"Strengthening Awareness and Response in Exposure of Corruption in Armenia"

REPORT

on

Identification of Existing Gaps between the United Nations Convention Against Corruption (UNCAC) and Armenia's Institutional Framework on Anti-Corruption

CHAPTER II. PREVENTIVE MEASURES

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Unofficial translation

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TABLE OF CONTENT

ABBREVIATIONS

ACN	Anti-Corruption Network for Transition Economies
ACS	Anti-Corruption Strategy and Implementation Action Plan
CoE	Council of Europe
CPI	Corruption Perception Index
CSC	Civil Service Council
DFID	UK Department for International Development
ENP	EU European Neighborhood Policy
FMC	Financial Monitoring Center of the RA Central Bank
GNP	Gross National Product
GRECO	Group of States against Corruption
ICC	International Chamber of Commerce
MM	Mass media
NA	National Assembly
NGO	Non-governmental organization
OECD	Organization for Economic Cooperation and Development
OSCE	Organization for Security and Cooperation in Europe
OSI	Open Society Institute
PRSP	Poverty Reduction Strategy Paper
RA	Republic of Armenia
UNCAC	United Nations Convention against Corruption
UNDP	United Nations Development Program
WB	World Bank

EXECUTIVE SUMMARY

In recent years, the Government of Armenia has undertaken a number of measures against corruption. In particular, in 2003 the Government drafed and adopted RA Anti-Corruption Strategy and its Action Plan. The RA Anti-Corruption Strategy defines corruption, with a particular focus on wide public participation in the fight against corruption, setting out the main priorities and emphasizing the significance of monitoring anti-corruption measures. A number of bodies to fight and prevent corruption have been created. The country has joined international anti-corruption initiatives and bodies. Armenia has signed the UN Convention against Corruption on May 19, 2005 and ratified it on March 8, 2007.

Armenia's Anti-Corruption Strategy is mainly oriented towards the improvement of corruption prevention interventions, newly created institutions and the legal framework. In the framework of the Strategy, numerous pieces of legislation were adopted (more than 50 laws and regulations), new institutional structures were created, the country has joined reputable international organizations combating corruption (GRECO and OECD Anti-Corruption Network for Transition Economies), as well as signed and ratified international agreements and conventions against corruption (Council of Europe Civil Law and Criminal Law Conventions Against Corruption, UN Convention Against Corruption), etc.

Several structures are working on combating and prevention of corruption. Pursuant to a Presidential decree of June 1, 2004, an Anti-Corruption Council headed by the Prime Minister was established. According to the rules of procedure of the Council, a Monitoring Commission for the Implementation of the Anti-Corruption Strategy was setup under the leadership of the Assistant to the President. An Anti-Corruption Department was established at the Prosecution. At the same time, respective structural divisions of the Police and the National Security Service established specialized anti-corruption units.

The new institutional framework against corruption has made a significant progress whereby provisions for efficient and transparent regulation of selection, recruitment, promotion and dismissal of civil servants were included in the RA Law on Civil Service and specific laws on individual government agencies (tax, customs, police, diplomatic, rescue, etc.). These new provisions created a conceptual and practical framework for the development of a code of conduct for government officials and servants, principles of remuneration, conflict of interest, and the creation of a system of declaration of income and assets. Similar norms and provisions are contained in the new RA Law on Prosecution and RA Law on Judicial Service, which offer a detailed description of the rules aimed to ensure maximum integrity of the service.

There was a progress registered in the public procurement area as well. Due to the efforts taken, the public procurement system is now essentially operational. There is work underway for the development of an internal audit system at the central and local administration levels. Pursuant to a strategy adopted by the RA government, the new system of internal audit will correspond to the international standards for internal audit in the public sector. In terms of the establishment of an external audit, a new law on the Chamber of Control of RA adopted by the National Assembly establishes a fundamentally new and constitutionally independent body. With the adoption, in 2004, of a Law on Combatting the Legalisation of Proceeds of Crime and Financing of Terrorism, and in terms of the development of anti-money laundering legislation in general, Armenia has made a notable progress. Pursuant to this law, a Financial Intelligence Unit (FIU) was established [at RA Central Bank].

In terms of corruption prevention measures, Armenia's Anti-Corruption strategy emphasizes the transparency of public administration, public access to government information, participatory decision making. In the last several years, Armenia registered positive developments in terms of increasing public participation. Among such positive developments is the provision, as of 2005, of grants to NGOs from the state budget. Increased NGO participation in anti-corruption efforts especially in areas of public awareness and media advocacy, carries an important message both for the society in general and the government in particular.

The implementation of the Anti-Corruption Strategy 2003 – 2007, Armenia's participation in global anti-corruption initiatives and accession to international anti-corruption instruments and

conventions pose new requirements in terms of curbing and preventing corruption. In view of the fact that corruption in Armenia is still systemic, prevention measures continue to remain a priority. In this context, the analysis of the prevention measures set forth in the UN Convention Against Corruption indicates that Armenia needs to take some specific steps in order to increase the efficiency of the corruption response interventions. The suggestions presented below may be reflected in the draft of a new Anti-Corruption Strategy currently prepared by the RA Government.

In the course of the preparation of the new Anti-Corruption Strategy, it would be appropriate to duly consider the commitments undertaken by Armenia further to her accession to the UN Convention Against Corruption, OECD Anti-Corruption Network for Transition Economies and GRECO in the design of result-oriented prevention, exposure and enforcement measures and to develop a country-specific set of indicators to measure the progress of such prevention and response.

The new Anti-Corruption Strategy will require the implementation of a proactive response policy which, in its turn, will call for the institutionalization of the operations of the Anti-Corruption Council, Anti-Corruption Strategy Implementation Monitoring Commission and strenghtening of their capacities by providing adequate technical support structures. An option whereby an independent body will be created on the basis of the current Anti-Corruption Council and Strategy Implementation Monitoring Commission within an appropriate legal framework, merits separate discussion. Such body will assume the function of anti-corruption policy and strategy implementation, monitoring, building awareness for prevention, as well as oversight over declaration of assets and income by public officials, application of workable limitations in relation to conflict of interests defined by the code of ethics and enforcement of sanctions.

In terms of preventing corruption in the public sector, one of the priority areas should be the incorporation of political and discretionary posts within the framework regulated by the RA Law on Public Service, development of a respective code of conduct and application of limitations with regard to conflict of interests; inside the public service system, priorities include the regulation of the status of ethics committees and bringing the rules of ethics for public servants in conformity with common European standards.

Public procurement is one of the most corrupt fields worldwide. The introduction of e-procurement system, the creation and launching of the State Procurement Agency's website, the review of its status, the establishment of standard operating procedures, ethical norms and stringent control over the compliance of the procurement process with the established rules will help reduce the corruption risks and make the public procurement process more open, transparent and public.

The implementation of an advocacy policy is extremely important in terms of raising the awareness of the population in relation to corruption and corruption response. Awareness building and professional training, incorporation of corruption and response topics in education curricula, public servant training courses, training of journalists writing on corruption, enforcement of requirements of freedom of information law, creation of corruption hot lines at all anti-corruption bodies may become important tools in terms of increasing public awareness about the corruption response and perception of corruption.

In terms of anti-corruption advocacy and awareness building, it would be appropriate to strengthen the capacities of information centres and public relations units of public administration bodies and establish anti-corruption public resource centres across all regions.

To increase public participation in the work of public administration and decision making, it would be appropriate, as a first step, to undertake a fundamental review of the mechanism of NGO participation in the Anti-Corruption Strategy Implementation Monitoring Commission, so that the NGOs select and nominate representatives to participate in the work of the Monitoring Commission from within their group. Further, the access of citizens and civil society representatives to the public administration bodies should be facilitated and simplified both in terms of obtaining information and submission of complaints.

In terms of accountability, important steps may include the creation of a system for publication of activity reports of the government and other public administration bodies; such reports should also include information on corruption risks, measures taken to address these and outcomes of such measures.

In terms of money laundering response measures, the money laundering prevention legislation should be harmonized with international standards, the capacities of the Financial Intelligence Unit (FIU) should be strengthened, the professional level of reports and analyses by the FIU should be raised. The FIU should engage in closer cooperation with Armenia's law enforcement bodies, improve the quality of analyses and reports in relation to suspicious transactions and increase the rate of disclosure of corruption cases

INTRODUCTION

Armenia: A Social and Economic Overview

Armenia is a landlocked mountainous country in the South Caucasus. Armenia has a territory of 29,800 square kilometers and a population of 3.2 million. Armenia shares borders with Georgia to the North, Iran to the South, Turkey to the West, and Azerbaijan to the East.

Armenia had a Gross National Product of US $5.9 billion in 2006 (US $1,989 per capita). The economy grew by 11% per annum in each of 2005 and 2006.[1] Prior to gaining independence in 1991, Armenia's economy was largely industrial, dominated by the chemical industry, electronics, machine building, the food industry, and synthetic rubber production, most of which hinged on imported raw materials. Similar to other newly-independent states of the former Soviet Union, Armenia's economy has suffered the legacy of a centrally-planned economy and the rupture of commercial ties within the former Soviet Union.

Armenia has a large Diaspora: according to some estimates, about 9 million Armenians (three times the population of the Republic of Armenia) live outside of Armenia. Armenian communities exist across the globe—the largest ones found in the Russian Federation, the USA, France, Iran, and Lebanon.

In 1991, Armenia declared independence from the former Soviet Union. Armenia is effectively a presidential republic, although all three branches of government are constitutionally designated. A unicameral parliament (the "National Assembly") consists of 131 deputies, 41 of which are elected from single-mandate constituencies and 90—by proportional party lists. National Assembly deputies are elected for a four-year term. After the May 2007 elections, the following political forces are represented in the National Assembly: the Republican Party of Armenia, the Armenian Revolutionary Federation, the Prosperous Armenia Party, the "Rule of Law" Party, and the "Heritage" Party. The Republican Party of Armenia, which won vast majority of the votes, signed a coalition agreement with the Prosperous Armenia Party. The Armenian Revolutionary Federation then signed a cooperation agreeement with their coalition. Opposition forces (the "Rule of Law" Party and the "Heritage" Party) got only 23 seats in the National Assembly.

Armenia is a member of the United Nations, the Organization for Security and Cooperation in Europe, the World Trade Organization, the Council of Europe, the European Bank for Reconstruction and Development, the World Bank, the International Monetary Fund, and other international organizations.

Assessment of the Corruption Situation in Armenia

To assess the level of corruption in the country, this Report engages the most widely-known indicators that are also used in Armenia. These indicators are frequently used to evaluate the anti-corruption strategy, the country's economic progress, good governance, cooperation with international organizations, and progress towards commitments to reduce corruption. In this sense, the most common indicator is the Corruption Perception Index (CPI) of Transparency International (TI). In the 2006 TI Corruption Perception Index,[2] Armenia, among 163 surveyed countries, was placed in the group of countries with a score below 3.0 (on a "0-10" scale, where "10" is the cleanest country and "0" – the most corrupt one). No progress has been achieved during the last three years, with Armenia's CPI equalling 3.1, 2.9, and 2.9 in 2004, 2005, and 2006, respectively.

In August 2006, the Center for Regional Development/Transparency International-Armenia (CRD/TI-Armenia), with support from the UNDP Armenia Country Office, conducted a Corruption Perception Survey covering all of Armenia.[3] The survey found that corruption remains a serious concern to Armenians. More than half of the respondents defined corruption as a crime or an immoral act. The number of respondents stating that corruption has always been present in Armenia increased

[1] Armenia: Social and Economic Situation during January-December 2006, a monthly newsletter of the RA National Statistics Service, Yerevan 2007, p. 7.
[2] http://www.transparency.org/policy_and_indices/cpi
[3] Corruption Perception in Armenia 2006. http://www.transparency.am/dbdata/UNDPbook_arm_web_2.pdf

five-fold in 2006 relative to 2002. The majority of the respondents were convinced that the level of corruption has grown during the last three years. In 2006, as in 2002, most of the respondents believed that corruption is mainly manifested in the form of bribery and abuse of position for private gain. In 2006, the respondents reiterated that public officials are primarily responsible for the proliferation of corruptoin, and that corruption mostly exists in the higher echelons of Armenia's government.

The 2005 Business Environment and Entrepreneurial Performance Study (BEEPS)[4] of the World Bank revealed that corruption had become a more serious hindrance to business activity compared to 2002.[5] The respondent companies noted that, in spite of the lower frequency of soliciting bribes, the total amount of bribes, as a share of their annual turnover, had grown in 2005 relative to 2002, in contrast to other post-communist states in which this share had declined. According to the respondent companies, informal fees are most often paid in relation to obtaining government contracts and business licenses and permits, as well as the subscription to and use of public services (electricity and telephone), the performance of tax liabilities, and dealings with bodies responsible for work safety, health, fire safety, urban development, environmental supervision, customs bodies (in relation to imports of goods), and courts. The respondent companies also noted the economic "elite's" increased influence on the substance and process of new legislation, procedures, and decrees, or, in other words, the growing evidence of "State Capture."

According to the "Nations in Transit" Report[6] published by the Freedom House in 2006, the degree of corruption in Armenia had not changed at any level of government. Since 1999, the country's corruption index of 5.75 had remained unchanged (on a "1-7" scale, where "1" means absolutely clean and "7" – absolutely corrupt).

The 2006 Gallup Corruption Index ranked Armenia as the 69th of 101 observed countries, with a score of 82 (a lower score indicates that the population is less likely and the highest score - most likely - to perceive corruption as widespread).[7]

The 2006 World Bank report called "Anticorruption in Transition 3: Who Is Succeeding…and Why?" underlined that, in spite of the development of the Anti-Corruption Strategy and Implementation Action Plan in 2003 and the creation of a high-level Anti-Corruption Council in 2004, the situation in Armenia, along many dimensions of corruption, had significantly worsen in 2005 relative to 2002.[8]

International Commitments of Armenia in the Fight against Corruption

In January 2004, Armenia became a member of GRECO.[9] In June and December 2004, respectively, Armenia signed and ratified the Council of Europe Criminal Law and Civil Law Conventions on Corruption. Armenia is also engaged in the OECD's (Organization for Economic Cooperation and Development) Istanbul Anti-Corruption Action Plan for eight former Soviet republics.[10] The first GRECO report on Armenia was issued in March 2006: it incorporated the results of the first and second phases of efficiency assessment of anti-corruption measures undertaken by the Government of Armenia. The report pointed out that "in Armenia, corruption is a serious problem that negative affects many sectors of public service"[11] and made 24 recommendations on improving the fight against corruption.[12] September 30, 2007 was set as the deadline for implementing the GRECO recommendations. Most of these recommendations (20 out of 24) are of preventive and detecting nature, aimed at the adoption and improvement of laws and procedures. Six recommendations related to the training of public servants and auditors. Another one proposes to carry out studies to reveal a complete picture of corruption and its manifestations in Armenia. Another one emphasizes the importance of regularly updating the public about anti-corruption measures and the outcome of their implementation.

[4] http://www.info.worldbank.org/governance/beeps
[5] http://www.info.worldbank.org/governance/beeps
[6] http://www.freedomhouse.hu/nit.html
[7] http://www.galluppoll.com/content/?ci=25612&pg=1
[8] "Anticorruption in Transition 3: Who Is Succeeding…and Why?" World Bank 2006, p. 63.
9 http://www.greco.coe.int
10 http://www.oecd.org/corruption/acn
[11] http://www.greco.coe.int/evaluations
[12] Ibid.

