Fighting Corruption
in Transition Economies

Armenia

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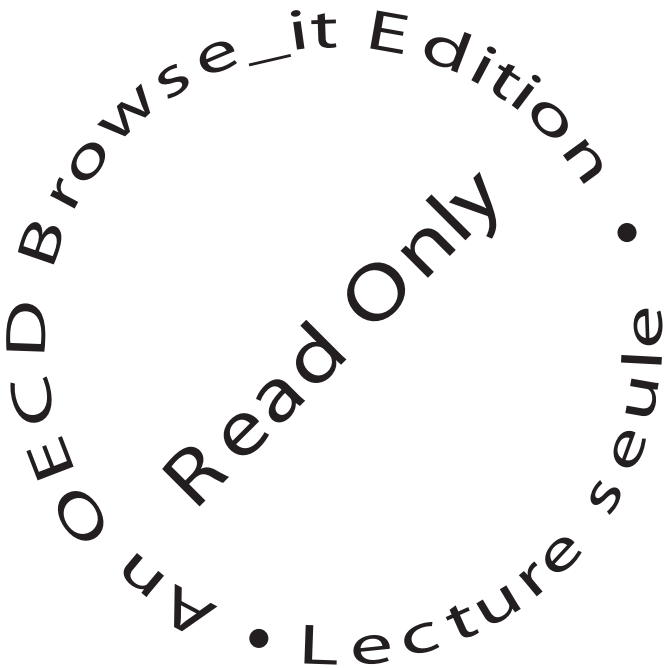

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АРМЕНИЯ

FOREWORD

The fight against corruption has only recently been placed on the international policy agenda, despite its long-known effects on democratic institutions and economic and social development. Today, many international organisations are addressing the global and multi-faceted challenge of fighting corruption. The main contribution by the OECD has been in the area of fighting corruption in international business transactions. The 1997 *Convention on Combating Bribery of Foreign Public Official in International Business Transactions,* together with the 1996 *Recommendations* and 1997 *Revised Recommendation of the Council on Combating Bribery in International Business Transactions* were adopted by all OECD countries and five non-OECD countries. It is a legally binding document, the implementation of which is systematically monitored. This convention has since become a powerful tool in controlling international bribery.

The *OECD Guidelines for Multinational Enterprises* and *Principles of Corporate Governance* are non-binding tools that help level the competitive playing field for companies and ensure the integrity of business operations. The OECD also addresses the demand side of bribery through its work on public governance, which includes *Recommendations on Improving Ethical Conduct in the Public Service, Guidelines for Managing Conflict of Interest in Public Service* and *Best Practices for Budget Transparency*. The *Support for Improved Governance and Management Programme (SIGMA)* helps the EU candidate and new member countries to reform their public administration, and to strengthen their public procurement and financial control systems. The OECD also fights corruption in aid-funded procurement and has endorsed the *Recommendations on Anti-Corruption Proposals for Bilateral Aid Procurement*.

The OECD supports several regional initiatives to promote anti-corruption actions in non-member countries. The Anti-Corruption Network for Transition Economies — one such initiative — assists the countries of Central, Eastern and South Eastern Europe, Caucasus and Central Asia in their fight against corruption by providing a regional forum for exchanging experience and

elaborating best practices. Ministers launched the Istanbul Anti-Corruption Action Plan in 2003 to provide targeted support to Armenia, Azerbaijan, Georgia, Kazakhstan, the Kyrgyz Republic, the Russian Federation, Tajikistan and Ukraine. Implementation of this Action Plan includes reviewing the legal and institutional framework for fighting corruption, identifying its achievements and weaknesses, and proposing further actions.

The review was based on the OECD methodology for self-assessment and peer review. Self-assessment reports were prepared by the governments of Istanbul Action Plan countries. International teams of experts reviewed the reports and provided their assessment and recommendations. The recommendations were endorsed at review meetings, which brought together national governments of Istanbul Action Plan countries, other transition economies and OECD countries, international organisations, international financial institutions, as well as civil society and business associations involved in fighting corruption in the region. The recommendations contain country specific actions in areas such as strengthening anti-corruption policy and institutions, reforming anti-corruption legislation according to international standards, and implementing preventive measures by ensuring an ethical civil service and effective financial control.

This report presents the first systematic international anti-corruption review of Armenia. The results, presented in this publication, provide an important guide for this country in its anti-corruption efforts. The recommendations provide a benchmark for regular monitoring of Armenia's progress. This report also serves as a reference for other partners involved in fighting corruption not only in transition economies, but also in other regions of the world.

William Witherell
Director for Financial and Enterprise Affairs
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The review of the legal and institutional framework for fighting corruption in Armenia was carried out within the framework of the Istanbul Anti-Corruption Action Plan for Armenia, Azerbaijan, Georgia, Kazakhstan, the Kyrgyz Republic, Russian Federation, Tajikistan, and Ukraine.

Olga Savran, OECD Anti-Corruption Division, provided the general management for the Istanbul Action Plan, including the review process. Goran Klemencic, legal advisor to the Istanbul Action Plan, took the lead in designing the review framework, co-ordinated the expert review teams, and managed the review meeting. Nicola Bonucci, Acting Head of the OECD Anti-Corruption Division, chaired the review meeting and ensured effective discussions which resulted in the endorsement of recommendations by consensus of all the parties.

Armen Khudaverdian, Public Sector Reform Commission, co-ordinated Armenian participation in the Istanbul Action Plan. Tigran Mukuchyan, Deputy Minster of Justice, led the Armenian delegation at the review meeting. Tigran Barsegyan, Legal Department, co-ordinated the national input for the self-assessment report and provided expert support during the review.

The team of review experts who examined the self-assessment report for Armenia and developed the draft assessment and recommendations included:

- Oleksandr Dykarev, State Department for Financial Monitoring, Ukraine
- Henrik Horn, Ministry of Justice and Police, Norway
- Valts Kalnins, Centre for Public Policy Providus, Latvia
- Igor Kamynin, General Prosecution, the Russian Federation
- Vladimir Menshov, Civil Service and Administrative Reform Department, the Kyrgyz Republic

- Bostjan Penko, Office for the Prevention of Corruption, Slovenia
- Daniel Thelesklaf, TVT Compliance Ltd, Switzerland.

Varuzhan Hoktanyan, Transparency International Armenia, presented the civil society position paper at the review meeting.

The review meeting, which examined the self-assessment report and endorsed the recommendations, brought together representatives from all Istanbul Action Plan countries, as well as selected OECD countries and transition economies (Canada, Moldova, Norway, Switzerland, Turkey and the US), international organisations (Council of Europe/GRECO, UNDP, UNODC, EBRD and OSCE), civil society and business associations (ABA CEELI, Transparency International, Open Society Institute and BIAC).

Lyndia Levasseur-Tomassi and Marie-Christine Charlemagne, OECD Anti-Corruption Division, provided effective assistance to the review process.

The review was organised with the financial assistance of Norway, Switzerland and OSCE.

The OECD Secretariat expresses its gratitude to all other partners who contributed to the review process.

INTRODUCTION

Istanbul Anti-Corruption Action Plan

The Istanbul Action Plan for Armenia, Azerbaijan, Georgia, Kazakhstan, the Kyrgyz Republic, the Russian Federation, Tajikistan and Ukraine was endorsed at the 5th Annual Meeting of the Anti-Corruption Network for Transition Economies (ACN) in September 2003 in Istanbul. ACN Secretariat, based at the OECD Anti-Corruption Division, provides secretarial support for the Istanbul Action Plan. An Advisory Group was established to assist the Secretariat to develop, implement and assess the Work Programme of the Istanbul Action Plan; the Group brings together national coordinators from the Istanbul Action Plan countries, OECD members and donor agencies, international organisations, civil society and business groups.

The implementation of the Action Plan foresees several phases: review of legal and institutional framework for fighting corruption and endorsement of recommendations; implementation of the recommendations though national actions and international support; and review of progress in implementing the recommendations. The first phase – country review of legal and institutional frameworks for fighting corruption – has been conducted in 2004.

Country Reviews

The methodology of the review was based on the OECD practice of mutual examination, and took account of the experience of other organisations, such as the Council of Europe and its GRECO review programme. The Istanbul Action Plan review included the following elements: self-assessment carried out by the governments of examined countries; expert analysis of the self-assessment report by a team of peer reviewers; discussion of the assessment and recommendations developed by the experts during Istanbul Action Plan review meetings; and endorsement of country recommendations based on consensus.

To help the governments to carry out the self-assessment, the Secretariat developed Guidelines for Status Reports. The Guidelines included a series of questions with comments, covering the following areas: national anti-corruption strategy; promotion of accountability and transparency (ethics in the public

service; public procurement; financial control; tax and customs systems; money laundering; corporate accounting and auditing; access to information; private sector and civil society involvement; political party financing); criminalisation of corruption (definition and elements of offences including active and passive bribery and other corruption related offices; sanctions; statute of limitations; definition of a public official; defences and immunities; jurisdiction; confiscation of proceeds; corruption in private sector and liability of legal persons); specialised service; investigation and law enforcement (distribution of powers between law enforcement agencies; mandatory and discretionary prosecution; investigative capacities; organised crime and corruption); international aspects and mutual legal assistance.

