on “legalisation of income through criminal routes and struggle against financing of terrorism”.

In accordance with the recommendations made by European council experts' committee fighting against money laundering", confiscation as additional punishment can be assigned only by the court's decision and only in cases planned by special articles of RA criminal code. In point 22 of this report it is mentioned about the activities being carried out.

13. Ensure that the concept of an "official" encompasses all public officials or persons performing official duties in all bodies of the executive, legislative and judicial branch of the State, including local self-government and officials representing the state interests in commercial joint ventures or on board of companies.

National implementation actions:

By the law on introducing amendments and additions in the criminal code of 2005 the concept of an official has been enlarged in order to correspond to recommendations (article 308). In points 8 and 14 of this report it is mentioned about the activities being carried out

14. Ensure the criminalisation of bribery of foreign and international public officials, either through expanding the definition of an "official" or by introducing separate criminal offences in the Criminal Code.

National implementation actions:

For carrying out the recommendations by the law on introducing amendments and additions in the criminal code of 2005 the article 308 was edited and the concept of an official has been enlarged.

15. Contribute to ensuring effective international mutual legal assistance in investigation and prosecution of corruption cases.

National implementation actions:

In the report of October, 2005 it is already mentioned that on December 14th 2004, the National Assembly of the Republic of Armenia adopted the RA law on "introducing amendments in RA code of criminal court case", which is in power/operational from February 10th, 2005. In accordance with International standard this law sets the rules and regulations for RA officials to implement recommendations made by International organisations. International cooperation is ensured by bilateral or multilateral treaty/agreement with different countries.

Based on these amendments and additions communication on providing legal assistance to criminal cases by RA international contracts is implemented as follows

- 1) Through the RA chief prosecutor for pre-court cases and legal procedures;
- 2) For court cases including meeting requirements of verdict should be done through the RA Ministry of Justice;

If planned by the RA International contract communication can be ensured through diplomatic routes. If there is no International contract for court procedures for criminal cases legal assistance can be provided if through diplomatic routes there is an agreement made for mutual/bilateral legal assistance between the foreign country and the Republic of Armenia. This agreement should have been made beforehand with

- a. The RA Ministry of Justice for court cases and legal procedures and for meeting requirements of the passed verdict.
- b. With the RA chief prosecutor for pre-court cases and legal procedures

III) TRANSPARENCY OF CIVIL SERVICE AND FINANCIAL CONTROL ISSUES

16. Introduce a unified system for recruitment in the civil service, which would, to the extent practicable, limit discretionary decisions.

National implementation actions:

In the report of October, 2005 it is already mentioned that specific features of state services in different bodies, including relations for entering state services units are regulated by separate laws. In 2005 the National Assembly adopted the laws on “Criminal executive services”, “Rescue services” that enlarged the framework of state/public services.

Work is being carried out concerning transferring to unified system of employment by state services. Particularly in the framework of WB “Public Sector Modernization Project” it is planned to develop of the new concept paper and strategy for public services in 2006, where one of the issues for discussion is the question of unifying public services.

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

National implementation actions:

In the report of October, 2005 it is already mentioned that in the Republic of Armenia, depending on the peculiarities of the service, ethics code for public servants is adopted, which is developed according to international standards.

For not following the civil servants’ ethics rules behavioural punishment is foreseen by RA law on “Introducing amendments in civil service law”.

What refers to establishment of ethics supervision body it is necessary to mention that by the decision of RA Civil Service Council the ethics code is adopted, according to which each body will be able to have ethics commission, which will help to ensure moral-ethical atmosphere.

In the framework of Department for International Development “Armenia-Public Sector Reform Project” pilot ethics commissions have been established in RA Ministries of Labour and Social Issues, Health, Education and Science, ethics code has been revised including specialists’ issues in the sphere. After the pilot project it will be publicised. It is planned to develop and adopt unified code of conduct in accordance with international standards for state/public servants and special code of conduct for those specializations that are greatly influenced by corruption. “The code of conduct for a member of the prosecutor’s office” is adopted by the decree of the chief prosecutor of the Republic of Armenia. The above mentioned rules have legal value as well, in case of not obeying or violating the rules the employee of the prosecutor’s office is punished by the order set by RA law on “Prosecutor’s office”.