The OECD "Istanbul Action Plan" includes Armenia, Azerbaijan, Georgia, Kazakhstan, Kyrgyzstan, Russia, Tajikistan and Ukraine. It is designed to improve the anti-corruption policy in these countries by means of recommendations devised by international experts. The recommendations on Armenia were drafted and adopted in a meeting held in Paris during June 15-18, 2004. The Government of Armenia submits regular progress reports to the OECD Anti-Corruption Network Secretariat on the implementation of the recommendations. Country reports were submitted in December 2004, June 2005, and June and December 2006. The 24 OECD recommendations are organized in three groups: 1) National Anti-Corruption Policy and Institutions (7 recommendations); 2) Legislation and Criminalization of Corruption (8 recommendations); and 3) Transparency of Civil Service and Financial Control Issues (9 recommendations). The 1st, 5th, 8th, 10th, 12th, 17th, and 20th recommendations of the OECD either entirely or partially overlap with the respective GRECO recommendations. At the 6th OECD monitoring meeting held in Paris in December 2006, Armenia's progress towards implementation of the 2004 proposals was discussed, and the country's monitoring report was accepted. The report flagged a number of positive developments; however, it also noted that most of the implemented measures are just initial steps, and much remains to be done to reduce corruption and relieve the corruption burden in various public and economic domains.[13]

Under the European Neighborhood Policy (ENP) of the European Union, the EU and Armenia endorsed a Country Action Plan in November 2006, which prioritizes the fight against corrption.[14] The Country Action Plan for Armernia incorporates eight anti-corruption measures as "specific priorities," including the ensuring of adequate prosecution and conviction of corruption-related offences, bringing the Criminal Code into line with international standards, developing Codes of Ethics for prosecutors and judges, establishing sanctions for wrong declaration of assets and income by officials, increasing the salary of judges, and the like. Almost all the measures specified in the Country Action Plan can also be found in the aforementioned conventions and the GRECO and OECD recommendations.

In May 2005, Armenia signed the United Nations Convention against Corruption (UNCAC),[15] which was ratified by the RA National Assembly in March 2007. UNCAC lays the foundation for a global fight against corruption. The Convention is composed of four major pillars: preventive measures, criminalization and law enforcement, international cooperation, and asset recovery. In December 2006, the first meeting of the countries that ratified the UNCAC, which was held in Jordan, decided to create a monitoring mechanism that would incorporate mandatory and voluntary provisions, as well as to establish an international foundation for legal experts and to draft a global program for capacity building of the judiciary and law enforcement bodies.

Goal, Objectives, and Scope of Report

In the frameworks of the RA legislation, this "Identification of Existing Gaps between the United Nations Convention Against Corruption (UNCAC) and Armenia's Institutional Framework on Anti-Corruption" Report is aimed at assisting the RA Government in comlying with the UNCAC and improving the implementation of corruption prevention measures.

In view of the need to improve implementation and the persistence in Armenia of "administrative corruption" as a key challenge, this Report focuses on the analysis and evaluation of existing preventive anti-corruption measures and tries to assist the Government in developing anti-corruption strategies and strengthening the institutional framework for the fight against corruption. The Report evaluates compliance with the UNCAC provisions on preventive anti-corruption measures, including an overview of such measures on the background of the RA legislation; it identifies the existing gaps and makes appropriate recommendations.

The Report is not either a comprehensive overview of anti-corruption efforts in Armenia or an assessment of policies in specific sectors. This Report is intended to analyze and assess legal and institutional compliance with the UNCAC in terms of preventive measures.

The conclusions of the analysis and the recommendations made herein will be helpful to the Government of Armenia in the develoment of a new Anti-Corruption Strategy during 2007 and to the donor community in engaging civil society actors in the implementation of anti-corruption initiatives.

[13] http://www.oecd.org/document/35/0,2340,en_2649_34857_37846947_1_1_1_1,00.html
[14] http://www.aeplac.am/pdf/enp_ap_arm.pdf
[15] http://www.unodc.org/pdf/crime/convention_corruption/signing/Convention-e.pdf

Methodology

This is an advisory document prepared by a UNDP local anti-corruption expert, the UNDP "Strengthening Awareness and Response in Exposure of Corruption in Armenia" project officers with technical support from the UN Office on Drugs and Crime. This Report was prepared using the RA legislation and sub-legislative acts, as well as surveys, studies, and reports produced by international organizations such as the WB, the UNDP, the DFID, the OECD, GRECO, and others. Individual meetings were held with representatives of the relevant government bodies, non-governmental organizations, and industry associations. The interviews were used as a means of obtaining clarifications and information materials.

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UNITED NATIONS CONVENTION AGAINST CORRUPTION
CHAPTER II. PREVENTIVE MEASURES

ARTICLE 5. Preventive anti-corruption policies and practices

1. Each State Party shall, in accordance with the fundamental principles of its legal system, develop and implement or maintain effective, coordinated anticorruption policies that promote the participation of society and reflect the principles of the rule of law, proper management of public affairs and public property, integrity, transparency and accountability.
2. Each State Party shall endeavour to establish and promote effective practices aimed at the prevention of corruption.
3. Each State Party shall endeavour to periodically evaluate relevant legal instruments and administrative measures with a view to determining their adequacy to prevent and fight corruption.
4. States Parties shall, as appropriate and in accordance with the fundamental principles of their legal system, collaborate with each other and with relevant international and regional organizations in promoting and developing the measures referred to in this article. That collaboration may include participation in international programmes and projects aimed at the prevention of corruption.

CURRENT SITUATION

In view of the special importance it attaches to the fight against corruption, the Government of Armenia, through a decree of the Prime Minister dated January 22, 2001 (decree 44), established an Anti-Corruption Council coordinating the Government's efforts under anti-corruption programs. In 2001, the Concept of the RA Anti-Corruption Strategy was endorsed by international organizations, which resulted in the development by experts of the RA Anti-Corruption Strategy with a grant from the World Bank.

The Armenian Government's anti-corruption policy is enshrined in the "Republic of Armenia Anti-Corruption Strategy and Implementation Action Plan" approved under Government Decree 1522-N dated November 6, 2003. The goal of the Anti-Corruption Strategy is to curb corruption, to eradicate its root causes, and to form a healthy moral and psychological environment in the country, which, in turn, will help to develop democratic institutions, civil society, the rule of law, free competition, and the economy, and to eliminate poverty.

The main measures for curbing corruption in Armenia is the creation of a rule-of-law-based integrity system of public administration, including good governance in executive, legislative, and judicial branches, public service, supervisory and audit bodies, the mass media, the private sector, procurement bodies, and local government, as well as exposing corruption and adequately prosecuting offenders, raising public awareness on corruption prevention measures, and engaging the public in the fight against corruption. Some of the other measures include the development and enforcement of codes of conduct and codes of ethics for public officials, strengthening internal and external audit systems of public bodies, and participation in international and regional anti-corruption initiatives.

The fight against corruption is based on three fundamental pillars:

1. Building public awareness of the impact of corruption on social and economic development;

2. Preventing corruption; and

3. Ensuring the rule of law as a means of protecting the rights and lawful interests of individuals.

For the first pillar, it is important to consolidate civil society institutions and to enhance the role of independent mass media in the development of anti-corruption strategies and in public awareness and anti-corruption efforts.

For the second pillar, it is essential to achieve the political commitment of the authorities, to develop the public administration integrity system, to ensure public participation in governance, to regulate the state's intervention in public processes, and to ensure public servants' observance of the relevant codes of conduct.

For the third pillar, it is crucial to have a strong and independent judiciary, to clarify and streamline the legal framework, to make enforcement of laws mandatory, to safeguard human rights, and to strengthen the ombudsman institution.

The RA Anti-Corruption Strategy is mostly focused on preventive measures, new institutions, and legislative improvement.

The 2006 Corruption Perception Survey[16] shows that, in Armenia, traffic police continues to be regarded as the most corrupt domain among the more corrupt domains and services. As for other sectors, most of the respondents mentioned the electoral system and tax service as the most corrupt ones, while in 2002, they had mentioned the army and health care as the most corrupt domains. In 2006, education and health care, together with traffic police, were regarded as the three most corrupt sectors and services. The 2006 survey revealed some other sectors in which informal payments existed, including the State Register of Legal Entities, the Judicial Acts Enforcement Department, foreign embassies, environmental protection-related services, condominia, and the civil status acts register, in addition to health care, education, traffic police, the tax service, the customs service, the real estate cadastre, the army, local government bodies, and notary offices, which had been mentioned in 2002.

Considering the threat posed by corruption, the Armenian authorities have adopted a number of anti-corruption measures in recent years. There has been progress owing to reforms implemented in a number of areas to date (public administration, taxation, banking, and justice). Dozens of legal acts have been adopted with an anti-corruption focus. New systems, which are helpful in terms of anti-corruption efforts, have been implemented, including civil service, public procurements, audit procedures, asset and income disclosure by public officials, licensing, state registration of legal entities, and notary services. Special types of public service have been regulated (including service in the police, army, customs agencies, tax agencies, the diplomatic corps, and elsewhere).

The RA Anti-Corruption Strategy for 2003-2007 accomplished its mission in terms of the adoption of numerous legislative acts to prevent corruption (over 50 laws and sub-legislative acts), the creation of new institutions, accession to reputable international anti-corruption organizations (GRECO and the OECD Anti-Corruption Network for Transition Economies),[17] the adoption and ratification of international treaties (such as the Council of Europe Criminal Law and Civil Law Conventions on Corruption and the United Nations Convention against Corruption), and other areas. The Government of Armenia collaborates with the Center for Regional Development/Transparency International-Armenia and a number of other non-governmental organizations engaged in the fight against corruption. In the frameworks of this collaboration, recommendations and commitments have been developed for Armenia, based on which officials representing Armenia make reports to plenary sessions, and progress and gaps are evaluated.[18] Armenia now faces the challenge of honoring the commitments under such documents.

The RA Anti-Corruption Strategy and Implementation Action Plan are unified in one document. The deadline for implementation of the Action Plan is 2007. The RA Anti-Corruption Strategy and Implementation Action Plan progress and performance evaluation were discussed in the RA Anti-Corruption Council.

Preparatory activities for the drafting of a new Anti-Corruption Strategy for 2008-20011 are currently underway. The political request to draft a new Strategy was stated in the RA Government Program[19] endorsed by the RA National Assembly on June 26, 2007, which provides: "The Government's main task in the fight against corruption is the drafting of a new Anti-Corruption

[16] Corruption Perception in Armenia 2006. http://www.transparency.am/dbdata/UNDPbook_arm_web_2.pdf
[17] For details, see /http:// www.greco.coe.int and www.oecd.org/corruption/acn
[18] For details, see /http:// www.greco.coe.int and www.oecd.org/corruption/acn
[19] RA Government Program. http://www.gov.am/armversion/programms_9/pdf/Nrk2007.pdf

Strategy of the Republic of Armenia." Earlier, during its sessions held in April and September 2006, the RA Anti-Corruption Council discussed recommendations for a new Anti-Corruption Strategy and instructed the RA Anti-Corruption Monitoring Commission, jointly with RA ministries and agencies, to draft a new Anti-Corruption Strategy for 2008-20011.

During its 2007 sessions, the RA Anti-Corruption Monitoring Commission held a detailed discussion of organizational issues, methods, tools, and techniques related to the drafting of a new Strategy. On September 7, 2007, a session of the RA Anti-Corruption Council was held, chaired by the Council Chairman, the RA Prime Minister Serge Sargsyan, where the Council discussed the preparatory activities for drafting the new Strategy and approved the composition of the RA Anti-Corruption Monitoring Commission. The Council decided to make the RA Anti-Corruption Monitoring Commission responsible for organizing the drafting the new Strategy, delegating the drafting powers of the working group to the Commission; in this connection, new members were added to the Monitoring Commission, including representatives of the RA Central Bank, the RA Ministry of Justice, the RA Ministry of Finance and Economy, the RA General Prosecution Office, and the RA Chamber of Control. Moreover, the Council approved a set of principles to underline the new Anti-Corruption Strategy. Preparatory actvities for the drafting of the new Anti-Corruption Strategy are currently underway, but practical steps on the actual drafting work have not started yet.

GAPS

The RA Anti-Corruption Strategy is not a result-oriented document. Moreover, in the fight against corruption, it fails to sufficiently address the so-called "protected domains" such as national security, police, land allocaltions etc.

Civil society is expected to ensure public education, awareness campaigns, and public participation, while the Government has not implemented or contemplated specific measures in this respect. The monitoring and evaluation of corruption and anti-corruption efforts are not supported by viable and effective mechanisms. There is only administrative monitoring, which is confined to the adoption of decisions on specific legislative initiatives. Feedback from civil society is weak. According to the 2006 Corruption Perception Survey conducted by the Center for Regional Development/Transparency International-Armenia,[20] the public is not aware of the Anti-Corruption Strategy, the Anti-Corruption Council and Monitoring Commission, and Armenia's international commitments to fight corruption. When inquired about the effectiveness of the fight against corruption in Armenia, as many responds in 2006 as in 2002 noted that it was partially effective, and about the same number noted that it was not effective.

Although the RA Anti-Corruption Monitoring Commission has undertaken to monitor Armenia's progress towards honoring international anti-corruption commitments and recommendations, this monitoring is still performed only partially and is limited to certain pre-defined measures. Progress towards recommendations under international anti-corruption treaties, conventions, and regional initiatives is not yet a strategic priority of anti-corruption efforts.

RECOMMENDATIONS

Based on the analysis above, it is recommended:

- To develop the new RA Anti-Corruption Strategy on the basis of the anti-corruption policy concepts and to include measures to prevent, detect, and enforce laws in relation to corruption cases.

- To develop the new Anti-Corruption Strategy in line with the UN Convention against Corruption and recommendations of both the Anti-Corruption Network for Transition Economies (OECD) and GRECO.

- As a set of output indicators for the new Anti-Corruption Strategy, develop a new system of indicators for Armenia, taking into consideration the Corruption Perception Index of Transparency International, the Freedom House Transit Corruption indicator, and the World Bank's Corruption Control indicator.

[20] Corruption Perception in Armenia 2006. http://www.transparency.am/dbdata/UNDPbook_arm_web_2.pdf

ARTICLE 6. Preventive anti-corruption body or bodies

1. Each State Party shall, in accordance with the fundamental principles of its legal system, ensure the existence of a body or bodies, as appropriate, that prevent corruption by such means as:
   (a) Implementing the policies referred to in article 5 of this Convention and, where appropriate, overseeing and coordinating the implementation of those policies;
   (b) Increasing and disseminating knowledge about the prevention of corruption.
2. Each State Party shall grant the body or bodies referred to in paragraph 1 of this article the necessary independence, in accordance with the fundamental principles of its legal system, to enable the body or bodies to carry out its or their functions effectively and free from any undue influence. The necessary material resources and specialized staff, as well as the training that such staff may require to carry out their functions, should be provided.
3. Each State Party shall inform the Secretary-General of the United Nations of the name and address of the authority or authorities that may assist other States Parties in developing and implementing specific measures for the prevention of corruption.

CURRENT SITUATION

The Anti-Corruption Council was established by a decree of the RA President dated June 1, 2004 in view of the need to coordinate the activities of the relevant public agencies to ensure the comprehensive and effective implementation of anti-corruption policies in Armenia, to prevent the root causes of the emergence and proliferation corruption, and to improve the state policy implemented to prevent corruption. The RA Prime Minister chairs the Council. The Council is comprised of the Deputy Speaker of the RA National Assembly, the Chairman of the National Assembly Chamber of Control, the Minister Heading the Staff of the RA Government, the Minister of Justice, the RA President's Advisor on corruption matters, the Head of the RA President's Oversight Department, the RA Prosecutor General, the Central Bank Governor, and the Chairman of the State Committee for the Protection of Economic Competition.