The self-assessment reports were developed by the governments of the Istanbul Action Plan countries, based on the inputs of their national institutions involved in the prevention and combating corruption. The reports were supported by extracts from various legal acts. These reports provided the main basis for country examinations. Additional publicly available sources of information were used as well, such as reports developed by other international organisations. Reports specially prepared for this review by the civil society groups provided an important input.

Teams of review expert teams were established for each country. The experts were nominated by the governments of Istanbul Action Plan countries (excluding the examined country), other transition and OECD countries, international organisations and civil society groups participating in the Action Plan. The expert teams studied the reports and other available information, and developed draft assessments and recommendations for each country. The draft assessment and recommendations were presented at review meetings, which brought together some 80 participants, representing all the main stakeholders. The review meetings provided an opportunity for the national delegations to present their self-assessment report, the review team presented draft assessment and recommendations, and all the participants debated final recommendations. The recommendations were endorsed by consensus.

Assessments and Recommendations

The recommendations include general assessment and recommendations, followed by concrete recommendations in three broad areas: national anti-corruption policy and institutions; legislation and criminalisation of corruption and transparency of the civil service. The assessment and recommendations vary among the countries reflecting different national situations. While it is impossible to summarise the findings for all the countries, a number of common issues emerged during the review.

Anti-Corruption Policies and Institutions

Many countries have declared the fight against corruption a key priority in the broader framework of economic and social reforms. At the time of the reviews, Georgia and Ukraine were entering the stage of updating their existing anti-corruption strategies; Armenia has adopted its anti-corruption strategy; Azerbaijan and Tajikistan were in the process of elaborating and adopting such policy instruments. While recognising these achievements, the recommendations stress the need to improve the analytical basis for such programmes, including the need to study the patterns and trends of corruption in each country, to identify sectors and institutions where the risk of corruption is particularly high. The recommendations call for reinforcement of implementation measures, and a balanced approach of repressive and preventive measures. They further underline the importance of a participatory process for the elaboration and monitoring of anti-corruption programmes and strategies, which should involve all branches of public authorities, civil society and private sector. Finally, the recommendations stress the importance of effective monitoring and reporting mechanisms to support the implementation of anti-corruption policies.

Armenia, Georgia and Ukraine have established anti-corruption councils or committees responsible for the elaboration and/or monitoring of the implementation of anti-corruption strategies. The recommendations call to strengthen these bodies by ensuring their independence and high moral of their members, promoting public involvement in their work and providing adequate resources for their effective operations. Establishing a national multi-stakeholder anti-corruption council was recommended for Tajikistan. In addition to these policy bodies, it was recommended for all countries to establish specialised anti-corruption law-enforcement agencies, responsible for detection, investigation and prosecution, as well as for the coordination among other law-enforcement agencies involved in the fight against corruption.

The recommendations for all countries stress the importance of awareness raising among the general public and public officials, and training at all levels, including corruption-specific training for policy, prosecutors, judges and other law enforcement officials.

Legislation and Criminalisation of Corruption

The assessment of national anti-corruption legislation confirmed that all reviewed countries have developed core legislation criminalising corruption and corruption related crimes, but national anti-corruption legal standards fall short of international anti-corruption standards, such as the Council of Europe's

Criminal Law Convention on Corruption, the United Nation's Convention on Corruption and the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions. The recommendations in the field of anti-corruption legislation require from all countries of the Action Plan to reform national legislation and to bring in line with the international anti-corruption standards, including the following recommendations:

- Criminalise offer and promise of bribe, non-material benefits and trading in influence, and bribery though a third person; clarify provisions about gifts to officials;
- Ensure adequate sanctions for corruption and corruption related offences, strengthen sanctions for active bribery;
- Ensure effective responsibility of legal persons for corruption;
- Ensure mandatory confiscation of proceeds, value based confiscation, and confiscation from third persons; consider introducing legal provisions for checking and seizure of unexplained wealth;
- Ensure sufficient statute of limitation for corruption and corruption related offences;
- Ensure that definition of a public official is broad enough to include all levels of power, state representatives on boards of companies, foreign and international officials;
- Reduce scope of immunities and categories of officials who benefit from them, clarify criteria for lifting immunities;
- Ensure effective international mutual legal assistance;
- Ratify the Council of Europe and the UN Conventions against corruption.

The recommendations call the countries to harmonise their anti-corruption legislation in order to ensure that the provisions of Laws on the Fight against Corruption, which were recently adopted in many countries, are adequately reflected in the Criminal Code and other relevant legislation, and that disciplinary, administrative and criminal corruption offences do not contradict each other, and do not leave legal gaps.

The reviews stressed that more information was needed to assess actual interpretation and implementation of the legal texts. The recommendations call the countries to evaluate continuously the application of their national anti-corruption legislation, and to develop it further based on the analysis of its effectiveness.

Transparency of Civil Service

During the review of corruption prevention measure in civil service, countries have reported about their efforts in developing regulatory frameworks in such areas as merit-based civil service and management of conflict of interest; transparency and fairness in public procurement and taxation; financial control and anti-money-laundering; political party finance; and public access to information. The recommendations propose further reforms in these areas, including the following:

- Introduce unified merit-based system for appointments and promotion in the civil service, which would, to the extend practicable, limit discretional decisions;
- Elaborate and disseminate comprehensive practical guides for public officials on corruption, conflict of interest, ethical standards, sanctions and reporting of corruption; provide training on anti-corruption to officials; introduce codes of conduct for civil servants, particularly in the agencies where the risk of corruption is high; consider the introduction of an ethics supervision body/commissioner;
- Ensure effective implementation of Conflict of Interest legislation, including strengthening of monitoring of its implementation, empowering relevant institutions to verify the accuracy of submitted declaration of assets, sanctions for failure to comply with requirements; Improve the mandatory asset disclosure system for higher ranking public officials in all branches of government;
- Adopt measures for the protection of employees in state institutions and other legal entities against disciplinary action and harassment when they report legitimate suspicious practices within the institutions to law enforcement authorities or prosecutors, by adopting legislation or regulations on the protection of "whistleblowers"; improve the system of internal investigations in cases of suspected or reported corruption offences;
- Introduce measures to limit discretion in public procurement; introduce eligibility criteria to exclude from bidding companies, which had been convicted for corruption; promote electronic contracting; enhance transparency of procedures and publishing public procurement information;
- Review the regulatory framework for taxation to reduce incentives for tax evasion and to limit the discretionary powers of tax officials;
- Pursue the implementation of the FATF recommendations; adopt and enact anti-money laundering legislation; establish and strengthen Financial Intelligence Units; build expertise necessary for financial

investigations in corruption-related cases, ensure coordination and exchange of information with financial control/audit institutions;

- Consider establishing an office of an Information commissioner to receive appeals under the Law on Access to information; limit discretion of officials and the scope of information that could be withheld; enhance cooperation with civil society.

Implementation of Recommendations

While these recommendations are not legally binding, they represent the commitment of the participating states, and are expected be implemented as such by their governments. Implementation of these recommendations will not only support the objectives of the Istanbul Anti-Corruption Action Plan, but will also help the countries to meet their legally binding obligations under the United Nation's Convention on Corruption and the Council of Europe's Criminal Law Convention on Corruption.

Besides, the results of the reviews provide a framework for launching the second phase of the Istanbul Action Plan, which will focus at the regular monitoring of national actions to implement the recommendations and at thematic reviews on selected priority issues; they will also provide a benchmark for review of implementation of recommendations, planned under the third phase of the Action Plan.

Following the Introduction, the book presents the recommendations. Next section contains the full text of the national self-assessment report. Civil society report and the text of the Istanbul Action Plan are presented in Annexes. This publication was compiled by the OECD Secretariat; it is available in English and Russian languages. For more information, please refer to the web site of the Anti-Corruption Network for Transition Economies/OECD www.anticorruptionnet.org.

SUMMARY ASSESSMENT AND RECOMMENDATIONS

Endorsed on 18 June 2004

National Anti-Corruption Policy and Institutions

General Assessment and Recommendations

The Republic of Armenia recognizes that corruption is an important problem in the country. In 2003, Transparency International's Corruption Perception Index ranked Armenia 78th in a list of 133 countries. In recent years, the Government has stepped up efforts to address corruption. A Steering Committee to co-ordinate the Anti-Corruption Program was established by the Prime Minister Decree N°4 of 22 January 2001. Under this initiative an Anti-Corruption Strategy and Action Program were adopted in November 2003.

Armenia is party to several relevant bilateral and multilateral international agreements, including the European Convention on Human Rights with its Protocols, the Council of Europe Convention on Mutual Assistance in Criminal Matters, the Council of Europe Convention on Extradition and Council of Europe Laundering, Search, Seizure and Confiscation of the Proceeds from Crime. Armenia has also signed the Council of Europe Criminal Law Convention on Corruption and joined the Council of Europe's Group of States against Corruption (GRECO) in 2004; its evaluation within the framework of GRECO is scheduled for 2005.

