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

ARMENIA
MONITORING REPORT

This report includes two main parts: the update presented by the government of Armenia about national actions to implement the recommendations, which were endorsed in June 2004; and the summary of the expert opinion by Mr. Bostjan Penko, Slovenia, and of the discussion, which took place at the Istanbul Action Plan meeting in December 2004, Paris, France.

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UPDATE ON NATIONAL IMPLEMENTATION ACTIONS

Pillar 1. NATIONAL ANTI-CORRUPTION POLICY AND INSTITUTIONS

Recommendation 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. The RA Presidential Edict of 1 July 2004 has set up the Anti-corruption Council and the Anti-corruption Strategy Monitoring Commission and explicitly outlined their functions. Commission members include both representatives of the executive and legislative authorities, and representatives of public organisations.

Recommendation 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. Bodies carrying out statistical monitoring of offences, including corruptive crimes, operate within the system of the RA Prosecutor General's Office, Police and Government. This department registers all offences and carries out the necessary analysis. It also studies international good practice used as the basis for amending the corruption statistics gathering methodology. Statistic data are provided to public institutions, including the Anti-corruption Strategy Monitoring Commission, on the basis of relevant requests.

Recommendation 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. According to the RA Law on the Prosecutor General's Office and the Law on Police, and other relevant legal acts, one of the objectives of investigative authorities consists in ensuring cooperation in the struggle against corruptive offences (relevant articles are attached). According to the Constitution of the Republic of Armenia, the Armenian Public Prosecution Office supervises the lawfulness of conducting criminal investigations. The Anti-corruption Department of the Public Prosecution Office cooperates with relevant units within the Police in the process of discharging its functions. The RA Law on the Prosecutor General's Office envisages confidentiality and secrecy of the investigative process.

Recommendation 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. Although the fight against corruption has its own national specific features, it requires the study of international experience. As a result, relevant proposals are being submitted, which would be harmonised with the national legislation. The Anti-corruption Council examined the OECD Recommendations and appointed bodies responsible for their implementation and scheduled the timing for implementing each particular recommendation. The Anti-corruption Strategy Monitoring Commission was instructed to organise seminars jointly with other public institutions with support of international organisations, and organise educational trips for the purpose of studying international experience.

Recommendation 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. Corruption-specific training of law enforcement officials is currently carried out on the basis of individual programmes at the training centre of each law enforcement body. Joint training for law enforcement officers and judges is planned to be organised in the future.

Recommendation 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. Measures planned under the Anti-corruption Strategy Monitoring Programme approved by the RA Government are aimed awareness raising among the population and improvement of mutual relationships between citizens and public authorities. These issues are included in the implementation plan and have a periodical nature. In pursuance of this recommendation, the Anti-corruption Council of the Anti-corruption Strategy Monitoring Commission was instructed at its second session to hold awareness raising campaigns, seminars and conferences.

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

National implementation actions. The RA National Assembly ratified the Criminal Law Convention on Corruption and the Additional Protocol by its decisions No.105-3 and 106-3 of 8 June 2004. The Civil Law Convention on Corruption was submitted for ratification to the RA National Assembly on 16 November 2003. The preparatory process has also been launched to ratify the UN Convention on Corruption.

Pillar 2. LEGISLATION AND CRIMINALISATION OF CORRUPTION
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Recommendation 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. Discussions are currently underway on the harmonisation of the articles of the RA Criminal Code on corruption offences with international standards. The ratification of international documents mentioned in para 7 will provide the necessary legal framework for amending the RA Criminal Code. According to international treaties, Armenia should extend its incriminations. The acceptance by a public official of a gift the value of which does not exceed five minimal salaries is regulated by the Law on RA Public Officials, the Civil Code, and the decision of the RA Government of 17.02.1993, which requires revision.

Recommendation 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. The RA Criminal Code stipulates that the minimum levels of the statute of limitations for corruption offences shall be five years, and the maximum – fifteen years. These levels of the statute of limitations create no barriers for effective detection, investigation and prosecution of corruptive offences.

Recommendation 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. Armenian legislation envisages the immunity of certain categories of citizens. The legislation of the Republic of Armenia explicitly outlines the immunity lifting procedure.

Recommendation 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. The responsibility of legal persons is envisaged by the laws of some European countries. This principle is not applied by all countries. The RA effective criminal law does not stipulate the responsibility of legal persons, but this principle is currently being studied.

Recommendation 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. Compliance of the RA national legislation with international standards in the issue of confiscation of proceeds of corruption is discussed in para 8.

Recommendation 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. The RA Criminal Code determines the persons encompassed by the concept of "official." The draft law on introduction of amendments to the Criminal Code changing the concept of "official" has been approved by the RA Government at its session No.47 on 18 November 2004, and submitted for discussion by the National Assembly. This draft law defines the notion of "official" in compliance with international standards.

Recommendation 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. Foreign and international public officials are included in the draft law mentioned in para 13 above. Therefore separate criminal offences for "bribe-giving or bribe-taking" are not stipulated for these persons.

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

National implementation actions. The Republic of Armenia has sign or joined numerous bilateral and multilateral treaties on mutual legal assistance within the frames of which Armenia is actively cooperating with other countries and international organisations, thus contributing to international effort to render mutual legal assistance.

Pillar 3. TRANSPARENCY OF CIVIL SERVICE AND FINANCIAL CONTROL ISSUES

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

National implementation actions. The specifics of public service at various institutions, including the recruitment procedures, are regulated by different laws: the Law on Public Servants, the Law on the Tax Service, the Law on the Customs Service, the Law on Service within the National Assembly Staff, the Law on Service in the Armed Forces, etc.