The Anti-Corruption Council supports the implementation of state anti-corruption policies in Armenia.

The main functions of the Council are:

a) To coordinate and monitor the implementation of measures under the RA Anti-Corruption Strategy;
b) To Approve the composition of the Anti-Corruption Strategy Implementation Monitoring Commission;
c) To review recommendations submitted by the Anti-Corruption Strategy Implementation Monitoring Commission;
d) To coordinate the activities of relevant bodies in the design of measures for preventing corruption;
e) To undertake measures towards the honoring of commitments assumed by Armenia under the Anti-Corruption Strategy and international instruments;
f) To ensure cooperation with regional and international organizations in the fight against corruption;
g) To organize and coordinate the development and implementation of anti-corruption programs undertaken by various public agencies of the Republic of Armenia; and
h) To submit semiannual progress reports to the RA President.

In line with its objectives and functions, the Anti-Corruption Council has held 10 sessions since 2004—on average one session per quarter; during these sessions, the Council reviewed the Anti-Corruption Strategy implementation progress by individual sections and measures of the Plan. In particular, the Council discussed and gave instructions concerning the implementation of the Anti-Corrupton Strategy, as it affected activities of the RA General Prosecution Office, the RA Central Bank, the State Committee for the Protection of Economic Competition, the RA Cassation Court, the State Tax Service, the State Customs Committee, the NA Chamber of Control, the RA Public

Administration System Reform Committee, and civil service.[21] Moreover, the Council issued specific instructions on amendments proposed to the Anti-Corruption Strategy and Implementation Action Plan by the Anti-Corruption Monitoring Commission. The Council instructed to hold a public discussion of the amendments proposed by the Anti-Corruption Monitoring Commission and, within six months, to consolidate the feedback received from the discussion and to share the results with the relevant state bodies for purposes of a further discussion with the latter. The Commission was also instructed to discuss the 2007-2009 anti-corruption measures with the key stakeholders. The Council reviewed Armenia's progress towards anti-corruption commitments assumed under international treaties and conventions, including the relevant progress reports and recommendations, and issued specific instructions and decisions to foster progress.

In accordance with its by-laws, the Council created an Anti-Corruption Strategy Implementation Monitoring Commission (hereinafter, "the Commission") chaired by the Assistant to the RA President. The Commission consists of a chairperson and members. Seven members of the Commission are selected from a list of representatives of the RA National Assembly parliamentary factions and groups, as well as NGOs nominated by them.

The Commission members that are NGO representatives nominated by parliamentary factions and groups rotate annually by decision of the Council. The Commission chairperson and members work on voluntary grounds.

The main functions of the Anti-Corruption Strategy Implementation Monitoring Commission are:

a) To monitor the implementation of the Anti-Corruption Strategy and anti-corruption programs undertaken by various public agencies of the Republic of Armenia, engaging the public, the mass media, and civil society organizations;
b) To review and consolidate the anti-corruption experience of RA state bodies and international organizations, and to draft recommendations on improving anti-corruption mechanisms;
c) To monitor the honoring of Armenia's commitments under international treaties and the implementation of recommendations made by international organizations; and
d) To review draft legislation for possible corruption risks and to make recommendations on improving them.

In order to perform its functions, the Commission has the right:

- To demand and receive from central and local government bodies and other organizations, in accordance with the procedure defined by law, information needed for its work, including statistical data and other documents;
- To carry out monitoring and studies on the basis of documents obtained with the consent of the Commission Chairman;
- To create ad hoc working groups or sub-committees;
- To engage experts and representatives of international organizations in the discussion of specific issues;
- To invite representatives of the mass media, NGOs, and other organizations, as well as individuals to attend its sessions; and
- To organize conferences, seminars, TV shows, and other discussions on the fight against corruption.

The Commission ensures coverage and transparency of its activities.

Working groups or sub-committees are created to monitor specific agencies, sectors, or matters. The Commission decides their composition and scope and duration of activities. Working groups or sub-committees draft reports, which are presented to the Commission by the Commission member coordinating the respective group's or sub-committee's work.

[21] http://www.gov.am/armversion/premier_2/primer_council_6hashvet.htm

To date, the Anti-Corruption Strategy Implementation Monitoring Commission has convened 12 sessions, during which it had discussions and made recommendations to the RA Anti-Corruption Council on the RA Anti-Corruption Strategy and Implementation Action Plan progress. The Commission has monitored progress towards commitments and recommendations emanating from international treaties of the Republic of Armenia, including, in particular, recommendations of GRECO and the OECD Anti-Corruption Network for Transition Economies. The Commission has formed 12 working groups, with NGO participants, to coordinate its monitoring efforts and to further the performance of its functions related to individual sections of the RA Anti-Corruption Strategy.

The Anti-Corruption Strategy Implementation Monitoring Commission, which does not have specialized support staff, has been responsible for drafting materials necessary for the work of the Anti-Corruption Council (including professional opinions and expert assessments). At the initial stage, the Commission enjoyed the support of independent experts that were financed by donor organizations. During this stage, the Commission drafted the Anti-Corruption Strategy Action Plan Progress Report and laid the groundwork for creating a system of corruption assessment indicators. At present, methodology for the statistical management of 59 criminal cases of corruption has been approved in Armenia; on this basis, the RA Police is consolidating and will transfer to the RA National Statistics Service the data received from law-enforcement bodies.

GAPS

The analysis of the Anti-Corruption Council's activities reveals that the Council has mainly promoted the implementation of measures defined under the Anti-Corruption Strategy and reviewed progress in individual domains; however, the results have not been transformed into specific policy measures.

The Council's lack of professional support staff has hindered the anti-corruption policy development, modification, and impact assessment efforts. The RA Government Staff, which provides technical support to the Council, does not have a specialized entity, unit, or expert group; hence, its support has been limited to logistics and secretarial assistance. The main aim of the Council, according to its by-laws, is "to support the implementation of the Republic of Armenia state anti-corruption policy." This support, however, has not developed into a fully-fledged policy making and implementation function. The Council lacks the power to disseminate information and build public awareness on preventive anti-corruption efforts. It does not have sufficient resources (including financial resources) to implement an adequate anti-corruption policy.

Although the activities of the Anti-Corruption Strategy Implementation Monitoring Commission are quite well-organized, its sustainability and future effectiveness are not guaranteed. First of all, the Monitoring Commission cannot act a fully-fledged professional body as long as it operates on a voluntary basis. Secondly, its composition and the mechanisms of engaging civil society representatives are not adequate to ensure a fully participatory process. Due to its composition, the Commission is prone to political shocks; during the parliamentary elections, for instance, its work was somewhat disturbed, as the parliamentarian-members of the Commission were busy with the campaign. Moreover, the parliamentary elections have necessitated changes in the composition of the Commission. The political forces that formed the opposition in the previous NA refused to participate in the Commission's work. With the new convocation of the NA, these issues are yet to be solved. The presence and participation of NGOs in the Commission on a rotation basis depends on the parliamentary factions and groups. With the new NA in place, NGO representatives have still not been nominated for membership in the Commission.

Thirdly, the track record of the Commission shows that, given the absence of financial, human, and technical resources, the Commission has been unable to monitor and study certain matters on the basis of documents available to it for preparing discussions. The Commission has faced difficulties in connection with the engagement of experts, the organization of anti-corruption conferences, seminars, TV shows, and other discussions, and the prior review of draft legal acts to reveal potential corruption risks.

Thus, Armenia has so far been quite successful in the fight against corruption and the activities of the Anti-Corruption Council and the Anti-Corruption Strategy Implementation Monitoring Commission. Nevertheless, both the Anti-Corruption Council and the Anti-Corruption Strategy Implementation Monitoring Commission need adequate professional staff to perform their functions effectively.

RECOMMENDATIONS

- To improve the professional capacity of the Anti-Corruption Council and Anti-Corruption Monitoring Commission, through establishment of new professional structural sub-divisions. These sub-divisions will provide secretarial and professional advisory services to Anti-Corruption Council and the Monitoring Commission. As one option to consider the possibility of creating a specialized anti-corruption agency within the RA Government apparatus, or by separate law, on the basis of the existing Anti-Corruption Council and Monitoring Commission: such an agency would undertake to implement the anti-corruption strategy and policy and to coordinate the activities of law-enforcement bodies specializing in the fight against corruption.

ARTICLE 7. Public sector

1. Each State Party shall, where appropriate and in accordance with the fundamental principles of its legal system, endeavour to adopt, maintain and strengthen systems for the recruitment, hiring, retention, promotion and retirement of civil servants and, where appropriate, other non-elected public officials:
(a) That are based on principles of efficiency, transparency and objective criteria such as merit, equity and aptitude;
(b) That include adequate procedures for the selection and training of individuals for public positions considered especially vulnerable to corruption and the rotation, where appropriate, of such individuals to other positions;
(c) That promote adequate remuneration and equitable pay scales, taking into account the level of economic development of the State Party;
(d) That promote education and training programmes to enable them to meet the requirements for the correct, honourable and proper performance of public functions and that provide them with specialized and appropriate training to enhance their awareness of the risks of corruption inherent in the performance of their functions. Such programmes may make reference to codes or standards of conduct in applicable areas.
2. Each State Party shall also consider adopting appropriate legislative and administrative measures, consistent with the objectives of this Convention and in accordance with the fundamental principles of its domestic law, to prescribe criteria concerning candidature for and election to public office.
3. Each State Party shall also consider taking appropriate legislative and administrative measures, consistent with the objectives of this Convention and in accordance with the fundamental principles of its domestic law, to enhance transparency in the funding of candidatures for elected public office and, where applicable, the funding of political parties.
4. Each State Party shall, in accordance with the fundamental principles of its domestic law, endeavour to adopt, maintain and strengthen systems that promote transparency and prevent conflicts of interest.

CURRENT SITUATION

The Republic of Armenia Law on Civil Service defines "public service" as the exercise of authority vested in the state by law. Public service, as a broad concept, includes:

1. The implementation of policies by state and local government bodies;
2. State service and service in local government bodies, or municipal service; and
3. Civil work in central and local government bodies.[22]

State service includes civil service, special services (defense, national security, police, tax, customs, and rescue services), and service in other executive bodies of the state (such as diplomatic service and other types of service stipulated by law).

Municipal service includes policy execution in local government bodies and is regulated by the Republic of Armenia Law on Municipal Service adopted in 2005.

Civil servants have a set of core rights and duties, and are subject to certain restrictions. A distinctive feature of civil service in Armenia is that the service relationship is regulated by two bodies—the Civil Service Council and the respective chief of staff. The Civil Service Council has seven members, including a chairperson, his/her deputy, and five members.

Members of the Civil Service Council are appointed and dismissed by the RA President upon the recommendations of the RA Prime Minister.

With the exception of the Chief of Staff of the RA President and the Chief of Staff of the RA Government, chiefs of staff are civil servants, too. A chief of staff that is a civil servant is appointed for a four-year term. This term may be extended by the official/body authorized to appoint him/her once for an additional four-year term, provided that he/she is under 65 years of age.

The structure of the civil service system is open, i.e. anyone that is eligible for a specific position may access and exit the system at any level, group, or sub-group of civil service. As a civil servant's professionalism and knowledge develop, he/she progresses through a system of testing and open competitions held for vacancies. There is a system of mandatory in-service training once every three years.

[22] http://ww.am/csc/pdf/1.pdf

Other types of state service (tax, customs, diplomatic, police, rescue, NA staff, and other service) are generally based on civil service principles, albeit somewhat modified: entry into the system and career advancement are confined to individuals already within the system, i.e. one enters the system at a starting group and advances gradually through "insider" tests and competitions. Especially for special types of state service, social security and remuneration levels are different from those in civil service. Another difference is that, in contrast to civil service, appointments in certain services are made by the head of the respective service. Here, the authority of the chief of staff applies only to civil servants working in the system.

By its very essence and organization, municipal service is not much different from civil service. Moreover, civil service and local government service are characterized as two autonomous sectors of public service.

Hence, there are many similarities between the RA Law on Civil Service and the RA Law on Municipal Service, including the civil and municipal service principles, positions, groups, recruitment, testing, training, and other aspects. Nevertheless, there are major differences between these Laws: a centralized nationwide body managing and organizing municipal service cannot be created, while the RA Law on Civil Service establishes a Civil Service Council to manage and organize civil service, vesting a broad spectrum of powers in this Council. For municipal service, similar powers cannot be vested in any existing body of central or local government. Therefore, municipal service is decentralized, with powers vested in a range of government bodies.

A number of spheres are regulated by common standards: the Government adopts standard rules that are adapted by the relevant local government bodies, becoming guidelines for their work in the future. Examples of such spheres include the common profile for each group of municipal service, the nomenclature of positions, the nomenclature of positions in each group and equal positions, the ethics code for servants, the procedure of reporting unlawful instructions, the procedure of maintaining personal files and logs, certain issues related to the training of servants, and the like.

The eligibility requirements for individuals wishing to enter into municipal service have an essential role. Considering the scarcity of qualified cadre in the communities, only mininum restrictions have been set in this sector. Residents of a community (including both RA citizens and refugees) may serve in local government bodies of a different community. As an integral element of public service, civil service has much in common with the latter, including the fundamental principles of service, the recruitment procedure, testing, legal status, promotion, liability, dismissal, and other aspects.

A core principle of civil service is that all citizens have equal access to civil service, subject to differences in their knowledge and skills. Nevertheless, the law defines certain criteria, requirements, and restrictions on access to civil service positions.

Civil service positions are filled competitively. They are classified into the following groups of civil service positions: the highest group, the senior group, the leading group, and the junior group.

The highest group of civil service positions is in turn classified into sub-groups 1 and 2. Each of the senior, leading, and junior groups is classified into sub-groups1, 2, and 3. Within each group of civil service positions, sub-group 1 is the highest.

Appointment to civil service positions of the highest group are made by the head of the respective public administration body. As an exception, chiefs of staffs of RA ministries are appointed and dismissed by the RA Government, and the chiefs of staffs of public administration bodies attached to the Government and of regional administrations (Marzpetarans) or the City Administration of Yerevan—by the RA Prime Minister.

At the time of appointment to a civil service position, a civil servant is awarded an appropriate grade of civil service.

The competition to fill civil service positions and the testing of civil servants are conducted by the Civil Service Compeition and Testing Commissions, respectively. The members of these Commissions are randomly selected from an existing computer list of eligible candidates in the following way:

- One third of the members must be representatives of the Civil Service Council;
- One third of the members must be representatives of the respective body; and
- One third of the members must be representatives of academic and non-governmental organizations of the relevant sector.

The latter provision has been amended to deprive NGOs of the right to be represented in the Civil Service Compeition and Testing Commissions.

Remuneration and material incentives of civil servants are regulated by the RA Law on

Remuneration of Civil Servants,[23] which contains a remuneration scale for the various groups and sub-groups of positions; remuneration also depends on skills and the length of service. Every year, when the state budget is approved, the Government sets a threshold salary for civil servants (35,000 drams for 2007), to which appropriate coefficients are applied—depending on the position group and years of service. The civil servants' remuneration system comprises the base salary and the supplement. At the end of each year, a bonus equalling one month's salary is paid.

The civil servants' remuneration system does not depend directly on the volume and quality of work performed by each civil servant. A working group consisting of experts from the World Bank and the RA Public Administration System Reform Committee carried out a study and developed recommendations on introducing performance assessment in civil service and linking civil servants' remuneration to their performance. Similar recommendations were also made by the "Armenia Public Sector Reform Program" of the DFID, which suggests reviewing the civil servants' remuneration system and introducing performance assessment as a ways of further motivating civil servants to improve performance. Similar recommendations can be found in the EU ENP Country Action Plan for Armenia.