The 2003 Anti-Corruption Strategy and Action Program focuses on fighting corruption in the economic sector. It proposes measures to streamline anti-corruption preventive actions in the shadow economy, in tax and customs administration. It further addresses the business environment and proposes to protect property rights and to differentiate the public and private sectors, to create competitive policies, and to ensure a free competitive environment.

The Program furthermore proposes measures aiming at reforms of the legislative framework and its harmonization with international anti-corruption standards. Ensuring judicial independence, repression of corruption occurrences in law enforcement and public management systems, as well as political

corruption and civil society participation in the fight against corruption are also emphasized by the Program. Proposed reforms of the judicial system aim to improve the independence of judicial powers. The program emphasizes the importance of further improvements in the civil service, launching a mechanism for a public appeal system, strengthening and protecting the institutions for the protection of human rights. Measures are being developed to diminish corruption risks in electoral, self-governance, education, and health systems.

It is envisaged that the fight against corruption under the Program will be co-ordinated by an Anti-Corruption Council reporting to the President. Under the auspices of such a Council, there will be an Anti-corruption Monitoring Group (ACMG) which will be composed of different governmental bodies and civil society representatives. The Council and the Group shall be responsible for monitoring the program implementation, particularly the co-ordination of anti-corruption measures. The Council and the Group are currently in the final stages of establishment.

While the anti-corruption coordination and monitoring functions are in the process of consolidation and strengthening (establishment of the ACMG), Armenia still lacks an independent law enforcement and/or prosecution agency for the fight against corruption. Currently, detection and investigation of corruption offences are performed by regular law enforcement agencies within their respective competencies (National Security Service and Police) and operating pursuant to laws on these services (Armenian Law on Agencies of National Security, Armenian Law on Service at Agencies of National Security, Armenian Law on the Police, Armenian Law on Service at the Police). It should be noted that recently a specialized department has been created within the Prosecutor General's office to deal primarily with the prosecution of corruption cases. Specialized anti-corruption units also exist within the above law enforcement agencies. There is, for example, a Unit for Fighting Economic Crime and Corruption in the Organized Crime Department of the Police. According to the report, there is no undue duplication of authority or functions of these bodies. The co-operation between them is carried out according to common principles adopted among law enforcement agencies. Nevertheless, it appears that the level of such co-ordination remains a subject of concern. Positive achievements can be seriously undermined if law enforcement agencies lack efficiency in prosecuting and adjudicating corruption-related offences. It is well known that every initiative against corruption loses credibility if policies are not supported by visible and efficient law enforcement actions and concrete results.

In this context, the discrepancy between the reported level of corruption in the country and the actual prosecution and conviction rates for bribery and

corruption-related offences is a matter of serious concern. In such an environment it is difficult to tackle corruption in all public agencies at once and even more so in a country with limited financial resources. Focusing prevention, and in particular law enforcement, efforts on a few selected corruption-risk areas demonstrates the possibility of positive changes. However, even such focused measures require a co-ordinated approach of law enforcement and prosecution bodies with properly specialized, trained and committed personnel, free of undue political or other interference.

Consequently, it should be a priority task of the Government to actually implement its Anticorruption Strategy and Program as well as to undertake concrete measures for consolidating efforts on the repressive side of the fight against corruption. Armenian authorities should also recognize the importance of the consolidated action of the Government and civil society in controlling corruption and involving the private sector and civil society in the fight against corruption to the largest possible extent.

Specific Recommendations

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

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

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

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

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

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

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

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

Legislation and Criminalisation of Corruption

General Assessment and Recommendations

The criminal code of Armenia has a number of provisions criminalizing corruption and corruption-related offences. However, the scope of the criminalized acts does not fully meet the requirements of international anti-corruption standards (as enshrined in the United Nation's Convention on Corruption, the Council of Europe's Criminal Law Convention on Corruption and the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions).

For example, criminalized passive bribery and active bribery should cover offering or soliciting a bribe. The provision which legalises a payment of a considerable amount of money to a public official for an action or non-action within his competences, provided there is no preliminary agreement, appears as

an odd anachronism. This provision seems construed to make *de facto* corruption legal and would thus serve to foster corruption.

Armenian legislation does not explicitly cover bribery of foreign or international public officials or bribery in international financial transaction.

The transfer of non-material advantages to public officials is not considered corruption, even if all the elements of corruption are present. This is a loophole that should be closed. Other advantages, apart from a "pecuniary bribe", should qualify for corruption.

Furthermore, Armenia should introduce the criminalization of trading in influence in its legislation, as required by international anti-corruption standards.

Effective, dissuasive and proportionate sanctions are important elements in the fight against corruption. They largely depend upon actual sentencing rather than on the scope of the law and have not been covered by this review process. However, the legal provisions of the maximum sentence, as well as certain aggravating circumstances, need to be clarified in Armenian legislation to ensure adequate statute of limitations.

According to the draft report it appears that certain important ranks of public officials in Armenia at national and district level enjoy an extensive degree of immunity in cases involving corruption. They are subject to criminal liability only when certain representative bodies consent. The report does not elaborate on the actual practice on lifting immunity. While it is difficult to judge if the system hinders criminal liability for the public officials in practice, it is recommended that prosecuting bodies should not depend on the discretionary consent of political bodies. Exemptions from criminal liability should be granted to public officials on the basis of transparent and reasonable criteria.

It appears that Armenian legislation does not contain any kind of liability for legal persons in corruption or corruption-related cases, which is required by most international standards on corruption. The lack of liability of legal persons creates a risk that the bribing side cannot be held responsible, when no individual briber can be clearly identified. Besides, it can lead to unbalanced decisions when an individual is only responsible for actions that are carried out in the interest of the employer; punishing only an individual will not encourage companies to fight corruption within their ranks.

The Armenian report states that proceeds from corruption are subject to confiscation. It does not elaborate on specific provisions and problems which

might arise in connection with confiscating proceeds. Confiscation is one of the important tools for ensuring effectiveness of anti-corruption efforts and should meet international standards (*e.g.* as prescribed in the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime of 1990). Confiscation of proceeds from corruption and corruption related offences should be made mandatory. The law should enable to confiscate proceeds of crime in monetary form, or, if not possible, in other forms with equal value; any additional yields from proceeds should be confiscated as well. Proceeds should be confiscated from third person, *i.e.* when the bribe taker has hidden them with relatives or other trustworthy persons. The report does not elaborate on the interim measures available at the stage of investigation for the purpose of confiscation at a later stage. In addition, Armenia could explore possibilities to check unexplained wealth/illicit enrichments, under proper checks and balances in accordance with international practices, and to seize or confiscate such wealth if it is determined to have been acquired as a result of illicit income.

Concerning the investigative capacities, the report mentions the possibility of getting access to bank files. Certain investigative capacities are important to strengthen the possibilities of detecting corruption, e.g. interceptions of communications and protection of witnesses. Armenia should consider providing the legal basis for those capacities considered necessary in corruption cases.

Specific Recommendations

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

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

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

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

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

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

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

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

Transparency of the Civil Service and Financial Control Issues

General Assessment and Recommendations

According to the report, Armenia has key institutional mechanisms which are necessary for the operation of a merit-based civil service. Armenian law stipulates competition as a means to recruit personnel for the civil service. However, certain stages of the recruitment allow for excessive discretion. For example, the competition commission submits several rather than one winner to the official responsible for appointments. The latter then makes a discretionary decision to appoint one of the winners. A seven-member Civil Service Board, appointed by the president, is tasked with selecting staff for government agencies and monitoring the performance of government officials. However, critics of the council argue that because it is appointed by the president, it lacks objectivity and independence.

According to the report, codes of conducts are not part of Armenian tradition. There have been only a few adopted in recent years in specific organizations, such as the Armenian Bar Association or Prosecutor's Office. The Anticorruption Coordination Monitoring Group may play a crucial role in developing codes of ethics in all areas of public sector and business activities in Armenia.

Armenia does not have uniform conflict of interest regulations for all civil servants. Regulations against conflict of interests, which could be used as an example, are found in Armenia's "Law on Service in Police" which provides relevant restrictions for police officers. It is particularly important that these restrictions include mechanisms such as fiduciary management of company shares owned by police officers and statements of income.

In addition to police officers, some 3 000 senior government officials, including the president and government ministers, have to declare annually revenue and property belonging to themselves and their families. The law neither requires the verification of the financial statements nor provides for strict punishment for providing false information. Gaps in the legislation enable officials to register property in the name of relatives, thereby providing another means of tax evasion.

Armenian laws envisage a criminal liability clause for those who fail to report to the enforcement authorities about the facts definitely known to them on planned offences, those in process and committed. This requirement should be tightened up at least with regard to specific groups of public officials who,

by virtue of their service, are likely to detect signs of corrupt transactions. Moreover whistle-blower protection measures are needed.

Armenia's tax and customs systems have both their strengths and weaknesses in addressing the issues of corruption. Apparently there are no standard procedures in the tax and customs systems for the detection and reporting of corrupt transaction. However, a number of measures are aimed against internal corruption within these systems. Here of special importance is the Supervision Department of the State Tax Administration. Meantime according to a recent World Bank sponsored report, which overall ranks Armenia rather positively, bribes to tax officials are the most widespread form of administrative corruption in Armenia.