In order to improve the system of public service and simplify and upgrade recruitment procedures, the RA Government has approved at its session No.46 of 11 November 2004 the draft Law on Introduction of Amendments and Additions to the RA Law on Public Service.

Recommendation 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. Codes of Conduct for Public Officials modelled on international standards, adjusted to service specifics, have been adopted in the Republic of Armenia. The RA Law on Introduction of Amendments and Additions to the RA Law on Public Service envisages administrative responsibility of a public official for violating the norms of ethics. The said law also envisages the adoption of model charters of ethics commissions, authorising them to control compliance with the ethics standards. According to the charters, any public institution can have an ethics commission, the main function of which would consist in forming and strengthening the atmosphere of ethics at a relevant public institution.

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

National implementation actions. The acceptance of gifts by public officials in cases not provided for by the law shall serve as grounds for dismissal from service. The abidance by the rules of gift acceptance procedures is under permanent control of public authorities and is regulated with the help of the institution of public officials' assets and incomes declaration and the public institutions' internal control mechanisms.

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

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 aforementioned draft law envisages more efficient mechanisms for verifying the declared assets and incomes information. The draft law has been adopted by the RA National Assembly in first reading. Effective law provides for assets and incomes declaration by some 70,000 public servants.

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

National implementation actions. This issue is regulated by article 25 of the Law on Public Servants. The RA Criminal Code envisages criminal liability for withholding information, which also concerns corruptive offences.

The duties to inform law enforcement authorities of suspicions of corruption are being explored, including the experience of foreign countries. These studies will be summarised to work out specific proposals.

Recommendation 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. Starting 2002, information provided by the RA Ministry of Finance and Economy on public procurement has been published in the Internet.

The Government of the Republic of Armenia has elaborated and submitted to the National Assembly on 1 October 2003 the new draft law on procurement, introducing an electronic contracting and bidding system.

Recommendation 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. The Government of the Republic of Armenia, at its session No.46 of 11 November 2004 has approved and submitted for discussion to the National Assembly the Draft Law on the Laundering of Proceeds of Crime and Fighting the Financing of Terrorism, elaborated by the Council of Europe anti-money-laundering expert committee (MONEYVAL) in accordance with international standards.

Recommendation 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 Anti-corruption Strategy Programme envisages the adoption of a number of bylaws to the Law on Freedom of Information, which would enable to regulate citizens' rights to information on a more comprehensive basis. 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.

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

National implementation actions. Legal acts regulating the activity of state financial control and auditing institutions envisage cooperation between those institutions. These regulations are being constantly upgraded. According to para 4.43 of the Anti-corruption Strategy Monitoring Programme, measures planned for the period of 2004-2005 are aimed at development and strengthening the internal and external control system. The RA Ministry of Finance and Economy and the Auditors Chamber of the RA National Assembly have been appointed as bodies responsible for implementing the said measures. In addition, in order to regulate the implementation of this task, the RA Government issued a decision 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.

SUMMARY OF DISCUSSION

The update provided by the government of Armenia demonstrates political will to step up the fight against corruption in the country. The update demonstrates that national actions to implement the Istanbul Action Plan recommendations are underway. During the discussion, it

was noted that all the recommendations endorsed for Armenia in the framework of the Istanbul Action Plan were introduced into the national anti-corruption action plan. Armenia also reports to GRECO; this reporting is coordinated with reporting to the Istanbul Action Plan.

It was recognised that the recommendations for Armenia were endorsed in June 2004; six months is short for implementation, especially in the areas where fundamental changes of legislation are required. At the same time, Armenia was encouraged to use the opportunities provided by the rapid reforms in the country, which will allow for a faster reform of anti-corruption laws and institutions.

It was further noted, that some of the information provided by the update gave a general positive impression, but was too general to assess actual progress on the ground. Therefore, it is suggested that in further updates Armenia should focus at concrete short-term actions, and provide more detailed information accordingly.

More specifically, the establishment and operationalisation of the Anti-corruption Council and the Anti-corruption Strategy Monitoring Commission present major progress in implementing recommendation 1.

At the same time, according to the update, “Statistic data are provided to public institutions, including the Anti-corruption Strategy Monitoring Commission, *on the basis of relevant requests*”. It was pointed out that the recommendation 2 is calling to “Ensure *regular reporting*”; further steps will be necessary to improve the monitoring according to the recommendation.

It appeared during the discussion that Armenia would benefit from assistance for the development of the methodology for monitoring of anti-corruption strategy implementation, including statistical data. Assistance is also welcome in the area of developing training programmes.

The update on recommendation 3, which calls for the consolidation of law enforcement efforts in the fight against corruption and ensuring better cooperation, did not provide any new information, but repeated information, which was made available during the review process. This may indicate lack of national implementation actions, misunderstanding of or disagreement with the recommendation, and will need to be addressed in further monitoring.

The update on recommendation 5 (on corruption-specific trainings for police, prosecutors, judges and other law enforcement officials) provides only very general information on national implementation actions. It was further clarified in the discussion that several working groups under the Anti-Corruption Council are elaborating proposals on national actions in this area, which will need to be further specified for the monitoring purposes.

The updates on recommendations 8 (on elements of corruption-related offences) and 13 (on the definition of public official) suggest that no changes were introduced in the Criminal code to bring the elements of office in compliance with international standards, while the definition of public official has been revised. It was suggested that changes into the Criminal Code could be introduced in a comprehensive manner, and not one by one.

Updates on recommendations 9 (on statute of limitations for corruption offences) and 10 (on rules for the lifting of immunity) did not provide any new information, and will need to be addressed in further monitoring.

The update on recommendation 24 (on coordination among financial control/auditing institutions) provides a good example of more specific information on concrete steps introduced or planned for the implementation of a recommendation.