The creation of a training system for civil servants is another priority area in which the civil service system needs to develop further. Multilateral international support has been provided to create a training system. The "Armenia Public Sector Reform Program" of the DFID,[24] building upon the achievements of earlier projects, has supported the RA Public Administration Academy. The earlier-developed 24 training modules on management skills have been supplemented with 10 more modules for training civil servants. About 14 faculty members of the Academy and other educational institutions have been trained to teach these modules. The modules have been piloted in training courses for the highest and senior groups of civil servants of ministries and regional administrations. Considering that the CSC-approved training curriculum for civil servants includes only some elements of management skills, the aforementioned modules were introduced in the mandatory curriculum in 2006.

Restrictions concerning conflicts of interest are regulated by Article 24 of the RA Law on Civil Service (Annex 1).

GAPS

The adoption of the RA Law on Civil Service and accompanying sub-legislative acts is only the first step towards the development of professional public service. An inter-agency human resource management information system has not been developed yet, and the ministries' staff management capacity remains weak. This hinders the effective enforcement by the Civil Service Council of the Law on Civil Service and obstructs the development of a merit-based and professional civil service system.

In spite of the legislative commonality between civil service and other types of public service, transfer from one to the other still remains difficult and limited due to the lack of common standards on length of service, competence, and skills.

Despite the existence of laws regulating specific types of service, there are still legislative gaps in terms of the requirements concerning the professional activities of political and discretionary appointees and certain types of service, especially in sectors like education, health care, cultuer, and social security. An RA Law on Public Service is currently being drafted, as required by the 2007 Program of Activities of the RA Government and the Government's Program approved by the RA National Assembly.

The RA Civil Service Council has, to the extent possible, ensured a legally-compliant and transparent recruitment process, minimizing or even precluding any external influence on the competitions and tests. However, transparent of merit-based selection standards continue to be breached at certain stages of the process: for example, final appointment, from among a list of eligible or pre-qualified candidates after the civil service vacancy competition testing and interview stages, is made by the head or chief of staff of the respective body. Appointment, which is the final stage of this process, is not adequately regulated, because selection or appointment criteria are not defined, which leaves room for discretion. Considerable differences remain between the remuneration systems. The civil servants' remuneration system does not depend on a civil servant's performance. The testing system does not encourage better performance as a ways of qualifying for a higher salary. The civil servants' remuneration system and the level of salaries are not conducive of retention, in spite of salary increases.

[23] http://ww.am/csc/pdf/akt2.pdf
[24] http://www.pwc-apsrep.am/html/arm/index.html

There still is no comprehensive system of social protection for civil servants, including pension security, life and health insurance, and other aspects of social security. At the present stage of development, the country lacks resources to solve these problems.

In spite of the existence of new programs and potential to train civil servants, the CSC remains committed to a less-than-proactive training policy, which entails a two-week training course for all civil servants—mostly an introductory course on legislation. Professional training is not offered. Even when such training is offered, it does not cover the anti-corruption restrictions that civil servants are bound by and the anti-corruption policies pursued by the country.

There exist conflict-of-interest clauses that theoretically provide a foundation for civil servants performing transparently and avoiding conflicts of interest. However, there are still no effective mechanisms for their enforcement; specific sanctions for breaching such clauses are not prescribed. Most importantly, a public administration body has not been nominated to monitor compliance and enforce sanctions. There is a need toregulate the process by which civil servants may or may not accept gifts. The same problem exists for other types of public service, as well, with the exception of the judiciary (for judges and other stakeholders of judicial service, conflict of interest cases are defined, and there is a comprehensive system of sanctions).

RECOMMENDATIONS

Based on the analysis above, it is recommended:

- To consider in the draft RA Law on Public Service principles on the status of public servants, conflicts of interest, ethics codes, training, merit-based selection, remuneration, and corruption prevention. It is also recommended to reflect in the draft law limitations on ethics codes and conflict of interest for the political and discretionary positions.
- To develop a civil servants' performance assessment system and link it with their remuneration and incentives.
- To adopt a new training framework, to liberalize the training, and to eliminate administrative regulations and to introduce into the existing training modules courses on codes of ethics for civil servants, work regulations, anti-corruption restrictions and other topics that will aim at increasing the role and capacity of civil servants.

ARTICLE 8. Codes of conduct for public officials

1. In order to fight corruption, each State Party shall promote, inter alia, integrity, honesty and responsibility among its public officials, in accordance with the fundamental principles of its legal system.
2. In particular, each State Party shall endeavour to apply, within its own institutional and legal systems, codes or standards of conduct for the correct, honourable and proper performance of public functions.
3. For the purposes of implementing the provisions of this article, each State Party shall, where appropriate and in accordance with the fundamental principles of its legal system, take note of the relevant initiatives of regional, interregional and multilateral organizations, such as the International Code of Conduct for Public Officials contained in the annex to General Assembly resolution 51/59 of 12 December 1996.
4. Each State Party shall also consider, in accordance with the fundamental principles of its domestic law, establishing measures and systems to facilitate the reporting by public officials of acts of corruption to appropriate authorities, when such acts come to their notice in the performance of their functions.
5. Each State Party shall endeavour, where appropriate and in accordance with the fundamental principles of its domestic law, to establish measures and systems requiring public officials to make declarations to appropriate authorities regarding, inter alia, their outside activities, employment, investments, assets and substantial gifts or benefits from which a conflict of interest may result with respect to their functions as public officials.
6. Each State Party shall consider taking, in accordance with the fundamental principles of its domestic law, disciplinary or other measures against public officials who violate the codes or standards established in accordance with this article.

CURRENT SITUATION

Under the RA Law on Civil Service, the Civil Service Council has the power to establish a code of conduct for civil servants. The Civil Service Council has established the code in about one page, as follows.[25] (Annex 2)

With a view to developing the application mechanisms of the code of ethics for civil servants, ensuring compliance with the code, and enforcing the relevant legal requirements, a pilot project for the development and operation of ethics committees was carried out in the RA Ministry of Labor and Social Affairs, the RA Ministry of Health, and the RA Ministry of Education and Science under the DFID's Armenia Public Sector Reform Program in conjunction with the RA Public Administration System Reform Committee and the RA Civil Service Council. In the frameworks of this project, the by-laws of ethics committees were developed and approved by the CSC, and the commissions were formed.

In the RA State Tax Service, there is a Complaints Investigation Committee, which holds weekly sessions to review disciplinary complaints. See Article 11 of this Report for more on ethics committees in the judiciary and in the prosecution bodies.

The RA Law on Asset and Income Disclosure by Senior Public Officials of the Republic of Armenia (adopted on July 27, 2001) requires public servants to disclose their income and assets. This Law applies only to management positions in civil service, but not to other civil servants and other types of public service. Furthermore, the declarations filed with the RA State Tax Service (STS) are simply received and stored in the STS. Earlier on, the information contained in such declarations was published and sold in the form of an Official Journal of the Republic of Armenia. The current practice is that civil society representatives that are interested in such information may apply to the STS and obtain a summary of the information they need within a one-week period of applying.

On July 7, 2007, the RA National Assembly enacted the RA Law on Asset and Income Disclosure by Natural Persons (Annex 3).

According to the legal definition, a declaration has two elements—(i) income disclosure for purposes of tax liability assessment, and (ii) income and asset disclosure as a new means of exposing

[25] RA Civil Service Council Decree 13-N dated May 31, 2002 "On Approving the Code of Conduct for Civil Servants." http://ww.am/csc/pdf/akt6.pdf

and fighting corruption. The resrictions defined by law concerning the value of assets subject to disclosure do not apply to public and civil servants. Unlike ordinary citizens, public and civil servants disclose any income and asset, without a threshold requirement on value.

Failure to observer the disclosure requirements of the Law is punishable under Articles 20 and 21 of the Law: during 10 months of 2006, 1,389 individuals have been sanctioned.

Effective January 1, 2008, the RA Law on Asset and Income Disclosure by Senior Public Officials of the Republic of Armenia (Law HO-212 dated July 27, 2001) will be repealed.

GAPS

The code of conduct for civil servants established by the RA Civil Service Council is about one page long. Its practical enforcement leaves much to be desired for. To date, there is neither a consistent code of professional conduct nor a body or mechanism to enforce and monitor the code. The CSC has not been persistent in developing ethics committees and building their capacity in other bodies of public administration. NGOs are ready to contribute to ethics committees of ministries, but their engagement in structures formed by public administration bodies to date remains limited.

The public servants' asset and income disclosure system check the information stated in declarations, in spite of Articles 10 and 11 of the Law, which require property registering organizations and organizations acting as sources of income to provide quarterly information to the tax bodies. This system cannot expose illegal income yet. The disclosed information is not fully accessible for the public and is not used by law-enforcement agencies to investigate corruption offences. This information is not scrutinized to discover potential illegal income and is not shared with other public bodies for further use.

The process of making public servants' asset and income disclosure information available to society lacks transparency. Such information is only provided when requested by a citizen, in the form of a State Tax Service statement. The Law requires the non-confidential portions of the disclosed information to be shared with mass media registered in accordance with the procedure stipulated by the Republic of Armenia legislation.

In public service, there is still no effective solution for the problem of public officials and servants accepting gifts and avoiding conflicts of interest. There are no sanctions for violating the existing rules on gifts. Both legislation and enforcement are problematic.

RECOMMENDATIONS

With a view to implementing codes of conduct for Armenian public officials, consider the following:

- Define by law the status of ethics committees, scope of their authority, and develop their capacity in the RA civil service system.
- To introduce ethics codes for public servants in line with the European uniform standards, and to adopt specific ethics codes for certain professional services.
- Conduct training on integrity for public servants that will cover topics on conflict-of-interest and ethics, awareness-raising on corruption cases, and the enforcement of sanctions.
- Define disciplinary sanctions for public servants violating the code of ethics. Form a body that will monitor compliance of public servants with the code of ethics, conflict-of-interest clauses, and financial reporting (including asset and income disclosure) requirements.
- Devise mechanisms to monitor the ownership of public servants. There should be sanctions for public servants failing to disclose assets and income and to perform other financial liabilities.

ARTICLE 9. Public procurement and management of public finances

1. Each State Party shall, in accordance with the fundamental principles of its legal system, take the necessary steps to establish appropriate systems of procurement, based on transparency, competition and objective criteria in decision-making, that are effective, inter alia, in preventing corruption. Such systems, which may take into account appropriate threshold values in their application, shall address, inter alia:
(a) The public distribution of information relating to procurement procedures and contracts, including information on invitations to tender and relevant or pertinent information on the award of contracts, allowing potential tenderers sufficient time to prepare and submit their tenders;
(b) The establishment, in advance, of conditions for participation, including selection and award criteria and tendering rules, and their publication;
(c) The use of objective and predetermined criteria for public procurement decisions, in order to facilitate the subsequent verification of the correct application of the rules or procedures;
(d) An effective system of domestic review, including an effective system of appeal, to ensure legal recourse and remedies in the event that the rules or procedures established pursuant to this paragraph are not followed;
(e) Where appropriate, measures to regulate matters regarding personnel responsible for procurement, such as declaration of interest in particular public procurements, screening procedures and training requirements.
2. Each State Party shall, in accordance with the fundamental principles of its legal system, take appropriate measures to promote transparency and accountability in the management of public finances. Such measures shall encompass, inter alia:
(a) Procedures for the adoption of the national budget;
(b) Timely reporting on revenue and expenditure;
(c) A system of accounting and auditing standards and related oversight;
(d) Effective and efficient systems of risk management and internal control; and
(e) Where appropriate, corrective action in the case of failure to comply with the requirements established in this paragraph.
3. Each State Party shall take such civil and administrative measures as may be necessary, in accordance with the fundamental principles of its domestic law, to preserve the integrity of accounting books, records, financial statements or other documents related to public expenditure and revenue and to prevent the falsification of such documents.

CURRENT SITUATION

Sections 4 and 6 of the RA Law on Public Procurement[26] define the procedure of applying various procurement methods. In accordance with the procedure, a buyer conducting a tender, a request for quotations, or competitive negotiations involving no state or official secrecy must publish information about the procurement process in the Official Procurement Bulletin (in case of tenders) or in a print press with a print run of at least 3,000 copies (in case of the other types of procurement).

Procurement tenders are announced on three television channels and the radio. Concurrently, the Bulletin is posted on the procurement website, and an announcement about the publication of the Bulletin is made in a print press with a print run of at least 3,000 copies.

A tender announcement is published at least 30, and a request for quotations and competitive negotiations—at least 10 days prior to the bid submission deadline.

The Law provides that, when conducting a tender, a request for quotations, or competitive negotiations involving state or official secrecy, the buyer must send an invitation to all potential bidders, which must be determined by means of publishing an announcement in a print press with a print run of at lesat 3,000 copies. At the same time, the announcement is posted on the Ministry of Finance and Economy and the specific buyer's websites, and the fact of such posting is indicated in the announcement, as well.

Article 27 of the Law on Public Procurements sets forth the information that must be contained in a call for bids, a request for quotations, and a call for competitive negotiations, including the bidder pre-qualification criteria and the bid evaluation procedure, requirements on documents or other

[26] RA Law on Public Procurements. http://www.laws.am

information presented by bidders to prove their qualification, the bid evaluation and winner selection procedure, the instructions to bidders, the bid submission procedure (including the place, time, and language, all of which are also mentioned in the announcement), and the contract execution terms.

Article 5(4) of the Law prohibits the applicatioon of bidder qualification criteria that are not stipulated by the RA Law on Public Procurements. Article 34 mandates the pre-qualification of bids that comply with the requirements of the call for bids.

Section 7 of the Law on Public Procurements provides that anyone may appeal on the ground that he has suffered or may suffer losses as a consequence of acts carried out by the buyer and/or tender commission. Such an appeal shall be lodged with the competent authority or court. The competent authority shall publish an announcement about the appeal in a print press with a print run of at least 3,000 copies, excluding any information about the identity of the appellant. Anyone whose interests have been or may be breached by the acts that triggered the appeal may take part in the appeal procedure.

The competent authority may take one of the following decisions on the appeal:

1) To prohibit the commission of certain acts or the adoption of certain decisions;
2) To impose the obligation to take an appropriate decision, except for decisions on contract termination;
3) To revise an adopted decision; and
4) To terminate the procurement process.

The decision on the appeal shall be taken no earlier than 10 and no later than 20 business days of receiving the appeal.

Based on Article 16 of the Law, the competent authority also has the power to organize an audit on the basis of an appeal.

To improve the training and qualification of persons engaged in procurements, training manuals have been developed and courses held for about 1,500 representatives of central and local government bodies, state non-commercial organizations, and potential bidders.

Having completed the initial implementation of a public procurement system (2000-2005), the RA Government has undertaken to improve the system. To this end, the RA Government endorsed in 2006 an E-Procurement Implementation Strategy for 2006-2009.

In the frameworks of the Republic of Armenia Public Sector Accounting and Treasury Second Generation Reform Project, the Government plans to carry out the so-called "second generation" of reforms in the Armenian public sector accounting and the treasury system over a period of six years (2003-2009) with the aim of making a transition from the Soviet-era public sector accounting system to an internationally-recognized system that will conform to the IMF-endorsed 2001 Government Financial Statistics Manual and the international accounting standards adopted in the private sector in Armenia.

With support from the US Treasury, the "RA Fiscal and Public Sector Accounting Classifications" and the "RA Fiscal and Public Sector Accounting Classification Application Instructions" were developed and adopted.