There are several different institutions in the area of financial control, namely Chamber of Control of the National Assembly, Financial Supervision Department (Ministry of Finance) and a number of internal audit agencies in state and local institutions, not to mention the Central Bank of Armenia. It is important that financial control is harmonized and strategically planned and complemented. Support has to be given to new laws, bringing maximum independence to Chamber of Control.

According to the status report, the draft law on Combating Legalization of Criminal Proceeds and Terrorism Finance will cover the major anti-money-laundering aspects. This important piece of legislation should enter into force as soon as possible. Upon enactment of this anti-money-laundering law, a financial intelligence unit needs to be established.

While overall guarantees for access to information appear adequate, certain aspects of the existing regulatory framework seem vulnerable to abuse. It is highly commendable that, under the Law on Freedom of Information, government bodies are obliged to release information within 5 to 30 days. They are permitted to refuse the release of information in only a few cases, and failure to comply with the law is a criminal offence. However, according to the status report the information holder shall draft and publish its own procedures for providing information. Therefore it is worth considering that the procedure for providing information is determined in a centralized and uniform manner.

Armenia's Law on Parties appears to be a potent tool for the tackling of political corruption. The law imposes prohibitions on donations from a number of sources to the parties, provides for state financing of political parties, and obliges parties to submit financial and accounting reports. Moreover the financial reports are to be published in the media.

Specific Recommendations

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

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

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

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

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

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

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

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

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

SELF-ASSESSMENT REPORT

National Anti-Corruption Strategy Against Corruption

Overview of Corruption Situation in Armenia

The analyses of key issues provided by the public management system and a series of surveys conducted by civil society organizations served as the basis for the development and implementation of an anti-corruption strategy by the Government of Armenia (GoA).

One of the most significant contributions was the 2001 sociological survey report on public reforms for households and enterprises submitted by the Armenian National Forum, a non governmental organisation (NGO) funded by the World Bank. In 2002, the Armenian office of Transparency International, which receives financial support from the United Kingdom, the US Agency for International Development, and the OSCE Yerevan Office, conducted a public opinion poll on the prevalence and incidence of corruption in Armenia. According to the findings of this survey, representatives of all categories perceive corruption as an important problem in Armenia. They do not associate it, however, with Armenia's independence. The majority of the respondents perceive corruption in the form of bribery and the abuse of official positions.

Over the last several years, there seems to have been a decline in the level of corruption. In particular, the World Bank and EBRD surveys among businesses in 1999 and 2002 found that in 2002 the incidence of corruption in Armenia as compared to 1999 declined significantly both in absolute terms and in comparison with Armenia's position vis-à-vis other countries covered by similar surveys.

Two specific types of observations related to corruption were covered in this survey: (a) the magnitude of the "bribe tax" paid to various public officials by businesses in the conduct of their activities; and (b) the magnitude of the "cost of time" spent by business management with public agencies in the conduct of their activities, as well as the change in these indicators over time. In 2002, business entities paid 0.92% of their sales turnover as a "bribe tax" as opposed to 7.47% of sales turnover recorded in 1999. This represents an eight-

fold decrease and compares to a 3.7 fold decrease observed in the 24 countries surveyed for the same period. If in 1999 the "bribe tax" index of 7.47% in Armenia was higher by about 20% than the average index of 1.6% of all 24 countries, in 2002 the index of 0.92% recorded in Armenia was approximately twice as small the average 1.6% of the 26 surveyed countries. A similar situation was observed in the "cost of time" category. In 1999, Armenian business management spent an average of 11.7% of their time on relations with public authorities, whereas in 2002 this was only 2.8%. This represents more than a four-fold decline. In all 24 surveyed countries the same index decreased by about 1.3 times. It is worthwhile noting that if the index of 11.7% recorded in Armenia for 1999 was approximately 21% higher than the average 9.7% index of the 24 countries involved in the survey, than the 2.8% index recorded in 2002 in Armenia is about three times smaller than the average 1.75% of the 26 countries surveyed.

The Corruption Perception Index (CPI) was developed by the NGO Transparency International. It encompasses and publishes findings of 17 public opinion polls among businesses and academia, as well as the perception of corruption by risk assessment experts. It covered 133 countries in 2003. Its calculations focus primarily on corruption in the public management system, whereas political and administrative types of corruption are not distinguished. Nevertheless, the CPI first and foremost encourages the public to pay greater attention to the phenomenon of corruption and intensifies pressure in terms of anti-corruption measures, which is intended to improve the standing of a country, as indicated by the CPI.

Armenia is ranked 78 in terms of the perception on the corruption index, a ranking it shares with four other countries. Nevertheless, in comparison with CIS and Eastern Europe countries, Armenia is assessed to be in a more favourable position than countries like Romania, the Russian Federation, and Ukraine. In fact, there are only four countries of the former USSR which are perceived to have a lower prevalence of corruption than Armenia (Table 1).

Table 1. Corruption Perception Index (CPI) 2003

#	Country rating[1]	Country[2]	Corruption perception index (cpi)[3]
1	29	Slovenia	5.9
2	33	Estonia	5.5
3	40	Hungary	4.8
4	41	Lithuania	4.7
5	53	Belarus	4.2
6	54	Bulgaria	3.9
7	54	The Czech Republic	3.9
8.	57	Latvia	3.8
9	59	Croatia	3.7
10	59	Slovakia	3.7
11	64	Poland	3.6
12	70	Bosnia and Herzegovina	3.3
13	**78**	Armenia	**3.0**
14	83	Romania	2.8
15	86	The Russian Federation	2.7
16	92	Albania	2.5
17	100	Kazakhstan	2.4
18	100	Moldova	2.4
19	100	Uzbekistan	2.4
20	106	Ukraine	2.3
21	118	Kyrgyzstan	2.1
22	124	Azerbaijan	1.8
23	124	Georgia	1.8
24	124	Tajikistan	1.8

Notes:

1. Indicates the place of the country among the 133 countries covered
2. For the sake of a comparison, only former Socialist countries are presented
3. The CPI is calculated in points, and indicates the perception of corruption among businesses and analysts. The CPI rates corruption between 10 (practically no corruption) and 0 (very high corruption).

Source "The Corruption Perception Index 2003", Transparency International. The main prerequisite for calculating the CPI for a country is the availability of at least three independent sources. For this reason, Armenia was not covered by the survey in 2002.

Statistical Data on Corruption Offences

The following table contains information representing statistical data on persons convicted of corruption offences in 2002 (under the 7 March 1961 Criminal Code of ASSR).

Article 182 (exceeding and abuse of powers)	22 persons have been convicted, of which one person sentenced to one year imprisonment, one person for two years, the rest carried a penalty of a fine. Three criminal cases were closed at trial court.
Article 185 (accepting bribes)	9 persons convicted.
Article 186 (giving bribes)	1 person convicted, 3 cases were closed.
Articles 185 and 186	10 persons convicted, of which 1person was sentenced to one year imprisonment, two persons to 1-2 years, 2 persons to 3-5 years, 5 persons to more than 5 years
Article 90 (theft of state property through misappropriation, wasting and official abuse)	60 persons convicted, of which 19 served their sentence in prison

For 2001-2002, 37 and 12 bribery cases were disclosed respectively by law enforcement authorities, of which: 31 were disclosed in 2001, with a disclosure percentage of 93.9%; and 8 were disclosed in 2002, with a disclosure percentage of 72.7%.

Criminal proceedings undertaken by the RoA Police (under GoA) for corruption offences by officials is indicated in the table below.

Year	**Number of criminal cases initiated**	**Number of cases closed**		**Number of police officials convicted**
		On justification grounds	**On non-justification grounds**	
1998	14	9	-	5
1999	10	-	-	10
2000	8	-	-	8
2001	10	5	-	5
2002	12	1	1	9
2003	1	-	-	under preliminary examination

Pursuant to the Information Center of the RoA Police, 90 cases of corruption offences were recorded in 2003 and 72 people were subject to criminal liability procedures. The various cases of corruption included:

- 22 cases of abuse by official authorities
- 6 cases of misuse of powers
- 3 cases of taking bribes
- 1 case of bribery
- 25 cases of fraud
- 33 cases of official negligence.

Statistical information on corruption offences are periodically published in the weekly newsletter "02" of the RoA Police.

Anti-Corruption and Implementation Monitoring Mechanisms

Since 2000, the government has been actively seeking to resolve problems related to corruption. A Steering Committee to coordinate the Anti-Corruption Program has been established under the Prime Minster Decree N°4 of 22 January 2001. Under this initiative an Anti-Corruption Strategy and Action Plan Program was developed.

The Anti-Corruption Strategic Conceptual Paper of the RoA issued in 2001 under the auspices of the Committee was approved by international organizations. As a result, an advisory group co-ordinating the Anti-Corruption Strategy and Action Plan Program was established with a World Bank grant. This group drafted the Anti-Corruption Strategy Program and list of underlying actions. This paper was exposed to a wide public auditorium for discussions, including public management bodies, civil society organizations and mass media. In February 2003 the final version of the paper was submitted to the expertise of the OECD.