The government of Armenia adopted and put in force Government decisions on “ethics code for tax servants”, “ethics codes for auditors”. And the “ethics code for judges” was adopted and put in force by the council of chief of courts.

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

National implementation actions:

There is no new progress.

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

National implementation actions:

The Government of the Republic of Armenia has developed and submitted to the National Assembly the new draft Law on Declaration of Assets and Incomes of Physical Persons, extending the physical persons' assets and incomes declaration framework. Additionally, the above mentioned draft law envisages more efficient mechanisms for verifying the declared assets and incomes information. The RA National Assembly is discussing the draft law in the second reading.

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

National implementation actions:

There is no new progress.

21. In order to ensure the publicity and transparency of public procurement, introduce an electronic contracting and bidding system. In the electronic system, publish inter alia all the cases of complaints to the authorized agency and reactions to such appeals. All procurement information, which is not published, should be disclosed upon request save for commercial and state secrets.

National implementation actions:

The RA law on "Procurement" was adopted on the 6th December 2004 and put in force from January 1st, 2005, which foresees electronic procurement.

In RA "Public Sector Modernisation Project" activities for 2005-2007 it is planned to introduce electronic procurement in state procurement system. This electronic version includes also publicity of information, and cases to reply and give feedback to citizens' queries and complaints. At the same time the new law on "Freedom of Information" requires to publicise all the information about procurement, except from trade and state secrets. Electronic versions for tender announcement for state procurement and contracting are planned in 2006.

For introduction of the electronic procurement system tender is announced to select the implementing company.

22. Adopt the full set of anti-money-laundering legislation, which brings Armenia in compliance with the international standard, and ensure that a financial intelligence unit is set-up as soon as possible.

National implementation actions:

December 14, 2004 RA law was adopted on “Fight against financial support of terrorism and legalisation of proceeds coming from criminal sources”. Several amendments were made in a number of legal acts. On this legal basis in May 2005, a special unit for fighting money laundry and financial support of terrorism-Financial Review Centre (FRC), was established in RA Central Bank. FRC has developed all the reporting forms to be put in circulation. These were approved by Central Bank Council in 2006. Through these forms FRC daily gets about 150 transactions of mandatory reporting and on average about 2-3 suspicious transactions. These transactions are put on record in FRC’s database for further analysis. If money laundry or financial support of terrorism are spotted FRC directly reports to the RA Prosecutor’s Office.

Upon the order of RA President, dated March 21, 2002, a standing committee for fighting against money laundry, financial support of terrorism and other fraudulent acts was established. This committee holds sessions on regular basis to discuss issues related to RA policy, inter-departmental cooperation, co-operation with International organisations for fighting acts such as money laundry and terrorism support.

In 2004 Council of Europe anti-money-laundering expert committee (MONEYVAL) visited Armenia. As a result of this visit MONEYVAL came up with its first phase evaluation report on anti money laundry and terrorism support regime in Armenia. In 2005 Armenia presented to MONEYVAL a midterm report on progress undertaken after the recent evaluation on money laundry and terrorism support. In 2007, the second delegation of Council of Europe anti-money-laundering expert committee (MONEYVAL) is expected to pay a visit to Armenia to come up with its 3rd phase evaluation report on RA system fighting against money laundry and terrorism support. In 2006, the Inter-departmental committee has approved the concept paper on anti-money-laundering and terrorism support curriculum national programme.

Presently all stakeholders are working in that direction in order to be consistent with the timeframe needed for the input of this programme. In May 2006, Armenia is expected to be come up an observer member country for Eurasia Group fighting against money laundry and terrorism financial support. In 2007 FRC is expected to become a member of “EGMONT” Group doing financial investigation.

23. Rigorously follow the Anti-corruption Strategy in improving the rules governing the relationship between public officials and citizens and the procedures associated with access to information. Describe the specific measures that will be undertaken if an applicant does not receive a timely and thorough response.

National implementation actions:

The RA Government has also issued a decision approving a model charter for public relations departments of governmental agencies, according to which its main function shall consist in providing information concerning a given agency. By a number of government decrees in RA ministries and agencies there are new PR departments established. Training of the staff is ensured with the help of International organisations. The departments were furnished with technical equipment, and methodological material needed for organisation of the work. For a number of ministries an Inforcentre/reception is established, which is a part of the PR department. The latter ensures relations/links with citizens. The employees of the centre are civil servants and their responsibilities cover work with citizens. At the minute steps are undertaken to improve the work of these units with the citizens, methods for providing information, ways and timescales.