Work is currently underway towards implementing the accounting standards and compiling and approving reports on accrual basis. To implement the Public Sector Accounting Standards, the World Bank allocated the "Armenia: Implementation of Public Sector Accounting Standards" IDF 058039 grant.

The grant is expected to cover:

- An assessment of gaps between the accounting standards currently used in Armenia and the international accounting standards;
- Piloting of the accounting standards in line ministries and development of the standards implementation strategy on the basis of the pilot;
- Legislative drafting; and
- The development of a manual on accounting policies and procedures.

Government Decree 1376-N (dated September 17, 2004) approving the Strategy for Developing an Internal Audit system in RA Central and Local Government Bodies, Institutions Subordinate to Them, and State and Municipal Non-Commercial Organizations is intended to solve problems related to internal audit in the public sector in accordance with the international standards for public sector internal audit. Under the Strategy, the chief financial officer of each state body must put in place a cash flow management and internal audit system that will enable an assessment of the execution of financial claims by state bodies and institutions, as well as detect and correct inconsistencies in the accounting records.

The internal audit system is specifically designed:

a) To evaluate the audited entities' compliance with the RA legislation on fnancial and business operations;

b) To evaluate the accuracy and truthfulness of information used or generated by the audited entities;

c) To reveal inconsistencies in the accounting records of audited entities; and

d) To assess the effectiveness of the internal audit system of a central or local government body or institution subordinate to it.

To enforce these requirements, a procedure of internal audit in central or local government bodies and institutions subordinate to them has been developed and approved in the frameworks of cooperation with the IMF and the US Treasury.

A RA Law on Internal Audit has been drafted and is currently being discussed with the World Bank. Once agreed upon with the latter, the draft will be submitted to the RA Government's review in accordance with the established procedure. The Law is designed to regulate the internal audit procedures and the rights and responsibilities of internal audit stakeholders. The Law provides extends the application of the internal audit system beyond central and local government bodies and institutions subordinate them, to cover also state and municipal non-commercial organizations in order to improve the internal audit independence and impartiality safeguards.

The Law provides that the public sector will be subjected to internal audit in accordance with the internal audit legislation and the RA internal audit standards. To this end, a consulting services procurement contract has been signed with funding from IBRD grant TF 056827 to the Republic of Armenia.

GAPS

Due to its status, the Public Procurement Agency is not subject to professional service requirements such as a code of ethics. Employees of the Public Procurement Agency are presently not civil servants. The public procurement system is highly centralized, giving rise to consumer and beneficiary complaints in terms of procurement deadlines, price formation, follow-up controls, and the like. The implementation of a public e-procurement system is just starting and still lacks transparency and publicity. The website of the Public Procurement Agency is not up to date and is currently "under construction."

Parts of the accounting system still operate in accordance with Soviet-era rules. The internal audit systems have not been finalized; the status and authority of auditors have not been determined, and there are no ethics codes for auditors.

RECOMMENDATIONS

It is recommended:

- To establish an e-procurement system. Develop a website for the State Procurement Agency, which will make the process of public procurement accessible to citizens and transparent.
- To review the status of the State Procurement Agency with a view to defining codes of conduct for its employees and closely monitoring compliance with the procurement rules.
- To define the status of and the code of conduct for internal auditors, and to establish sanctions for internal auditors violating the rules.
- To complete the process of transition to new standards of accounting.

ARTICLE 10. Public reporting

Taking into account the need to combat corruption, each State Party shall, in accordance with the fundamental principles of its domestic law, take such measures as may be necessary to enhance transparency in its public administration, including with regard to its organization, functioning and decision-making processes, where appropriate. Such measures may include, inter alia:
(a) Adopting procedures or regulations allowing members of the general public to obtain, where appropriate, information on the organization, functioning and decision-making processes of its public administration and, with due regard for the protection of privacy and personal data, on decisions and legal acts that concern members of the public;
(b) Simplifying administrative procedures, where appropriate, in order to facilitate public access to the competent decision-making authorities; and
(c) Publishing information, which may include periodic reports on the risks of corruption in its public administration.

CURRENT SITUATION

A number of measures have been taken to implement sound policies, to improve the efficiency of governance in different sectors, and to enhance accountability and transparency in public service.

One of the more important initiatives taken during the reported period is the reform of the provision of information by public administration bodies: a Law on Freedom of Information was adopted to regulate issues related to the freedom of information, including the rights of bodies holding the information and the procedure and terms of accessing information. Under theLAw on Freedom of Information, the holder of information shall, with the exception of specified cases, refuse to provide information, if the information:

1) Contains state, official, banking, or commercial secrecy;
2) Violates a person's right to privacy and family life, including the right to confidentiality of correspondence, telephone conversations, mail, telegraph, and other communications;
3) Contains pre-trial investigation findings that are not subject to disclosure;
4) Discloses limited-access data related to professional activities (medical secrets, notary secrets, and lawyer-client secrets); or
5) Violates copyright and/or related rights.

A number of related laws and government decrees further strengthen the capacity the freedom of information law enforcement capacity. Under Decree 173 of 13.03.1998, the Government has aproved a list of information classified as RA state secrecy. Article 9 of the RA Law on State and Official Secrecy defines a list of information deemed state and official secrecy.

Article 189.7 of the RA Code of Administrative Infringements prescribes administrative liability in the amount of 10-50 minimal salaries for officials failing to provide information stipulated by law. Moreover, Article 148 of the RA Criminal Code prescribes a fine in the amount of 200-400 minimal wages for officials providing incomplete or distorted information, documents, or materials concerning a person's lawful interests.

During 2004-2007, the Government's policy focused on implementing the core provisions of the newly-adopted Law on Freedom of Information and the creation and capacity building of public relations units in bodies of public administration. In addition to other initiatives, Guidelines on Services Provided to Citizens, drafted in the frameworks of the "Armenia Public Sector Reform Program" of the DFID with the participation of civil society stakeholders, were introduced in social-sector ministries as manifestations of a new philosophy and culture. To improve the public accountability, service delivery, and direct stakeholder awareness-raising capacity of public administration bodies, resource centers were created in the frameworks of the same Program. At the initial stage, a Resource Center was created for ministries located in Government Building 3. Later, similar centers were created in the regional administrations (Marzpetarans) of Tavush and Gegharkunik. This initiative is in keeping with the "one stop shop" principle, which is widely used in local governments. A similar initiative was the creation of Anti-Corruption Resource Centers for the Public with the support of the OSCE Yerevan Office.

The creation of resource centers for the public has enabled the relevant agencies to streamline their dealings with citizens, to regulate meetings with the appropriate officials, and to provide basic information to the public. To improve the quality of their services and to build the administrative capacity of ministries and other public agencies, these centers have enjoyed vast support in terms of

human resource development, information provision, and facilitating the strengthening of civil society organizations.

GAPS

Following the adoption of RA Law on Freedom of Information, the relevant sub-legislative acts have not been enacted to make the legislation more accessible. In spite of overall progress, civil society and the business community remain concerned about accessibility of information.[27]

It is still early and difficult to measure the impact of resource centers for the public, but their success will require continued efforts and state budget funding.

RECOMMENDATIONS

To institutionalize public accountability of the government, it is recommended:

- To build the capacity of public relations units, information centers of public administration bodies to work with and obtain feedback from civil society.
- To form a system of government and public administration bodies' accountability before civil society which will provide information on corruption threats in governmental bodies.
- In view of ensuring transparency, to require the heads of public administration bodies to publish reports on their policy implementation. This should become a regular excercise.

[27] Report on Armenia presented during the 6th anti-corruption meeting on the OECD's Istanbul Anti-Corruption Action Plan, December 13, 2006, Paris.

ARTICLE 11. Measures relating to the judiciary and prosecution services

1. Bearing in mind the independence of the judiciary and its crucial role in combating corruption, each State Party shall, in accordance with the fundamental principles of its legal system and without prejudice to judicial independence, take measures to strengthen integrity and to prevent opportunities for corruption among members of the judiciary. Such measures may include rules with respect to the conduct of members of the judiciary.
2. Measures to the same effect as those taken pursuant to paragraph 1 of this article may be introduced and applied within the prosecution service in those States Parties where it does not form part of the judiciary but enjoys independence similar to that of the judicial service.

CURRENT SITUATION

The Anti-Corruption Division of the Republic of Armenia General Prosecution Office is an autonomous structural unit of the RA General Prosecution Office (Annex 4). Its activities target the following specific areas: protection of state interests, prosecutorial control of the lawfulness of inquest and investigation, defense of criminal cases charges in court, and supervision over the lawfulness of sentences, other compulsory measures, judgments, and decisions (Annex 5).

The Division has the following tasks and functions:

- Organizing the prevention and exposure of corruption crimes;
- Collaborating with the RA Prosecution, Police, Military Police, National Security Service, State Tax Service, and State Customs Committee in the fight against corruption;
- Consolidating and reporting statistics concerning the fight against corruption;
- Developing recommendations on legislative improvement as a ways of increasing the effectiveness of the fight against corruption;
- Reviewing the practice of applying the corruption-related criminal and criminal procedure laws of Armenia and developing measures to fight corruption; and
- Discussing and solving complaints, applications, and reports.

The functions of the RA General Prosecution Office do not include elements of anti-corruption policy. Rather, they are mainly focused on investigating specific cases of corruption, preparing materials, instigating criminal cases, prosecuting them, and performing prosecutorial supervision of the lawfulness of inquest and investigation proceedings, as well as defending charges in court and appealing against non-final judgments and decisions of courts.

RULES OF JUDICIAL CONDUCT

The Rules of Judicial Conduct are defined in Chapter 12 of the Judicial Code ("Rules of Judicial Conduct"). Under the Code, the rules of judicial conduct are binding for all judges, and the list prescribed by the Code is not exhaustive. The General Assembly of Judges may prescribe additional rules of conduct. The purpose of the Rules of Judicial Conduct is to safeguard the independence and impartiality of courts, and to contribute to building respect for and confidence in the court.

The requirements concern the everyday conduct of a judge, both in his official conduct in the court, and outside the court (Annex 6).

A judge and related persons, who are required to declare their income and assets, must send to the Ethics Committee of the Council of Court Chairmen a copy of the declaration filed in accordance with the procedure defined in the Law on Asset and Income Disclosure by Senior Public Officials of the Republic of Armenia.

From among its members, the Council of Court Chairmen shall form an Ethics Committee and a Training Committee. The Council of Court Chairmen may create other committees, as well.

In accordance with the Republic of Armenia Law on Judicial Service, the judicial servants are subject to the restrictions presented in Annex 7.

An assessment of the various codes of ethics shows that the Rules of Judicial Conduct are comprehensive. Compared to codes of conduct for civil service and other types of public service in Armenia, the Rules of Judicial Conduct provide the most detailed regulation of judges' activities both in court proceeding and otherwise. There are clear procedures of enforcement and liability. Most importantly, a mechanism has been created to ensure judges' and other judicial service professionals' performance in accordance with ethics rules and sanctions for violators.

The new RA Law on Prosecution, too, makes reference to the relevant provisions of the RA Law on Judicial Service.

GAPS

Considering that Armenia does not have a uniform system of state service, ethics rules and conflict-of-interest clauses are not adequately enforced, and the appropriate procedures and bodies have not yet been designated, the Code of Conduct for Judges is the best way to learn from local experience. Indeed, this Code still needs to be applied in the Armenian environment, after which it may need revision or improvement.

RECOMMENDATIONS

- In light of the Amended Constitution, which entails reform of the prosecution system and the judiciary, to test the anti-corruption provisions of the Law on Prosecution and the Judicial Code and, based on lessons learnt and the international standards, to revise the legislation.
- To organize joint anti-corruption training courses for specialists of different bodies.

ARTICLE 12. Private sector

1. Each State Party shall take measures, in accordance with the fundamental principles of its domestic law, to prevent corruption involving the private sector, enhance accounting and auditing standards in the private sector and, where appropriate, provide effective, proportionate and dissuasive civil, administrative or criminal penalties for failure to comply with such measures.
2. Measures to achieve these ends may include, inter alia:
(a) Promoting cooperation between law enforcement agencies and relevant private entities;
(b) Promoting the development of standards and procedures designed to safeguard the integrity of relevant private entities, including codes of conduct for the correct, honourable and proper performance of the activities of business and all relevant professions and the prevention of conflicts of interest, and for the promotion of the use of good commercial practices among businesses and in the contractual relations of businesses with the State;
(c) Promoting transparency among private entities, including, where appropriate, measures regarding the identity of legal and natural persons involved in the establishment and management of corporate entities;
(d) Preventing the misuse of procedures regulating private entities, including procedures regarding subsidies and licences granted by public authorities for commercial activities;
(e) Preventing conflicts of interest by imposing restrictions, as appropriate and for a reasonable period of time, on the professional activities of former public officials or on the employment of public officials by the private sector after their resignation or retirement, where such activities or employment relate directly to the functions held or supervised by those public officials during their tenure;
(f) Ensuring that private enterprises, taking into account their structure and size, have sufficient internal auditing controls to assist in preventing and detecting acts of corruption and that the accounts and required financial statements of such private enterprises are subject to appropriate auditing and certification procedures.
3. In order to prevent corruption, each State Party shall take such measures as may be necessary, in accordance with its domestic laws and regulations regarding the maintenance of books and records, financial statement disclosures and accounting and auditing standards, to prohibit the following acts carried out for the purpose of committing any of the offences established in accordance with this Convention:
(a) The establishment of off-the-books accounts;
(b) The making of off-the-books or inadequately identified transactions;
(c) The recording of non-existent expenditure;
(d) The entry of liabilities with incorrect identification of their objects;
(e) The use of false documents; and
(f) The intentional destruction of bookkeeping documents earlier than foreseen by the law.
4. Each State Party shall disallow the tax deductibility of expenses that constitute bribes, the latter being one of the constituent elements of the offences established in accordance with articles 15 and 16 of this Convention and, where appropriate, other expenses incurred in furtherance of corrupt conduct.

CURRENT SITUATION

Since 2000, Armenia has conducted, with the World Bank's support, a Regulatory Costs Survey (RCS). The RCS found the following: "The costs remain huge and there has been no major improvement over the past several years. The costs are not related to formal and informal payments but above all to the burden in terms of time and resources that firms need to allocate to assure regulatory compliance. A corrupt bureaucracy applies regulations arbitrarily. The high level of corruption results in firms' directing activity underground in order to reduce their vulnerability to extortion by government officials. Changes in legislation are only rarely announced or publicly disclosed before implementation. Bureaucratic procedures can be burdensome and time-consuming when an investor negotiates a contract with the foreign government, as the contract may require the approval of several ministries. Widespread corruption continues to affect business and most often takes the form of bribery."[28]

The Business Environment Study carried out by the World Bank in 2004 found 84% of the respondent companies dissatisfied about the legislative and administrative regulation that existed in the

[28] *The Caucasian Tiger: Sustaining Economic Growth in Armenia, Volume 1*, World Bank, 2006, p. 91.

country. Armenia's business legislation is generally adequate, but laws are not properly enforced. The authorities' uneven treatment of companies and unfair competition are the main bottlenecks to doing business.

The large size of Armenia's shadow economy makes compliance with administrative regulations very costly due to formal and informal payments, the instability of state policies related to the business sector, and shortcomings in the work of tax and customs bodies.

The RA Law on Protection of Economic Competition was adopted in 2000. At the same time, a Competition Protection Commission was created. In 2001, the Commission started to review cases.

In terms of the transparency of doing business, including areas like the company register and transparency of information about founders and beneficial owners, Armenia is one of the worst performers in the CIS. The quality of corporate financial reporting remains poor. Shortcomings of the securities legislation (including the Law on Joint-Stock Companies and other laws regulating this sector) hinder the development of corporate governance.