It was originally planned that the Anti-Corruption Strategy Program would be reviewed at the GoA March 2003 session. However, elections in Armenia produced a new government and it was decided that this paper should be submitted to the government for final approval. The Program on Anti-

Corruption Strategy and Action Plan was adopted by the GoA Decree N°1522 - N dated 6 November 2003.[1]

This comprehensive program seeks to expose the root causes of corruption and advances the priorities to fight such corruption. The Program emphasizes anti-corruption measures taken in the economic sector. Issues such as ensuring judicial independence, repression of corruption in law enforcement and public management systems, political corruption and civil society participation in the fight against corruption are of high concern and are priorities of the Program. Efforts are being made to adjust the legislative framework and to harmonize it with international standards. Measures should be undertaken to streamline anti-corruption preventive actions in the following areas: the shadow economy, tax and customs administration, to adjust business environment, to protect property rights, to create competitive policies and ensure free competitive environment, and to differentiate the public and private sectors. The legal reforms proposed in the program are targeted to improve the independence of judicial power. It emphasizes the importance of the civil service and the need for further improvements, the need to launch public appeal mechanisms and the necessity to develop and place safeguards of a human rights protection institution. Other measures will be proposed to minimize corruption risks in the electoral, self-governance, education and health systems.

Monitoring Mechanisms under the Anti-Corruption Strategic Program

The fight against corruption under the Anti-Corruption Strategic Program is expected to be organized through an anti-corruption co-ordination monitoring group which will be comprised of different governmental bodies and civil society representatives. The monitoring group shall be responsible for monitoring the program implementation, particularly coordination of the efforts of the GoA against corruption and implementing the basic anti-corruption measures.

Promotion of Accountability and Transparency

Ethics in the Public Service

Main Civil Service Laws and Other Regulations which apply to Public Servants

A number of legislative acts are currently applied to public servants activities. This is conditioned by the fact that public service encompasses a

1. Anti-Corruption Strategy and Implementation Action Plan (www.gov.am).

variety of services each of which requires its own specification. Accordingly, Article 1, Para 3 of the Civil Service La" specifies that "*Public service shall include: civil service, judicial service, as well as special services in the executive bodies of the RoA as in defence, national security, internal affairs, tax, customs and emergency as well as diplomatic and other prescribed by law sectors*".

Civil service relations are regulated by the Law on Civil Service whereas other types of public services are regulated by the respective laws, including: Law on Prosecutor's Office, Law on Tribunal, Law on Service in the Police, Law on Tax Service, Law on Customs Service, Law on Service in National Security, Law on Consular Services, Law on Diplomatic Services, Law on Judicial Acts Enforcement Service, Law on Legal Status of Criminal-Executive Service, Law on Public Service in the Administration of the National Assembly, Law on Military Service.

Most of the above mentioned laws have been adopted in the course of recent five years, with the majority having being adopted in the last two years.

The Process of Recruitment and Appointment of Public Officials and the Career Advancement Practices

A unified common procedure still needs to be developed to ensure a transition to public service and its further promotion. At present, individual procedures are defined for each type of public service provided, with their respective laws and underlying legislative acts.

Procedures vary depending on the specific nature of the service. For instance, the President shall appoint the judges and prosecutors from those who have been on the official eligibility and promotion list discussed annually at the Board of Justice and submitted to the President's approval.

Legislative acts on other categories of public service provide for such institutes to safeguard against the possibilities of any wilful actions and forms of "protectionism". These measures seek to ensure competition for open jobs, attestations (performance appraisal), setting of fixed job duties for public officers, social guarantees, remuneration, social insurance, guaranteed procedures for imposing liabilities, etc.

The above legislative acts provide procedures by which the fight against corruption is prioritized and highlighted. Therefore, these acts represent a basic element of the anti-corruption program.

The Law on Civil Service, adopted 27 December 2001, governs the activities of the civil service system of the executive power of the RoA as well as in public administration offices established by law. Pursuant to Article 14 of this Law, vacancies in civil service sectors should be occupied on a competition basis. In addition, a Civil Service Board has been established for coordinating and regulating the civil service system activities and is comprised of seven members including the chairman and deputy chairman, and five board members.

The Civil Service Board shall announce a competition for high and principle position vacancies, and respective managing body shall announce a competition for leading and lower/junior position vacancies in the press or in other mass media with a circulation of at least 3 000 at least one month before the competition starts. Preparatory work for the competition of high and principle position vacancies is carried out by the civil service administration office, and for the leading and lower position vacancies by the respective administration office of the managing body. Competition tests shall be prepared in accordance with the Civil Service Board procedures. Test contingent questions are selected from a computerized test question inventory. The computerized test inventory shall be published in the press no later than one month before the competition starts. The test is a multiple choice one. Each question is followed by three or four possible answers with only one true answer. During the test phase a codification system is applied to secure confidentiality. Participants who answered correctly at least 90% of the task questions shall be entitled to participate in the second phase of the competition.

The interview aims to check the practical abilities of participants to perform the duties and responsibilities vested in them by the civil service position. At the end of the competition, the Competition Commission provides a closed vote for each individual case (participant). Results of the competition are announced on the same day. A final report nominating the winners is prepared and submitted by the Commission to the official responsible for appointments. The latter upon receipt of the report shall within three days appoint one of the winners to the respective position. In case of competition for vacant posts of the heads of Administration offices of the Ministries, Public Administration Agency under the GoA, Marz executives (Yerevan Municipality) of the RoA, the Commission shall submit the appropriate report to the respective Ministers, Head of Public Administration Agency, Chief executives of the Marz (Mayor of Yerevan) who in turn shall within three days provide the official responsible for making appointments with a recommendation nominating one of the winners. On receiving the recommendation this official shall within a week take a proper decision on appointment.

Attestations are issued to provide professional quality control and define the professional knowledge and skills level of civil servants. There are two types of attestations: documentary or testing and interviewing. Attestations may result in a higher grade position for the civil servant. Civil servants who hold the highest grades in the subgroup are subject to documentary attestation, which is done in the form of an interview based on the job description.

To improve professional knowledge and skills civil servants shall undergo training. Training is provided under the programs established by the Public Management Academy of the RoA. The list of educational institutions providing training and their respective training programs shall be approved by the Civil Servant Board on a yearly basis. The Board shall announce before 1 February of each year in the press or other mass media enrolment in these institutions for the coming year.

The diplomatic service is governed by the Law on Diplomatic Service dated 21 October 2001 and other GoA decrees ensuing from this law. This law regulates issues related to diplomatic service, career advancement, awarding of diplomatic degrees, termination of diplomatic service. It also defines diplomatic rights and obligations, restrictions, provides procedures for training and performance appraisal, promotion and disciplinary issues, dismissal, as well as social guarantees, remuneration and compensation.

Diplomatic positions are obtained through internal and external competitions. To regulate this process Decree N° 121 was adopted by the GoA on 13 February 2002. The diplomatic service is managed under the Ministry of Foreign Affairs and Embassies or Consular Offices in a successive two-year term. Professional advancement is realized through internal competitions.

Decree N°121 states that internal and external competitions for vacant positions in the diplomatic service shall be held by the Competition Commission under the Ministry of Foreign Affairs. This Commission decides, in particular, who may apply for the competition (the RoA nationals who know and speak native language and two foreign languages, have graduated from higher educational institutes and meet the position requirements), as well as who may not apply for the competition (persons recognized by the courts as disabled or partially disabled, those who are deprived from a right to hold any position, suffering from at least one of the prescribed diseases, convicted of an offence which is not legally removed or expired, working with persons related to them (parent, spouse, son/daughter, brother , sister, parent of spouse, daughter/son, brother and sister of parent of spouse) and who would be under their immediate supervision or subordination).

Furthermore, the procedure states that for internal competition only those diplomats who have an appropriate diplomatic degree as well as those who are enlisted in the diplomatic personnel stand-by list may apply. Internal competitions are held in the form of an interview. The results are decided upon a closed vote by a simple majority vote. Violations of internal competition shall be considered as legally invalid.

External competition is open only for vacant positions of attachés and when vacant positions could not be filled through internal competition. External competition is held in two phases: testing and interviewing. Participants who have achieved at least 80% of correct answers in test tasks shall be eligible to apply for this competition. The Commission has to vote and take a decision by a majority vote. In both competitions, the winner is recognized as having received the maximum votes; however, in case of equal votes in the external competition, preference is given to the participant who obtained the maximum score in the tests. Violations in external competition shall be treated in a legal form; the competition will be deemed as invalid or a new competition shall be announced. The latter happens also when no winner is declared in the first or second competition.

As mentioned above, the diplomatic service is run ordinarily by the Ministry of Foreign Affairs and Embassies or Consular Offices for two-year successive terms. These issues are regulated by the Procedure on Rotation of Diplomats approved by the GoA Decree N° 126, dated 13 February 2002. The procedure states that rotation in this context shall mean an exchange of diplomats within equivalent positions of diplomatic service authorities acting in the RoA and in foreign states. The two-year diplomatic service term may be prolonged to no more than one year when the continuation of the post is reasonably motivated by 1) the diplomat or manager thereof and 2) by allocation plan of diplomats. Rotation is implemented on the basis of an allocation plan based on collected and classified information on diplomats in the diplomatic service agencies and foreign states. This activity is implemented by the respective department of the Ministry of Foreign Affairs in accordance with the procedures determined by the Minister of the Foreign Affairs.