By the RA law on “Freedom of information” there are some punishment forms foreseen for not providing timely and complete information to the citizens. In this case the citizen applies to the senior officer or the court. Lately a number of cases were publicised and presented on getting information through courts. Particularly the mayor of Yerevan provided the media with decisions about selling and provision of land to people.

24. Ensure fluent and permanent contacts and coordination among financial control/auditing institutions in order to facilitate revealing of corruption offences.

National implementation actions:

In addition, in order to regulate the implementation of this task, the RA Government issued decision N 1376 on 17 September 2004 to approve the development strategy of the internal audit system of the government and bodies of local self-government, their subordinate institutions, local, and communal non-commercial organisations, which was developed with the support of US treasury and US experts.

With the support of the World Bank consultancy was provided to RA government on “RA internal and external audit and control/supervision systems”. The RA Public Sector Reform Commission approved the latest report. According to the proposed recommendations the first steps for structural reforms were done, i.e. the supervision department of RA Ministry of Finance and Economy was renamed to “Department for internal audit and supervision”. Huge work on internal and external audit, as well as establishment of new supervision system is planned in the framework of WB Public Sector Modernisation Project.

In the state government bodies they are conducting training of the internal audit structural units’ staff. Reorganisation of the external audit depends on the new changes in the RA constitution, according to which the chamber of control will obtain new authorities, will be more independent, and will become a constitutional independent body. A new draft law is being developed for the chamber of control, where the new liabilities/authorities and responsibilities of the body will be incorporated.

IV) ADDITIONAL INFORMATION

Being a member of GRECO Armenia has presented 2 reports for the first and second phases, recommendation on which have been adopted by the RA anti-corruption board.

17.	Article 238 Part 3, point 2 Stealing/confiscation of weapons, arsenal, explosives or equipment.									2	2
18.	Article 269 Part 2, point 2 Confiscation of drugs/tranquillisers									1	1
19.	Article 308- Abuse of power and authority	32	27	26	21	2	3	32	22	4	3
20.	Article 309 -Over passing authorities	7	10	6	5		1	7	6	6	7
21.	Article 311-Receiving bribes	7	3	7	5		2	6	6	6	13
22.	Article 312 Giving bribes	1	1	1	1			10	2	3	3
	Article 313 Middleman for bribes									1	1
23.	Article 314-Official fraud	47	32	39	32	2	5	78	39	14	16
24.	Article 332 Part 3, Hindering justice or investigation										
25.	Article 334-1.-Assisting a prisoner escape from prison or place where they are kept									3	5
26.	Articles 340-341 Giving false evidence, making to agree with the wrong interpretation	1		1	1			1		1	1
27.	Article 352- Evident unjust verdict, sentence or legal act	1	1	1		1					
28.	Article 371-Wasting army weapons									1	2
29.	Article 375- Overusing and abuse of power and authorities, not effective functioning									17	34
	Total	364	352	313	220	31	62	335	97	219,	265.out of which 2 are justified, 3-of them cancelled 260 sentenced

Appendix

- Amount of loses, for which they are accused –3 billion.487,67 million drams (appr. US \$ 7,75 million)
 - The amount of money returned before the case was discussed in the court –236,4million drams (\$525,000)

 - Custody is put for reimbursing the financial loses caused
 - On property (amount)—106,2mln drams (\$236,000)
 - Not justified cancelled cases, rejected material, amount of the loss (amount) - 78,2mln drams (\$174,000), reimbursement 69,6mln drams (\$155,000)

 - Number of people who committed corruptive crime __ 97
Officials
 - Financial loses, for which they are accused –323,7mln drams (\$719,000)
 - Amount of money returned before the case was discussed in the court –129,4mln drams (\$288,000)
 - Custody is put on property for reimbursing the financial loses caused (amount)—
16,6mln drams (\$37,000)
- Not justified cancelled cases, rejected material, amount of the loss (amount) – 5mln drams, reimbursement 5mln. Drams (\$11,000)