Despite the legal requirement that all companies prepare their financial reports in accordance with the Republic of Armenia Accounting Standards (RAAS), the standards are effectively not applied or are only partially applied due to the lack of required knowledge.

GAPS

An overview of the Armenian legislation reveals that the RA Law on Joint-Stock Companies and other legislative acts on business activities do not contain provisions on good-faith conduct by corporate employees, codes of conduct for owners and employees, and the restriction of conflicts of interest. In this connection, the RA Chamber of Commerce and Industry does not take measures to encourage *bona-fide* commercial practice.

The legal framework on commercial transactions is deficient; hence, informal agreement [between parties that know and trust each other] most often prevail over formal contracts. This factor limits market entry possibilities for new players.

RECOMMENDATIONS

- In the Law on Joint-Stock Companies, to clarify the provisions on the management-ownership relationship and to improve the separation of their respective powers, to define the formal duties and accountability of the Board of Directors, and to introduce codes of conduct for owners and employees and clauses preventing conflicts of interest.
- To strengthen the RA Chamber of Commerce and Industry with a view to empowering it to establish good-faith conduct standards and procedures for private companies, as well as clauses to prevent conflicts of interest. In this sense, it would be useful for the RA Chamber of Commerce and Industry to apply the International Chamber of Commerce (ICC) Rules of Conduct and Recommendations for Combating Extortion and Bribery.[29] Deeper collaboration with the ICC in the fight against private sector corruption will help to reduce the "supply" of corruption in Armenia's private sector.

[29] For details, see http://www.iccwbo.org/policy/anticorruption/id870/index.html

ARTICLE 13. Participation of Society

1. Each State Party shall take appropriate measures, within its means and in accordance with fundamental principles of its domestic law, to promote the active participation of individuals and groups outside the public sector, such as civil society, non-governmental organizations and community-based organizations, in the prevention of and the fight against corruption and to raise public awareness regarding the existence, causes and gravity of and the threat posed by corruption.
This participation should be strengthened by such measures as:
(a) Enhancing the transparency of and promoting the contribution of the public to decision-making processes;
(b) Ensuring that the public has effective access to information;
(c) Undertaking public information activities that contribute to non-tolerance of corruption, as well as public education programmes, including school and university curricula;
(d) Respecting, promoting and protecting the freedom to seek, receive, publish and disseminate information concerning corruption. That freedom may be subject to certain restrictions, but these shall only be such as are provided for by law and are necessary:
(i) For respect of the rights or reputations of others;
(ii) For the protection of national security or *ordre public* or of public health or morals.
2. Each State Party shall take appropriate measures to ensure that the relevant anti-corruption bodies referred to in this Convention are known to the public and shall provide access to such bodies, where appropriate, for the reporting, including anonymously, of any incidents that may be considered to constitute an offence established in accordance with this Convention.

CURRENT SITUATION

According to the RA Anti-Corruption Strategy, civil society engagement is an essential element of anti-corruption efforts, and anti-corruption campaigns are mainly delegated to NGOs and other civil society organizations. Nonetheless, the Government carried out a large-scale anti-corruption campaign with the World Bank's support after the adoption of the Strategy in 2003. Moreover, all the activities of international organizations are carried out with the agreement of and in collaboration with the Government. Under the 2007 State Budget, the RA Government has allocated about 150 million Armenian drams' grants for NGOs to carry out anti-monitoring campaigns and monitoring, among other measures. Two television shows ("My Rights" ("Im Iravunk" in Armenian) and "Anti-Shadow" ("Hakastver" in Armenian)) are regularly broadcast on two channels of the Public Television. Moreover, talk shows involving journalists, civil society, and public officials are conducted with UNDP's support. The campaigns and the active engagement of the mass media (especially television) and NGOs have further stimulated the public and, in particular, government bodies. According to Transparency International, the Corruption Perception Index remains unchanged in part due to the Armenian population's unawareness or subjective views and perceptions of corruption.

Advocacy and awareness campaigns organized by NGOs or other civil society actors are particularly effective. An NGO called "Freedom of Information" has organized a public awareness campaign on access to information: it has developed and posted on its website a database on violations of the RA Law on Freedom of Information,[30] and awards annual prizes for the provision of information. A number of projects funded by bilateral and multilateral donors are implementing measures to improve public awareness of corruption in Armenia. In 2007, both the OSCE and the UNDP have carried out projects with awareness-raising components. The UNDP's "Strengthening Awareness and Response in Exposure of Corruption in Armenia" project will support the Government's efforts against corruption by organizing campaigns, training journalists investigating corruption cases, and evaluating and monitoring, through civil society actors, the corruption risks in the health and education sectors. The Eurasia Foundation, too, has been training journalists and monitoring transparency and publicity in the civil service system.

In recent years, Armenia has enjoyed progress in terms of enhanced public participation, as well. Cooperation between civil society actors (especially non-governmental organizations) and government bodies, including public participation in the policy-making process improved considerably during the drafting and implementation of the Poverty Reduction Strategy Paper (PRSP) and the Anti-Corruption Strategy. During this period, various mechanisms of public participation in government

[30] www.foi.am

were developed and applied, some of which have since been used in developing other strategies and organizing governing boards of large-scale public projects (such as the Millennium Challenge Account Armenia Program).

Public participation in government benefits from the creation of professional and advisory councils (consisting representatives of civil society) attached to various state bodies. NGO capacity building projects of different donors also contribute to the success of public participation. Another useful element of this process is the promotion of collaboration between civil society and government bodies. For instance, the Association of Young Lawyers of Armenia, in collaboration with over 20 ministries, has developed and published information leaflets on the basic services provided by the relevant ministries. These activities were funded by donor organizations.

From time to time, Armenian public administration bodies carry out consultancy and feedback activities (including, for instance, discussions of draft legal documents, seminars, round tables, opinion polls, and the like). In the past, such activities were organized only at the initiative and with the support of donors; recently, however, a number of government bodies have undertaken such initiatives on their own. The existing legislation permits and, in rare cases, required participatory governance. Article 29 of the RA Law on Legal Acts, for instance, provides that draft laws submitted to the National Assembly by the RA Government may, at the decision of the RA President or Government, be published in the print press or other mass media or subjected to public review and discussion. Drafts of internal legal acts of ministries and decrees of the Government and Prime Minister, too, may be published at the decision of the body that drafted or has the power to adopt the legal act or decree.

An example of such practice is the May 13, 2005 Decree of the RA President "On Approving the Procedure of Allocating State Budget Funds to Non-Government Organizations in the Form of Grants."

GAPS

Civil society awareness and access to information in affairs involving public officials and citizens remain problematic. The Armenian legislation prescribes administrative sanctions for failing to provide information; the RA Criminal Code prescribes fines for the provision of late or incorrect information. However, both civil society and the business community still have serious concerns over access to timely and complete information. There are no viable arrangements for public participation in the fight against corruption, including possibilities to collaborate with the relevant state bodies.

Law-enforcement bodies fighting against corruption still do not engage civil society in their activities. They complain about citizens' indifference and refusal to testify, claiming that "everyone alleges corruption cases, but refuses to testify as to specific facts." This indicates public mistrust and insecurity about testifying before law-enforcement agencies.

Civil society participation in the anti-corruption decision-making process remains shallow and superficial.

RECOMMENDATIONS

In this area, it is recommended:

- To create resource centers throughout the country, following the example of the Anti-Corruption Resource Centers for the Public established with the support of the OSCE Armenia country office.
- The mechanisms of civil society participation in the Anti-Corruption Monitoring Commission should be reconsidered. The civil society should be given an opportunity to propose NGO members to the Monitoring Commission on its own.

The following measures are recommended for raising public awareness on corruption:

- To implement public education and awareness-raising activities that will foster the fight against corruption. State programs of public education should address the causes, consequences, and essence of corruption, among other topics.
- To train journalists on corruption and to ensure compliance with the laws on freedom of information, which will improve the coverage of anti-corruption measures and the public perceptions.
- To create anonymous telephone and electronic hotlines in all anti-corruption agencies.

ARTICLE 14. Measures to prevent money-laundering

1. Each State Party shall:
(a) Institute a comprehensive domestic regulatory and supervisory regime for banks and non-bank financial institutions, including natural or legal persons that provide formal or informal services for the transmission of money or value and, where appropriate, other bodies particularly susceptible to money-laundering, within its competence, in order to deter and detect all forms of money-laundering, which regime shall emphasize requirements for customer and, where appropriate, beneficial owner identification, record-keeping and the reporting of suspicious transactions;
(b) Without prejudice to article 46 of this Convention, ensure that administrative, regulatory, law enforcement and other authorities dedicated to combating money-laundering (including, where appropriate under domestic law, judicial authorities) have the ability to cooperate and exchange information at the national and international levels within the conditions prescribed by its domestic law and, to that end, shall consider the establishment of a financial intelligence unit to serve as a national centre for the collection, analysis and dissemination of information regarding potential money-laundering.
2. States Parties shall consider implementing feasible measures to detect and monitor the movement of cash and appropriate negotiable instruments across their borders, subject to safeguards to ensure proper use of information and without impeding in any way the movement of legitimate capital. Such measures may include a requirement that individuals and businesses report the cross-border transfer of substantial quantities of cash and appropriate negotiable instruments.
3. States Parties shall consider implementing appropriate and feasible measures to require financial institutions, including money remitters:
(a) To include on forms for the electronic transfer of funds and related messages accurate and meaningful information on the originator;
(b) To maintain such information throughout the payment chain; and
(c) To apply enhanced scrutiny to transfers of funds that do not contain complete information on the originator.
4. In establishing a domestic regulatory and supervisory regime under the terms of this article, and without prejudice to any other article of this Convention, States Parties are called upon to use as a guideline the relevant initiatives of regional, interregional and multilateral organizations against money-laundering.
5. States Parties shall endeavour to develop and promote global, regional, subregional and bilateral cooperation among judicial, law enforcement and financial regulatory authorities in order to combat money-laundering.

CURRENT SITUATION

On December 14, 2004, the RA National Assembly adopted Law (HO-13N) on Combatting Money Laundering and Terrorism Financing. Armenia has made considerable progress by adopting this law and improving the legal framework on money laundering. Under this Law, a Financial Monitoring Center ("FMC") was created (this is the official name of Armenia's financial intelligence unit). The FMC organizes the fight against money laundering and terrorism financing by collecting, analyzing, exchanging, and providing information stipulated by law. The FMC's main function is to receive, analyze, and exchange information on the fight against ML/TF. The priorities and objectives of the FMC are enshrined in a Three-Year Strategy of the FMC. The FMC is a separate structural unit of the RA Central Bank and is accountable to the Central Bank Board. Moreover, on November 29, 2006, the RA National Assembly completely revised and brought Article 190 of the RA Criminal Code into line with international standards; more severe sanctions were prescribed: for instance, Paragraph 1 of this Article previously provided a fine equal to 300-500 minimal salaries or imprisonment for a maximum term of four years, with or without confiscation of property, but, after the amendment, the only possible sanction is imprisonment for a maximum term of four years, and confiscation of property is now mandatory.

At the instruction of the RA President, an inter-agency committee next to the Central Bank has been created to revise the RA Law on Combatting Money Laundering and Terrorism Financing and developing consistent policies, comprehensive programs, legislation, studies, and analyses on counterfeiting of banknotes, plastic cards, and other payment instruments, as well as the fight against money laundering and terrorism financing.

GAPS

In spite of the progress achieved, the legislation against money laundering still needs improvement and harmonization with international standards. The Law should be revised to stipulate the whole range of activities carried out to check suspicious customers or transactions, including political figures. Moreover, the Financial Monitoring Center has still not produced tangible results, limiting its activities to the referral of several suspicious transactions reports to the RA General Prosecution Office, none of which have been investigated fully. No corruption case has been exposed.

Much work needs to be done to build the capacity of the Financial Monitoring Center, because its IT capacity is still inadequate for processing various reports and conducting comprehensive analyses.

RECOMMENDATIONS

In the context of measures to prevent money laundering, it is recommended:

- To harmonize the legislation on the prevention of money laundering with the international legal requirements.
- To strengthen the capacity of the Financial Monitoring Center, including the provision of state-of-the-art information technology to the FMC.
- To improve the quality of reports and analyses produced by the FMC.
- To ensure closer collaboration with the RA law-enforcement agencies and to improve the quality of suspicious transaction reviews and reports with a view to increasing the number of exposed corruption cases.

ANNEXES

ANNEX 1. Restrictions applied to the Civil Servant

1. The Civil Servant shall not have the right to:
a) perform other paid work, with the exception of scientific, pedagogical, and creative work;
b) be personally engaged in entrepreneurial activity;
c) be the representative of third persons in the relations connected to the body where he/she is employed, or which is immediately subordinate to or supervised by himself/herself;
d) implement violations of the principle of the political restraint of the Civil Servants, that is, to use his/her service position in the interests of parties, non-governmental organizations, including religious associations, proselytize in their favor or implement other political or religious activities while carrying out his/her service duties;
e) receive an honorarium for publications or speeches arising from the performance of his/ her service duties;
f) use material and technical, financial and information resources, other state property and service information for non-service purposes;
g) receive gifts, amounts of money or services from other persons for his/her service duties, with the exception of the cases envisaged by the legislation of the Republic of Armenia;
h) as a state representative, conclude property transactions with the persons noted in Clause 3 of this Article, except for the cases envisaged by the legislation of the Republic of Armenia.
2. Within a period of one month after appointment to a Civil Service Position, a Civil Servant, in case of having 10 % and more shares in the statutory capital of any commercial organization, is obligated to hand it over for entrusted management by the procedure defined by the legislation of the Republic of Armenia. The Civil Servant shall have the right to receive income from the property handed over for entrusted management.
3. It is forbidden to the Civil Servant to work together with close relatives or in-laws (parent, spouse, child, brother, sister, spouse's parent, child, brother and sister), if their service is connected with direct subordination to or supervision over one another.
4. The Civil Servant shall not have the right to become employed by an employer or become an employee of an organization over which he/she had implemented immediate control for the last year of holding the Civil Service Position within a period of one year after his/her release from the Civil Service Position.

1. The following disciplinary penalties shall be applied to the Civil Servant by the procedure defined by the legislation of the Republic of Armenia for not performing or improperly performing service duties for an invalid reason, as well as for exceeding service authorities, violating the internal rules of labor discipline:
a) preliminary warning;
b) reprimand;
c) severe reprimand;
d) salary reduction by the procedure defined by law;
f) removal from the position occupied, with the agreement of the Civil Service Council.
2. Before assigning a disciplinary penalty an explanation shall be demanded from the Civil Servant who has allowed the disciplinary violation.
The disciplinary penalty shall be assigned if no more than three months have passed from the day of discovering the disciplinary violation, not counting any illness or leave of absence.
A disciplinary penalty cannot be assigned if more than six months have passed from the day of committing the disciplinary violation.
The Civil Servant shall be informed about the disciplinary penalty no later than within a threeday period after assigning the disciplinary penalty. For each disciplinary violation one disciplinary penalty may be assigned.
If the Civil Servant has not been subjected to another disciplinary penalty within one year from the day of assigning the disciplinary penalty, he/she shall be considered not subjected to a disciplinary penalty.
The disciplinary penalty may be removed before the end of one year, if the Civil Servant has not allowed another disciplinary violation and had showed himself/herself as a diligent servant.
3. The disciplinary penalties envisaged in Clause 1 of this Article shall be applied to the Civil Servant by the official having jurisdiction to appoint him/her to the position, to the Chief of Staff of the State Administrative Body attached to the Government, Marzpetaran Municipality of the city of Yerevan) shall be applied by the Prime Minister of the Republic of Armenia according to the recommendation of Head of State Administrative Body attached to the Government, Marzpet (Mayor of the city of Yerevan).
The disciplinary penalties envisaged by the sub clauses a), b), c) and d) of the clause 1 of the given law, shall be applied to the Chief of the Staff RA Ministry by the Prime Minister acording to the recommendation of the minister, and the disciplinary penalty envisaged by the sub clause e) of the clause 1 of the given law, shall be applied by RA Government according to the recommendation of the minister, in this case the minister shall receive the agreement of CSC.
4. In the cases and through the procedure established by the Civil Service Council, the disciplinary penalties envisaged in Clause 1 of this Article shall be applied after the service investigation.
5. During the service investigation defined by the procedure of the Civil Service Council, the performance of the service duties of the Civil Servant may be suspended for a period of up to one month, preserving the payment of the Civil Servant.
6. In the result of service investigation the decisions adopted by the Civil Service Council shall have compulsory nature.