Provisions of the Law on Diplomatic Service on diplomatic obligations and restrictions related to such services covers conflicts of interest (diplomatic service obligations and personal interests). In particular the diplomat shall not:

- be involved in paid jobs other than scientific, pedagogical and creative;
- be involved personally in a commercial business;

- use its official powers in the interest of political parties, civil societies (including religious organizations), or for implementing other political and religious activities;
- receive an honorarium for his/her publications or speeches made under his/her official services;
- use the material, financial and information channels of diplomatic service, other state property and official information for pecuniary gains;
- accept gifts, money or services from other persons for their official duties except for cases prescribed by Law. Issues related to receiving gifts in an official capacity or by virtue of it are regulated by Decree N°48, dated 17 February 1993. Moreover, the gifts shall be passed on to fiduciary management otherwise a legal responsibility investigation shall be carried.

The diplomat is prohibited from working directly with close relatives or inlaws (parent, spouse, son/daughter, brother, sister, and spouse's parent, son, daughter, brother, sister) where an official subordination or supervision occurs.

In the case where a diplomat holds a 10% or more share in statutory capital of a commercial entity, the diplomat shall within a month of beginning his assignment pass his/her share to a fiduciary management with a right on profits.

Police services in the RoA Police are governed by the Law on Police dated 16 April 2001 and the Law on Service in Police dated 3 July 2002. Pursuant to Article 11 of the Law on Service in Police for employment with the police, those who may apply must be citizens of the RoA aged 30 or under and who have served in the army, except for female citizens and those benefiting from official dispensation from serving in the compulsory military service, who know and speak Armenian and are capable of carrying out police officer's duties due to their professional, personal and moral qualities, education, good health and physical training regardless of nationality, race, sex, social origin, property and other status.

The following citizens may not apply for a job with the police service:

- is recognized by court as disabled or partially disabled;
- is deprived by court of a right to hold any position in civil or other services;
- who is convicted of a crime;

- who is convicted of an imprudent crime and that this conviction was not removed by law or expired;
- who is under prosecution;
- as well as those citizens who by the age of 30 failed to complete the compulsory military service, with the exception of female citizens and those dispensed from the official delay for serving in the compulsory military services, who know and speak Armenian and are capable of carrying out police officer's duties due to their professional, personal and moral qualities, education, good health and physical training regardless of nationality, race, sex, social origin, property and other status.

The police are managed by the Head of Police, a state managing body responsible for co-ordinating police activities. The Head of Police is appointed and dismissed by the office of the President on the recommendation of the Prime Minister.

Deputy Heads of the Police are appointed to and dismissed from the office by the President on the proposal of the Head of Police.

The Commander of the Police Troops is appointed to and dismissed from the office by the President. The Commander of the Police Troops is officially the Deputy Head of Police.

Principal and senior police group officers are appointed to and dismissed from by the Head of Police. Rotation of senior police officers may be implemented by the head of departments authorized by the Head of Police.

Junior police group officers are appointed to and dismissed from by the Head of Personnel Department Police.

Civil servants in the police are appointed to and dismissed from the office by the Head of the Police or the respective manager in accordance with the civil service law and legislative acts.

Pursuant to Article 14 of the Law on Service in the Police, police officers who previously have held a high position or a position of a principal group officer for last three years and have at least colonel's rank can be appointed as a Head of the Police.

Police officers who hold a high position or have held previously a position of a principal group officer for last three years and have at least lieutenant colonel's rank can be appointed as a Deputy Head of the Police.

Officers who occupied before their appointment any other position in a principal officer group for last one year or senior group position for three years can be appointed as a principal group officer after receiving an attestation. A high level officer can also be appointed as a principal group officer.

Promotion of senior and junior group officers is carried out through attestation after one year's experience. Appointments to junior group positions are held until probation results.

Officers who have graduated from the Police Academy or similar institutions, and those who are on mission, are deemed to have been tested and therefore considered eligible for police inspection or similar position.

Appointment to senior group officer positions requires higher level school education.

Junior group officers are appointed to and dismissed from the office by an officer authorized by the Head of the Police who is at least head of a department.

Citizens who meet the required criteria such as a minimum secondary school education, three months probation period at the Police Training Center may be appointed to junior group positions. The probation's successful outcome enables them to receive the rank of junior sergeant or a rank corresponding to their present rank and thus be appointed as a police officer or position corresponding to the present rank.

A senior group position may be also occupied by a citizen who meets minimum police officer requirements but was dispensed from the official delay of compulsory military service and therefore has no rank.

Police service vacancies may also be occupied by officers of Armed Forces, the National Security, Prosecutor's office, and authorized bodies of emergency services who meet the requirements of the given position.

Vacancies in police service shall be occupied within 60 days, and six months for new entrants applying to the position of a policeman and inspector.

Pursuant to Article 39 Law on Service in Police a number of restrictions are applied to police officers. In particular, the police officer shall have no right to:

- perform any paid job other than scientific, pedagogical and creative;
- be involved in a commercial business;
- represent a third party in relation to a body where he/she is employed or who is under his/her immediate subordination or supervision;
- receive an honorarium for his/her publications or speeches made under his/her official duties;
- abuse state property and official information for pecuniary gains by using official material, financial and information channels;
- receive gifts, money or services from other persons against their official duties except for cases prescribed by the RoA Law, referring contractual services with police officers providing security of premises;
- be a member of any political party, civil-political organizations including religious, handcraft organizations, regardless those of scientific, cultural, sport, hunters', veteran and alike; and
- organize or be involved in sabotage, outgo meetings, marches, and demonstrations.

In the event where the police officer holds 10% or more of shares, equity in statutory, or equity capital of a commercial enterprise he/she shall by law within one year after appointment pass it on to fiduciary management with a right to earn profit there from.

Police officers are prohibited from serving with close relatives or in-laws such as parent, spouse, son/daughter, sister, brother, as well as parent, son/daughter, sister, and brother of the spouse, if they are under their immediate subordination or supervision.

Police officers shall not be employed by an employee or become an employee of an organization over which he/she has an immediate supervision over the last one year of his/her service.

Pursuant to Part 1 of Article 20 of the Law on Police Service the police officer in addition to other obligations shall make a statement on his incomes. In the event when provisions prescribed by paragraphs 7 and 8, Part 1 of Article 45 of the same law are violated as well as when the aforementioned income statement fails to be duly submitted, the police officer shall be dismissed from his/her service.

Pursuant to Article 42 of the same law, an unjustified non-performance of duties or their improper performance, surpassing the authorized powers by the officer, if such do not contain elements of criminal offence, the following penalties shall by law be imposed on the police officer:

- a warning;
- a written warning;
- a 10-15% decrease in salary rate for three months;
- a disciplinary arrest;
- a one-step decrease in position;
- a one-step decrease in rank; and
- dismissal from service

The above are applied to police officers, except for junior position and junior rank officers, through civil examination results.

Procedures for appointing and conducting the civil exams are determined by law. Within the exam period, the powers of the police officer may be suspended if there are sufficient grounds for supposing that the officer's stay will prejudice in some way the exam. In such cases, the officer shall be compensated. The police officer shall also follow provisions of the Constitution, laws and legal acts, perform tasks delegated by superior and official bodies, as well as fulfil all obligations vested in him by laws.

Service in National Security is governed by the Law on National Security Service dated 11 April 2003 and other legal acts. Recruitment and promotion in national security authorities are carried out in compliance with the provisions of this law, according to which those who may apply must be citizens of the RoA age 30 years or less (excluding expatriates) and who have served in the army (except for female citizens, university graduates with preliminary military

training and those benefiting from official delays from compulsory military services with respect to family status and recorded in the reserve), who speak fluent Armenian and can carry out police officer's duties in view of their professional, personal and moral qualities, education, good health and physical training regardless nationality, race, sex, social origin, property and other status.

National security system positions are classified in 3 groups, the appointment conditions of which are specified in Article 19. In particular, a manager of public authorized bodies may be a national security officer who before his/her appointment held a high level national security position or a principle group position for the last three years and has the rank of colonel.

Principle group positions of national security may be obtained through attestation by those officers who before their appointment were occupying in the last year another national security principle group position or who have at least three years of experience in a senior position.

Promotion of senior and middle group officers is carried out through and upon attestation after at least one year's experience in the position. Appointments to junior group positions are held without attestation. A national security officer is appointed to a high position in terms of promotion on his/her agreement.

Disciplinary examinations in national security system are provided in accordance with regulations of the Armed Forces.

The Customs Administration Service is regulated by Law on Customs Service dated 3 July 2002 and a number of underlying legal acts. Positions in the customs service are represented by high, principle, leading and junior position ranks. Such classification is done with respect to skills and abilities the national security officer is required to have, including: job management, responsibilities, decision-making, communication and representation, problem-solving, and knowledge.