ANNEX 2. Rules of Ethics for the Civil Servant

1. With the following the rules of ethics of the civil servant are defined.
2. The rules of ethics of the civil servant are norms regulating the peculiarities of relations of behavior and attitude of the civil servants based on the general moral principles.
3. The civil servant must follow the rules mentioned below:
    a) to respect the state symbols of the RA (flag, emblem and hymn) and the state language;
    b) to exclude public disobedience to the policies of state bodies and officials;
    c) avoid such actions which can be obstacles to the activities of the state bodies or discredit them;
    d) be guided by the moral norms based on the principles of fairness, humanity and justice;
    e) to respect person's dignity in spite of his/her nationality, race, gender, language, religion , political and other views, social origin, property or other condition;
    f) to be faithful to the oath given at the first post of civil service stipulated by the Law of the RA "On the Civil Service";
    g) to be fair, unbiased, self-possessed and faultless in one's behavior;
    h) not to emphasize one's authority without any particular reason;
    i) to exclude rude behavior in one's oral and written contacts;
    j) to be polite with the official people, colleagues and physical persons;
    k) to assist in developing and maintaining the belief and confidence of the society that the system of the civil service is based on ideas of justice, efficiency and impartiality;
    l) to avoid any kind of sponsorship and use only moral means in reaching one's goals;
    m) not to make oneself dependent on anyone;
    n) to avoid unnecessary promises, to realize the importance and value of one's speech, and the possible negative consequences of a promise;
    o) not abuse the information obtained at job for own personal benefits;
    p) to respect other nationalities' and nations' ethical peculiarities, customs and habits;
    q) to maintain other rules of ethics defined by the moral norms.

4. The following sequence of the rules does not emphasize their priority.

ANNEX 3. Disclosure of Assets and Income by Natural Persons

The purpose of the Law is to ensure, by means of asset and income disclosure, oversight of the performance by natural persons of their liabilities against the Republic of Armenia state, community, and mandatory social insurance budgets, to strengthen public confidence in the disclosure of assets and income, and to implement effective institutions to fight corruption. Under the Law, declarations must be filed by officials that are political and discretionary appointees, public servants (including civil servants, judicial servants, special servants, diplomatic servants, and persons serving in other services stipulated by law) and municipal servants, as well as natural persons required by the RA Law on Personal Income Tax to present annual calculations of income.

The following assets are subject to disclosure:
1) Real estate, i.e. premises that cannot be detached from land without inflicting disproportionate damage to their designated purpose. Residential premises valued above 40 million drams must be disclosed, while the disclosure of residential premises valued under 40 million drams is subject to the discretion of the person making disclosure;
2) Personal property, i.e. automobiles, self-propelled wheeled or caterpillar machines or mechanisms, and air and water transport;
3) Cash and accounts with banks and/or credit organizations, including deposits (in Armenian drams and foreign currency);
4) Securities (bonds, checks, promissory notes, shares, and other commercial papers stipulated by Armenian law, with the exception of banking certificates) and/or other investments (share or stock holdings and the like);
5) Bank bullions of precious metals (standardized);
6) Rights of claim.

The following income received in Armenian drams, foreign currency, or in-kind (non-monetary) form are subject to disclosure:
1) Remuneration for work or other payments equated to such remuneration;
2) Royalties and copyright fees for the right to use a work of literature, art, or science, or from any copyright, patent, trademark, design, model, plan, secret formula, or process, or the for the right to use software or industrial, commercial, or scientific equipment for computers and databases, or for the provision of information on industrial, technical, organizational, commercial, or scientific experiements;
3) Loans received or interest received against loans made, and other compensation;
4) Dividends;
5) Income (wins) from casinos or gambling;
6) Money or in-kind wins (prizes) from competitions, contests, and lotteries;
7) Assets (including cash) received as donation or aid;
8) Assets (including cash) received as inheritance;
9) Insurance compensation;
10) Income derived from business activities;
11) Income from the conveyance of assets (with the exception of cash) (including assets not specified in Article 6 of the Law);
12) Rent or other lease and income from other contracts of civil law;
13) Lump-sum payments; and
14) Income derived from property rights.

The tax agency oversees compliance with the Law. To verify the authenticity of the disclosed data, the tax body may carry out an inspection of the transaction counterpart in accordance with the procedure defined by law.

ANNEX 4. Autonomy of the Prosecutor and Prohibition to Interfere with the Prosecutor's Activities. Prosecutor Not Politicized.

In the exercise of his powers, every prosecutor shall take decisions autonomously based on laws and inner conviction, and shall be responsible for decisions taken by him.

Any interference with the prosecutor's activities, which is not prescribed by law, shall be prohibited.

A prosecutor may not be a member of any party or engage in any other political activity. Under any circumstance, a prosecutor shall be obliged to display political self-restraint and neutrality.

A prosecutor may take part in state and local government elections only as a voter. A prosecutor may not take part in the pre-election campaign.

(Articles 6 and 7)

Ethics and Qualification Committees Attached to the Prosecutor General

The Ethics Committee shall have seven members. The Ethics Committee shall consist of one deputy of the Prosecutor General and two prosecutors, appointed to this Committee by the Prosecutor General, and four law academic members appointed to this Committee by the President of the Republic for a three-year term. The Ethics Committee shall be governed by the Deputy Prosecutor General.

The Qualification Committee shall have nine members. The Qualification Committee shall consist of one deputy of the Prosecutor General, four prosecutors, and four law academics. The Committee members shall be appointed by the Prosecutor General for a three-year term. The Qualification Committee shall be governed by the Deputy Prosecutor General.

Each prosecutor may be a member of only one committee.

(Article 23)

A Republic of Armenia citizen residing permanently in the Republic of Armenia may be appointed as a prosecutor, if he or she has obtained in the Republic of Armenia a Bachelor's degree or a "specialist with diploma" degree in higher legal education, or has obtained a similar degree in a foreign state, which has been recognized and confirmed in terms of adequacy in the Republic of Armenia in accordance with the procedure stipulated by law. Masters the literary Armenian language. (Article 32)

A person may not hold a position in the Prosecution, if:
1) He has been declared by court to have no legal capacity or limited capacity;
2) He has been convicted by a crime, regardless of whether the conviction has expired or eliminated;
3) He has a physical handicap or illness that hinders his appointment to the prosecutor's position;
4) He has not completed mandatory military service, with the exception of persons that were relieved of such service in accordance with the procedure and on a ground stipulated by law; and
5) His criminal prosecution has been terminated on a non-acquittal ground.

The process of recruiting and promoting prosecutors shall be organized by means of compiling a list of prosecutor candidates and an official promotion list. The list of prosecutor candidates shall be supplemented by the Prosecution Qualification Committee once a year, which shall, as a rule, be done in January of each year through an open competition carried out in accordance with the procedure defined by the Prosecutor General. If so instructed by the Prosecutor General, an additional test of aspirants may be carried out during the year in order to supplement the list of prosecutor candidates.
The candidacies of applicants about whom the Qualification Committee issues a positive opinion shall be submitted to the Prosecutor General, who shall include the candidates acceptable to him in the list of prosecutor candidates.

A person included in the list of prosecutor candidates shall, in accordance with the procedure defined by the Prosecutor General, complete a program of studies in the Prosecutorial School and take a qualification exam. A person that has not passed the qualification exam shall be removed from the list of prosecutor candidates.

A person shall be relieved of the requirement to study and take a qualification exam, if such person:
1) Has three years of professional work experience as a prosecutor, judge, investigator, or advocate, unless more than five years have passed since the person stopped performing such work;
2) Has a PhD degree in Law; or
3) Has a PhD Candidate degree in law and five years of experience working as a lawyer.
The Official Promotion List of Prosecutors shall be compiled by the Qualification Committee:
1) During the regular attestation of prosecutors;
2) In an extraordinary procedure, when the Prosecutor General or his deputies submit a proposal to the Qualification Committee on including a prosecutor in the promotion list as an encouragement, together with an appropriate assessment. The prosecutor shall be included in the Official Promotion List of Prosecutors in case the Qualification Committee has issued a positive opinion; and
3) In exceptional cases, when the Qualification Committee decides that a person relieved of the duty to study in the Prosecutorial School shall be included concurrently in both the list of prosecutor candidates and the Official Promotion List of Prosecutors.

(Articles 34 and 35)

ANNEX 5. Restrictions Applied to Prosecutors. Procedure of Disciplining Prosecutors.

1. A prosecutor may not occupy a state or local government position unrelated to the performance of his duties, or a position in for-profit organizations, or perform other paid work, with the exception of scientific, pedagogic, and creative work.

2. Payment to the prosecutor for scientific, pedagogic, and creative work may not exceed the reasonable amount, i.e. the amount that would be paid to a non-prosecutor of similar qualification for the same work.

3. A prosecutor may not be a sole entrepreneur.

4. A prosecutor may not be a participant in economic companies or a depositor in a trust-based association, if, in addition to participation in the General Meeting of the company, the prosecutor is to engaged in the performance of managerial or other leadership functions in the organization.

5. A prosecutor may not:

1) Be a third party representative, with the exception of cases in which he represents his family members or persons under his guardianship (custody);

2) Use his official position for the interests of parties or non-governmental or religious organizations, preaching a certain attitude towards them, or carrying out other political or religious activities during the performance of his official duties;

3) Be a member of a trade union;

4) Organize or take part in strikes, demonstrations, rallies, or protests;

5) Receive honorarium for publications or speeches made as a part of his official duties;

6) Use material, technical, financial, and information resources, state-owned assets, and official information for non-work-related purposes; or

7) Receive gifts, amounts, or services from other persons for the performance of his official duties, with the exception of cases stipulated by law.

6. A prosecutor may not work jointly with a person related to him by close family relationship or an in-law relationship (parents, spouse, child, sibling, parents-in-law, spouse's child, or spouse's sibling), if their service is related to direct subordination to one another. (Article 43)

1. In relation to the fact of a disciplinary offence, the Prosecutor General or the appropriate higher-ranking prosecutor shall instigate disciplinary proceedings against a prosecutor.

2. The procedure of conducting disciplinary proceedings in relation to a prosecutor shall be defined by the Prosecutor General.

3. A prosecutor has the right to provide explanations in relation to the disciplinary proceedings instigated against him.

4. Disciplinary proceedings shall be instigated within a 30-day period of detecting the disciplinary offence, but not later than within 12 months of the day on which the offence was committed.

5. Disciplinary proceedings may not last longer than three weeks, with the exception of cases in which the prosecutor is absent. In such cases, the duration of disciplinary proceedings may be extended for a term equal to the term of the prosecutor's absence

6. In the cases stipulated by Paragraphs 1(1) and 1(2) of Article 47 hereof, the disciplinary sanction shall be ordered by the person that instigated disciplinary proceedings within a three-day period of the end of such proceedings.

7. In cases stipulated by Article 47(7) hereof, the Prosecutor General shall, within a one-week period of the end of the disciplinary proceedings, present the issue to the Ethics Committee for discussion. When discussing the issue related to the disciplinary offence, the Ethics Committee shall vote to decide whether a disciplinary offence has taken place, whether the prosecutor is guilty of the offence, and, if the Prosecutor General so requests, then also whether it is possible to apply the disciplinary sanction of "removal from office." Based on the appropriate opinion of the Ethics Committee, the Prosecutor General shall order the disciplinary sanction within a three-day period.

8. The prosecutor shall be notified of the disciplinary sanction no later than within a three-day period of ordering such sanction.

9. In the frameworks of the same disciplinary proceedings, even if the same prosecutor has committed several disciplinary offences, only one disciplinary sanction may be ordered in relation to the prosecutor.

10. If, within a year of the date of ordering a disciplinary sanction, the prosecutor is not subjected to a new disciplinary sanction, then he shall be considered to have no sanction.

11. The prosecutor has the right to file a court appeal in accordance with the procedure stipulated by law against the disciplinary sanction ordered against him.

(Article 48)

ANNEX 6. Rules of Judicial Conduct

1. A judge must respect and abide by the law.
2. In any activity anywhere, a judge must avoid conduct that undermines the reputation of the judiciary or is inappropriate, and must also avoid leaving the impression of such conduct.
3. A judge must not allow his family, social, or other relationship to influence his exercise of powers in court in any way.
4. A judge must not give the impression that another person can influence the judge by virtue of his family, social, official, or other capacity.
5. A judge must not use the reputation of judicial office for his or another person's benefit.
6. A judge may not issue a personal guarantee under the Criminal Procedure Code in favor of any person.
7. A judge may not issue a description of anyone's personal characteristics in the framework of any civil, administrative, or criminal proceedings, other than cases in which the judge does so in a judicial act.
8. A judge may not be a member of organizations that instill animosity and discrimination on the ground of race, sex, ethnic origin, faith, or other feature, or of organizations that carry out activities forbidden by law. Membership in religious organizations or fellow countrymen's unions *per se* is not considered a breach of this provision.
9. A judge may not in any way take part in fundraising for social, charitable, cultural, educational, or other projects of public benefit. Furthermore, a judge may not allow the reputation of his office to be used for such purpose. This provision does not limit the judge's right to make donations to such projects.
10. A judge has the right to propose to grant-making organizations to allocate funds to projects related to law, legislation, and the administration of justice, provided that the judge's court is not at such time examining or reasonably anticipating a case connected with the interests of such organization.

Article 90 provides:

1. The judge's duties concerning the exercise of judicial power shall prevail over other activities carried out by the judge.

2. When exercising judicial power, a judge must:

1) Examine and resolve matters reserved for his authority by law, unless there are grounds for a self-withdrawal of the judge from a case;

2) In the examination and resolution of the case, ensure a proper level of professionalism;

3) Not allow vested interests, public dissatisfaction, or the fear of being criticized to influence him;

4) Require all those that are present in the court session to respect order and the rules of ethics;

5) Display a patient, dignified, and gentle attitude towards all persons with whom the judge comes into contact in his official capacity. A judge must require such attitude from the court staff and other persons that are under the judge's management or supervision;

6) Carry out his duties in an impartial manner. When acting in his official capacity, a judge must abstain from displaying bias with words or actions and from leaving such an impression. Such bias includes bias regarding certain individuals and bias based on race, sex, faith, ethnic origin, physical handicap, age, social status, and other similar features. This paragraph does not prohibit the court from addressing race, sex, faith, ethnic origin, physical handicap, age, social status, and other similar features, if they are the subject of judicial review;

7) Monitor, and not allow any bias on the part of, the court staff and other persons under the judge's management or supervision;

8) Carry out examinations in a reasonable period, avoiding unnecessary delays;

9) Manage the court's funds efficiently, avoiding unnecessary costs;

10) Disapprove judicial costs which do not correspond to their reasonable value;

11) Abstain from publicly expressing an opinion on any case examined or anticipated in any court. A judge must abstain from expressing his opinion non-publicly, if it can interfere with the examination of the case. A judge must require such behavior of the court staff and others under the judge's management or supervision. This paragraph does not prohibit a judge from making public statements regarding his official duties or informing the public of the procedure of case examination in court. This paragraph shall not apply, if the judge acts as a party to a case; and

12) Beyond the exercise of judicial authority, not publicize and not use non-public information that became known to him as a result of performing his official duties, unless the law provides otherwise.

3. A judge must give any person with an interest in the outcome of the case or his lawyer the possibility to exercise his right to be heard by court, as prescribed by law.

4. Outside the scope of the judicial examination, a judge may not autonomously seek evidence or investigate facts related to a case pending before him.

5. A judge may not initiate, permit, or take into account communications with one party or his attorney made without the presence of the other party or his attorney (hereinafter, "ex parte communications"). A judge must not take into account his communications with any other person without the participation of the parties to proceedings, if such communications are concerned with a case examined by the judge. Exceptions from this rule shall be permissible only in the following cases:

1) When circumstances make ex parte communications necessary for logistical purposes, such as reaching agreement on the date and time of the session, for instance, or other similar emergencies, provided that the communications do not concern the substance of the case, do not place one party at a procedural or other advantage over another, and provided that the judge immediately communicates the substance of such communications to the other party—allowing the latter to respond;

2) When the judge asks an expert that does not have an interest in the outcome of the case to determine the applicable law, provided that the parties are notified of the expert's identity and view, and have the possibility to express their opinions on the expert's view;

3) When the judge consults with other judges or court staff that have the function of helping the judge in the exercise of judicial powers. If the ex parte communication takes place between judges of different judicial instances hearing the same case, the substance of such communication shall be notified to the parties; and

4) When such ex parte communication by the judge is directly prescribed by law.

6. When ex parte communications prohibited under Paragraph 5 of this Article have taken place independently of the judge's will, the judge must immediately notify the party not involved in such communications of their substance.

7. A judge must oversee compliance with the restrictions prescribed in Paragraph 5 of this Article on the part of court staff and other persons under the judge's management or supervision.

8. When performing logistical functions, the court chairman and each judge must carry out their logistical duties without any bias, ensuring the appropriate level of logistical skills. They must, if necessary, cooperate with other judges and court staff. The court chairman and judge must require such attitude of the court staff and other persons under their management or supervision.

Self-Withdrawal of Judge (Article 91)

1. A judge must self-withdraw from a case, if he has knowledge of facts or circumstances that may cast reasonable doubt on his impartiality in that case. The self-withdrawal grounds shall include, but not be limited to the cases when:

1) A judge has prejudice about a party, his representative, advocate, or other participants in proceedings;

2) A judge, in his personal capacity, is a witness to facts that are disputed in the proceedings;

3) A judge or his spouse or person of up to third degree of kinship with the judge or his spouse will reasonably act (there are grounds to believe that he/she will act) as a party to the case or has taken part in the examination of the case at a lower instance as a judge or a person taking part in the case. For purposes of this Code, the first degree of kinship includes a person's children, parents, and siblings. The second degree of kinship includes persons within the first degree of kinship, as well as persons that have first degree of kinship with the latter. The third degree of kinship includes everyone within the second degree of kinship, as well as persons that have first degree of kinship with the latter; or

4) A judge knows that he personally or his spouse or a person within the third degree of kinship

with the judge or the judge's spouse has economic interests in the substance of the dispute or in association with any of the parties.

2. A judge that self-withdraws must disclose the grounds of the self-withdrawal to the parties, which shall be recorded literally. A self-withdrawing judge, if he considers that he is capable of being impartial in the case before him, may propose that the parties discuss the possibility of waiving the self-withdrawal in the judge's absence. If the parties decide, in the absence of the judge, to waive the judge's self-withdrawal, then the judge shall perform the judicial examination of the case after putting such decision of the parties on the record.

Article 92 provides the restrictions on non-judicial activities of judges.

1. A judge may not occupy an office, which is not related to the performance of his duties, in a state government or local self-government body, or an office in a for-profit organization, or perform any paid work other than scientific, pedagogic, and creative work.
2. The performance by a judge of non-judicial activities may not:
   1) Cast reasonable doubt on his ability to act impartially as a judge;
   2) Diminish the reputation of the judicial office, or
   3) Hinder the proper performance of judicial duties.
3. A judge may not engage in advocate activities, including the performance of such activities for free, except for cases in which the judge gives legal advice without compensation to his family members and persons under his guardianship or custody.
4. A judge may not act as an asset trustee or executor of a will, except when he acts without any compensation in respect of the assets of his family member or a person under his guardianship or custody.
5. A judge may occupy a position in a non-for-profit organization, if:
   1) His activities in such position are performed without any compensation;
   2) The judge's court or a lower-instance court are not examining or reasonably anticipating a case that is connected with the interests of such organization; and
   3) If such position does not imply management of funds, execution of civil law transactions on behalf of the organization, or representation of the pecuniary interests of the organization before state government or local self-government bodies.
6. A judge must report his non-judicial activities to the Ethics Committee of the Council of Court Chairmen within the shortest possible timeframe, mentioning the relevant details.

Article 93 defines the cases in which compensation is received from non-judicial activities of a judge.

1. Payment for a judge's scientific, pedagogic, and creative work may not exceed the reasonable amount, i.e. the amount that a non-judge with similar qualifications would aspire to receive for the same work.
2. For non-judicial activities carried out in compliance with Paragraph 1 of this Article, a judge may receive reimbursement of expenses, if the source of such reimbursement cannot be reasonably perceived as influence over the judge in the performance of judicial duties, and if such reimbursement of expenses is limited to the real amount of reasonable costs of travel, food, and accommodation of the judge (and, in appropriate cases, also the judge's spouse).

Article 94 defines the prohibition of a judge's engagement in entrepreneurial activity.

1. A judge may not be a sole entrepreneur.
2. A judge may not be a member of an economic company or a depositor of a trust-based partnership, if:
   1) It reasonably implies use of the judge's official position; or
   2) In addition to taking part in the general assembly of the company, the judge is also engaged in the performance of instructive or managerial functions within the organization; or
   3) It can be reasonably assumed that the for-profit organization will often appear before the respective court as a party to proceedings.
3. A judge must aspire to manage his investments in such a way as to minimize the number of cases in which he must self-withdraw.

Article 95 provides detailed regulation of the prohibition of judges accepting gifts.

1. A judge shall not accept a gift from anyone or agree to accept a gift in the future. A judge must seek to keep his family members living with him away from such actions, as well. For purposes of this Code, a "gift" includes any pecuniary advantage that would reasonably not be given to a non-judge. For purposes of this Code, a "gift" also includes a ceded claim, assets sold or services rendered at a disproportionately low value, borrowings, free use of another one's assets, and the like.
2. The restrictions specified in the paragraph above shall not apply to the following:
   1) Gifts and awards usually given in public events;
   2) Books, computer software, and other similar materials provided at no cost for official use;
   3) Treats provided during an official ceremony;
   4) A gift related to the business, professional, or other type of autonomous activity of the judge's family member living with the judge, including a gift that could be used jointly with other family members, including the judge, provided that such gift cannot be reasonably perceived to serve the aim of influencing the judge;
   5) A gift received in the course of family hospitality;
   6) A gift received from a relative, friend, or associate on a special occasion, including a marriage, jubilee, or birth, provided that the essence and size of the gift reasonably correspond to the event and the nature of the relationship between them;
   7) A gift received from a relative, friend, or associate, if the essence and size of the gift reasonably correspond to the nature of the relationship between them;
   8) A scholarship, grant, or benefit awarded as a result of a public tender on the same conditions and criteria as those applied towards other applicants, or as a result of another transparent process; and
   9) A borrowing from financial institutions at the ordinary or common terms.
3. If the value of gifts considered permissible under this Article, which were received from one person during the same calendar year, exceeds 250,000 Armenian drams, or if the total value of such gifts received during a calendar year exceeds 1 million Armenian drams, the judge must report it to the Ethics Committee of the Council of Court Chairmen within the shortest possible timeframe.
4. If a judge learns that a person within third degree of kinship with the judge, who does not live in the same household as the judge, received a gift that can be reasonably perceived to have the aim of influencing the judge, then the judge must report it to the Ethics Committee of the Council of Court Chairmen within a one-week period of obtaining such information.
5. If a judge was given a gift considered impermissible under this Article, which cannot be returned through reasonable effort, then the judge must transfer such gift to the Republic of Armenia.

ANNEX 7. Restrictions that Apply to Judicial Servants

1. A judicial servant may not:
1) Perform other paid work, with the exception of scientific, pedagogic, and creative work;
2) Personally engage in entrepreneurial activities;
3) Act as a representative in court, with the exception of being a legal proxy;
4) Permit any violation of the Code of Conduct for Judicial Servants (approved by the Council of Court Chairmen) or use his official position for personal gain or other purposes not related to interests of the service;
5) Receive honorarium for publications or speeches made as a part of his official duties;
6) Use material, technical, financial, and information resources, other judicial assets, and official information for non-work-related purposes;
7) Receive gifts, amounts, or services from other persons for the performance of his official duties, with the exception of cases stipulated by the Republic of Armenia legislation;
8) Be a member of any political party or otherwise engage in political activities. Under any circumstance, a judicial servant is obliged to display political self-restraint and neutrality; or
9) Work jointly with a person related to him by close family relationship or an in-law relationship (parents, spouse, child, sibling, parents-in-law, spouse's child, or spouse's sibling), if their service is related to direct subordination to or supervision by one another.

ANNEX 8. Table of Recommendations

Article of "Preventive Measures" Chapter of the UNCAC	RA Anti-Corruption Policy and Institutions	Professional Public Service; Transparency of Government Bodies	Civil Society Participation and Access to Information
1.	2.	3.	4.
Article 5. Preventive anti-corruption policies and practices	To develop the new RA Anti-Corruption Strategy on the basis of the anti-corruption policy concepts and to include measures to prevent, detect, and enforce laws in relation to corruption cases.		
	To develop the new Anti-Corruption Strategy in line with the UN Convention against Corruption and recommendations of both the Anti-Corruption Network for Transition Economies (OECD) and GRECO.		
	As a set of output indicators for the new Anti-Corruption Strategy, develop a new system of indicators for Armenia, taking into consideration the Corruption Perception Index of Transparency International, the Freedom House Transit Corruption indicator, and the World Bank's Corruption Control indicator.		

Article 6. Preventive anti-corruption body or bodies	To improve the professional capacity of the Anti-Corruption Council and Anti-Corruption Monitoring Commission, through establishment of new professional structural sub-divisions. These sub-divisions will provide secretarial and professional advisory services to Anti-Corruption Council and the Monitoring Commission. As one option to consider the possibility of creating a specialized anti-corruption agency within the RA Government apparatus, or by separate law, on the basis of the existing Anti-Corruption Council and Monitoring Commission: such an agency would undertake to implement the anti-corruption strategy and policy and to coordinate the activities of law-enforcement bodies specializing in the fight against corruption.		
Article 7. Public sector		To consider in the draft RA Law on Public Service principles on the status of public servants, conflicts of interest, ethics codes, training, merit-based selection, remuneration, and corruption prevention. It is also recommended to reflect in the draft law limitations on ethics codes and conflict of interest for the political and discretionary positions.	To adopt a new training framework, to liberalize the training, and to eliminate administrative regulations and to introduce into the existing training modules courses on codes of ethics for civil servants, work regulations, anti-corruption restrictions and other topics that will aim at increasing the role and capacity of civil servants.
		To develop a civil servants' performance assessment system and link it with their remuneration and incentives.	

Article 8. Codes of conduct for public officials	To define by law the status of ethics committees, scope of their authority, and develop their capacity in the RA civil service system.	To introduce ethics codes for public servants in line with the European uniform standards, and to adopt specific ethics codes for certain professional services.	To conduct training on integrity for public servants that will cover topics on conflict-of-interest and ethics, awareness-raising on corruption cases, and the enforcement of sanctions..
		Define disciplinary sanctions for public servants violating the code of ethics. Form a body that will monitor compliance of public servants with the code of ethics, conflict-of-interest clauses, and financial reporting (including asset and income disclosure) requirements.	
		To devise mechanisms to monitor the ownership of public servants. There should be sanctions for public servants failing to disclose assets and income and to perform other financial liabilities.	
Article 9. Public procurement and management of public finances	To establish an e-procurement system. Develop a website for the State Procurement Agency, which will make the process of public procurement accessible to citizens and transparent.	To review the status of the State Procurement Agency with a view to defining codes of conduct for its employees and closely monitoring compliance with the procurement rules.	
	To define the status of and the code of conduct for internal auditors, and to establish sanctions for internal auditors violating the rules.	To complete the process of transition to new standards of accounting.	

Article 10. Public reporting	To build the capacity of public relations units, information centers of public administration bodies to work with and obtain feedback from civil society.	In view of ensuring transparency, to require the heads of public administration bodies to publish reports on their policy implementation. This should become a regular excercise.	
			To form a system of government and public administration bodies' accountability before civil society which will provide information on corruption threats in governmental bodies.
Article 11. Measures relating to the judiciary and prosecution services	In light of the Amended Constitution, which entails reform of the prosecution system and the judiciary, to test the anti-corruption provisions of the Law on Prosecution and the Judicial Code and, based on lessons learnt and the international standards, to revise the legislation.		To organize joint anti-corruption training courses for specialists of different bodies.
Article 12. Private sector	To strengthen the RA Chamber of Commerce and Industry with a view to empowering it to establish good-faith conduct standards and procedures for private companies, as well as clauses to prevent conflicts of interest. In this sense, it would be useful for the RA Chamber of Commerce and Industry to apply the International Chamber of Commerce (ICC) Rules of Conduct and Recommendations for Combating Extortion and Bribery.31 Deeper collaboration with the ICC in the fight against private sector corruption will help to reduce the "supply" of corruption in Armenia's private sector.	In the Law on Joint-Stock Companies, to clarify the provisions on the management-ownership relationship and to improve the separation of their respective powers, to define the formal duties and accountability of the Board of Directors, and to introduce codes of conduct for owners and employees and clauses preventing conflicts of interest.	

[31] For details, see http://www.iccwbo.org/policy/anticorruption/id870/index.html

Article 13. Participation of society	To create resource centers throughout the country, following the example of the Anti-Corruption Resource Centers for the Public established with the support of the OSCE Armenia country office.		The mechanisms of civil society participation in the Anti-Corruption Monitoring Commission should be reconsidered. The civil society should be given an opportunity to propose NGO members to the Monitoring Commission on its own.
	To create anonymous telephone and electronic hotlines in all anti-corruption agencies.		To implement public education and awareness-raising activities that will foster the fight against corruption. State programs of public education should address the causes, consequences, and essence of corruption, among other topics.
			To train journalists on corruption and to ensure compliance with the laws on freedom of information, which will improve the coverage of anti-corruption measures and the public perceptions.
Article 14. Measures to prevent money laundering	To harmonize the legislation on the prevention of money laundering with the international legal requirements.	To ensure closer collaboration with the RA law-enforcement agencies and to improve the quality of suspicious transaction reviews and reports with a view to increasing the number of exposed corruption cases.	
	To strengthen the capacity of the Financial Monitoring Center, including the provision of state-of-the-art information technology to the FMC.		
	To improve the quality of reports and analyses produced by the FMC.		