Appointment requirements for customs officers are defined by this law pursuant to which a custom officer may be an Armenian citizen who has a higher school or university education, speaks fluent Armenian and meets all prescribed occupational standards. Customs officer's position may not be held by persons who are recognized by the court as disabled or partially disabled, deprived of a legal right to hold certain positions, convicted of an offence and not legally released from this conviction, and suffering from prescribed diseases. Vacancies of principle, leading and junior positions in customs service are completed on a competition basis.

Pursuant to Article 14 of Law on Customs Service appointments to the highest positions are as follows:

- Head of Customs State Committee (hereinafter referred to as Superior Body) under the GoA shall be appointed to and dismissed from office by the President upon presentation of the Prime Minister.

- Deputy Superior Bodies shall be appointed to and dismissed from office by the Prime Minister upon presentation of the Superior Body.

- Head of Departments of the Superior Body and Head of Customs-House shall be appointed to and dismissed from office by the Superior Body.

In cases of vacancies in principle and leading customs positions, the Superior Body, as provided for by the respective law, may within 15 days select and appoint officers from the given or higher group positions by giving priority to those who were awarded a higher rank in the result of the last attestation and to those with considerable experience.

In the event where the above appointments cannot be made in the specified time frame, the Competition and Attestation Commission of the Superior Body shall announce a closed competition in compliance to procedures determined by the Law on Customs Service.

In cases of vacancies in junior positions, the Superior Body shall announce an open competition restricted to citizens with a university or higher education institute degree, fluency in Armenian and to customs officers. Both categories shall satisfy the occupational standard requirements stated by the Superior Body.

Participation in closed competitions is open to customs officers and to officers who have five years experience in customs, financial, banking and tax fields, in financial credit organizations, in financial services of public administration (local self-government) bodies, in scientific research and higher school and university education sector.

As soon as the competition is finalized, the Competition and Attestation Commission shall within three days report to the Customs Body on the results. Upon receipt of the report, the Superior Body shall within three days select among the winners and appoint one of them to the given position by giving priority to customers officers (citizens) who during the last attestation were awarded a higher rank as well as those who have more professional experience.

Recruited through competition, persons shall remain appointed up to the officially allowed age, and those persons who are appointed to a position through open competition for the first time shall have a six-month probation period. Customs officers are on the list of public officials who are obliged to make tax and property statements. Such statements by custom officers are to be recorded in their personal files.

Tax Service Activities are regulated by the Law on Tax Service dated July 3, 2002 and underlying GoA decrees and legal acts. According to Article 5 of this law tax service shall be activities carried out by a tax officer in a lawful manner and addressed to ensure implementation of tax authority priorities and transactions. Basic principles governing tax service activities are the Constitution and law enforcement, human rights and freedom prevalence, tax service sustainability, unified rules and regulations for tax officers, legal equality of tax officers, transparency and accessibility for civil public, tax officers' professionalism, legal and social security, responsibility, inevitability of tax, duties and other fixed payments by tax officers, sound enforcement of tax law and tax officers rotation.

Tax administration includes Superior Tax Administration Body (hereinafter Superior Body) and tax inspections acting there under.

Occupational positions in tax services are classified to be of principle, leading and junior groups taking into account: job management, decision-making, communication and representation, creative approach to problem-solving as well as knowledge and skill requirements challenging the job-holder.

Positions in tax administration shall be held by RoA citizens who speak fluent Armenian and have a higher school education. Professions for employment in the tax service prescribed by the Decree N° 2167-N dated 3 October 2002 are: economics and adjacent specialties, law, management and adjacent specialties, international relations, information systems and specialties, mathematics, and engineering.

There are appointment restrictions prescribed by law to such positions. Tax officers are also subject to restrictions, in particular they shall not be engaged in business, hold another state position or carry out any other paid job, except jobs of pedagogical and creative nature, represent a third party in relations to a body where he/she is employed or who is under immediate subordination or supervises over him/her, abuse state property and official information for pecuniary gains through using material, financial and information official channels, receive gifts, money or services from other persons against the official duties they carry out, after retiring from tax officer's position be employed

within three years by an employee or become member of an organization over whom he/she supervised over the last one year of his/her office.

An open competition is organized for vacancies in junior positions. Tax officers as well as other citizens complying with the requirements may apply for this competition. For the highest, principle and leading tax positions a closed competition is held where participants may be tax officers and citizens who have sufficient professional experience in financial, banking, customs administration, academic institutions areas. The tax authority announces a competition and publishes the questions in a newspaper or other mass media with a circulation of 3 000 a month before the competition begins.

The competition consists of two phases: testing and interviews. If over 80% of test questions are answered, the respondent will have a chance to participate in the interview. Procedures regulating the competition are defined by Decree N° 2171-N of 19 December 2002.

The winners of the competition shall be persons who have gained more than half of the Commission members' votes. Appointments to relevant positions are made by the Head of Tax Authority.

Attestation of tax officers is held in the manner prescribed by the Law on Tax Service according to which at least one third of officers engaged in tax services are subject to an annual obligatory attestation. Ordinary attestations for personnel are held once every three years and the special attestations are provided at least in the year following year the ordinary attestation. A special attestation is provided upon a justified solicitation of the tax officer's immediate manager. Tax officers are given one month's advance notice about attestations. The attestation shall result in:

- award of a higher or special class rank;
- statement on compliance with the position occupied;
- statement on compliance with the position occupied provided that positive training results are achieved; or
- statement on non-compliance with position occupied.

Regarding the final results, the tax administration manager shall take an appropriate decision.

Military service activities are regulated by the Law on Military Service dated 3 July 2002. This law regulates in particular procedures for military service under peaceful conditions in the systems of Defence, National Security, Police, Emergency executive agencies, as well as issues related to the appointment, dismissal, displacement, missions, awarding of military ranks of servicemen.

Military service is organized as follows:

- through recruitment (call, draft) by recruiting call-up age citizens (18 to 27 years);
- by contract – soldiers of reserve forces, sergeants, and sergeant-majors;
- by contract – sub-officers;
- through recruitment or by contract – officers;
- by recruitment regulations – under-recruitment age citizens involved in military education institutions.

Military service consists of compulsory and contractual military services. Contractual military service shall be a voluntary service by the soldier, sub-officer, officer staffs and women in the military forces or other troops.

Military positions are represented by commanding and non-commanding positions. The list of commanding officers and non-commanding officers are approved by the head of a relevant authority, except for top officers who are approved by the President.

Top commanding officer positions may be held by those military men who have at least three year's experience on senior commanding or highest officer posts in the armed forces and have a rank no lower than colonel.

Senior command positions may be held by servicemen who have occupied middle commanding or senior officer staff positions for three years and have a higher school education.

Middle commanding positions may be held by junior officers with a higher school education.

Junior commanding staff positions may be held by servicemen with a higher education and those completed military training courses.

In view of improving the professional potential of military servicemen a qualification control is provided to ensure a careful selection of officers, to carry out a comprehensive and objective appraisal of professional skills, and to solve occupational compliance and professional promotion issues.

Qualification of contractual servicemen is implemented no late than six months before their contracts end, but at least once every five years of their service; it is also provided upon graduation from the military academy, post-graduate and PhD schools.

Public service activities in the National Assembly, the legislative authority of the RoA, are regulated by the Law on Public Service in the National Assembly Administration Office dated 4 December 2002. Positions in the National Assembly administration are classified as follows:

- high positions of public service
- principle positions of public service
- leading positions of public service
- junior positions of public service

Vacancies occurred in the administration offices are filled through competition. For all vacancies with the exception of junior positions a closed competition is held for which public servants capable of meeting all the requirements may apply. In the event where no public administration officer is available who could meet the aforementioned position requirements or when no winner is selected, an open competition shall be held. In this case, any citizen meeting the requirements may apply.

An announcement of an open competition for the vacant position of the head of administration shall be placed in a paper with a circulation of 3 000 or other mass media one month prior to this competition.

Public Administration's Training Capacities

Training of public officers is provided by specialized training companies and higher education institutes. Particularly, trainings are carried out in a recently reorganized (under the GoA Decree N°338, dated 8 April 2002) Public

Management Academy of the RoA, a non-commercial public organization which is responsible for drafting training programs for the civil service, as well as preparing high level managerial personnel for public management and local self-governance authorities. Programs implemented by this organization also involve on a competition basis academic staff of the public and private higher education institutes. Relations in this sector with respect to the civil service are regulated by the Law on Procedures for Providing Training for Civil Servants of the Decree N°21-N of the Civil Service Board of the RoA dated June 20, 2002.

Training for diplomatic servants is held on attestation results. In this regard, diplomats shall receive training a minimum every five years. In the event where the diplomat is away for more than six months for training, he/she shall conclude an agreement with the Ministry of Foreign Affairs on taking a liability to stay in the system for at least three years, otherwise he/she shall be obliged to compensate for the training costs. A certified training of the diplomat may help him/her to be promoted and get a diplomatic degree in advance.

Where there are no diplomatic training courses available in the country, diplomats are sent abroad to take training courses in foreign diplomatic institutions under international agreements.

Police officers under the Government of Armenia (hereinafter referred to as police officers) receive training in the Police Academy of the RoA. Training procedures for officers are determined by the GoA Decree N°1184-N on Training Rules in the Police Training Centres dated 28 August 2003. Those who have been trained in the Academy and have been sent on mission are considered to have received attestations and may be commissioned to police inspector or equal positions. Training of the police officers is held ordinarily in the Police academy, training centre, and in foreign specialized institutions. Such training is aimed to improve the professional quality of police officers, study scientific and technological achievements, apply best practices, obtain practical skills and master these on the job, ensure military readiness, and implement operational tasks as well as gain and build the necessary qualities and competences.

Police officers of the principle and senior groups shall take on-the job and off-the job trainings once every five years. Training courses are provided as well for the high and junior officers of the police under the GoA. Training courses are organized on far-reaching curriculum plans. Certificates are awarded to the best students. Students, who fail, may, upon reasonable motivation by a relevant appointing body, be assigned to attestation in order to review his/her further stay in the position. The successful record (excellent and good marks) achieved by the officer in the training course shall be accounted for in his/her promotion in the service. In addition, a traineeship or period of

probation is regularly organized for the police officers. In particular, a 30-day training period is proposed for newly appointed senior and junior police officers, for those police officers who have changed the nature of their service, for university or higher school graduates (after their appointment) to improve their practical knowledge and skills to comply with occupational requirements. Police officer training issues are regulated by the Decree N°112-N on Procedures for providing a three months probation and training for assigning police officer positions and the Decree N°174 on Procedures for police officer training (enhancing qualification) dated 23 January 2003.

Professional education of national security officers takes place in the technical-training centre of the National Security of the RoA operating under the GoA and in foreign specialized institutions with which international agreements have been concluded, particularly with the Russian Federation.

Relations associated with customs officers training are regulated by the GoA Decree N°2098 on Procedures for providing training for customs officers dated 13 December 2002. Attestation completed for customs officers shall define their training with respect to job description amendments and other decisions taken by customs executives. In view of improving the professional skills and capacities of customs officers a training centre is operated under the Customs Development and International Relations Department of the State Customs Committee. Training courses are run on a regular basis in this centre. Customs officers of junior and leading group levels shall be receive training once in two years. Principle position holders may receive training at their discretion. Exchange of experiences, seminars and training courses, which can last from three days to a month, designed to improve professional knowledge and skills are organized for customs officers. Compensation for absent days is secured. Training courses are instructed by customs managerial staff and other customs specialists, as well as experts from public service and academic circles.

Tax officers training is held upon attestation results when either job descriptions are modified as a result of attestation or when managerial decisions are taken.

Relations associated with tax officers training are regulated by the Decree N°122-N on Procedures for providing training for tax officers dated 30 January 2002.

Training financing and remuneration issues are also regulated by the same decree. The tax administration executive body shall approve the training program, schedule, lecturer staff, as well as list of groups subject to training according to the position descriptions and procedures. The list of officers to be

trained is also approved by the tax administration executive body. At the end of the training session, the officer shall receive a positive (satisfactory) or negative (unsatisfactory) mark. In the case of a positive outcome, the officer will receive the appropriate certificate which will be submitted to the Competition and Attestation Commission. Tax officers who have failed shall be demoted or discharged according to the law. At the end of the training session the officers shall submit an appropriate report in accordance with the prescribed procedures.

Codes of Conduct for Public Officials

The first document concerning this issue, the Code of Conduct of Lawyers of the RoA, was pioneered by the Armenian Bar Association session in 19 December 1999. This paper has been conducive for further similar papers. Nevertheless, there are few of such papers and the approved ones have not a wide practice. Such codes are currently operating in the Prosecutor's Office, judicial and other systems of the RoA.

Rules of ethics for civil servants are prescribed in the Rules of Ethics of Civil Servants adopted by Decree N°13-N, dated 31 May 2002 of the Civil Service Board. These rules set norms for regulating behaviour and interrelationship of civil servants based on the core principles. Ethical standards require civil servants to be fair, impartial, discreet, exemplary in their conduct, and by their conduct effect on the public opinion that the civil service system is based on impartiality, benevolence and effectiveness, that it avoid any kind of protectionism in carrying out their duties, does not place anyone in any form of dependence, avoids making empty promises, is conscious of and values the importance of freedom of speech, and evaluates the negative implications of promises made. Violation of ethical standards shall not impose any disciplinary liability.

Standards of behaviour for diplomats are basically determined by the Law on Diplomatic Service (diplomatic liabilities in Article 43, restrictions on diplomatic service – 44), as well as by Decree N°590 of 20 May 2002 on Rules of Ethics of Diplomats. This is to establish diplomatic standards of ethics in carrying out official duties in compliance with the norms prescribed by the Law on Diplomatic Service, Internal disciplinary rules of the Ministry of Foreign Affairs, international protocol standards, the violation of which shall be regarded as liable to disciplinary action. The scope and capacity for the application of these standards are specified in the document, these are: the diplomat's liability towards the state and diplomatic service authorities, the diplomat's behaviour in relation with citizens, foreign states and citizens thereof, as well as official duties and private interests of the diplomat.

Violation of rules of ethics by a diplomat results in disciplinary liability as stipulated by law. The aforesaid decree reflects diplomatic liabilities for the state and diplomatic service authorities, behaviour of the diplomat in foreign states in relations with local and foreign citizens, and relations between official duties and private interests of the diplomat.

In addition, it is worth noting that all legal acts provide that diplomatic relations in the diplomatic service are regulated by well-known conventions on "Diplomatic relations" and "Consular relations" and that diplomats shall comply with the standards provided for by these international acts.

Rules of conduct of officials involved in the police and national security are regulated by the respective RoA laws, as well as the respective charters (Codes) of the military forces and legal acts, such as the Law on Police and the Law on Service in the Police", dated 3 July 2002, and the Law on Service in the National Security.

Under the European Code of Police Ethics [Task Rec (2001)10] adopted by the Ministerial Committee of European Commission dated 21 September 2001, the Head of the Police approved Order N 1770-A on the Rules of Ethics of the Police Officers of the RoA on 10 December 2003. These rules are mandatory for the police officers in carrying out their official duties. Rules of ethics inform the citizens on how the police officer shall behave. In general, such rules oblige police officers to respect human rights and freedoms, show restraint, courtesy, and respect towards citizens, as well as to avoid establishing such personal, financial, business links which could give rise to corruption and ultimately to various violations of official duties. Such violations carry a legal liability.

Rules of conduct or disciplinary regulations applied to customs officials are regulated by disciplinary liabilities and promotion measures system under Law on Customs Service.

Norms of behaviour or disciplinary regulations of tax officials are regulated by the GoA" Decree N° 1624 dated 10 October 2002, according to which the named rules represent standards based on general ethic principles which govern behaviour of tax officials' conduct and interrelations complying with tax administration operations and provisions Law on Tax Service.

Tax officials must respect state symbols (flag, emblem, anthem) and the state language, meet provisional requirements of the Constitution, laws and legal acts, restrain from publicly opposing official polices pursued by the state authorities and officials, refrain from such activities which may jeopardize state

body activities, dishonour or compromise the reputation thereof and that of the tax administration and tax officials, be governed by norms based on justice, respect of others regardless of nationality, race, sex, tongue, religion, political or other views, social origin, official post, material or other status, be fair and impartial, discreet and remain calm in all situations. The tax official shall obey and follow rules and laws, place public and state interests above private ones, be devoted and motivated in his work, by his behaviour contribute to the public's positive perception on tax services with respect to the above qualities mentioned above as well as by avoiding any type of protectionism, solicitation, support and advice which could lead to violations of tax legislation provisions, use only moral measures to achieve business goals, avoid any act that would place him in a situation of dependence to other persons, avoid empty promises, be conscious of and value the importance of speech, evaluate the negative implications of promises made, protect human and civil rights and lawful interests within its powers and in a manner prescribed by law examine in due and fair way the offers, applications and claims of the tax-payers (citizens), as well as meet and provide them with necessary information, instructions and clarification..

Mechanisms of public service rules and disciplinary liability, and promotion systems are stipulated by the laws on Civil Service, Diplomatic Service, Service in the Police, Service in the National Security, Tax Administration Service, Customs Service, and Consular Service.

Conflict of Interests

The Civil Service Law prohibits receiving gifts, money or services from other persons for official duties and responsibilities unless otherwise provided for by the laws of the RoA. Moreover, pursuant to this law, the civil servant shall submit a statement on income; not submitting such a statement shall serve as grounds for dismissal.

Rules for giving gifts to officials are regulated by Decree N°48 on Handing over the gifts received by virtue of service to the state dated 17 February 1993, which provides that a gift received by public officials by virtue of their service or position shall handed over to the State if it values is more than five times the official's average salary. An average market price shall define the value of the gift.

Pursuant to Article 166.1 of the Code of Administrative Violations of the RoA, public officials who fail to hand over a valuable gift received by virtue of their service to the state in a manner prescribed by law shall receive a penalty corresponding to his minimum salary with confiscation of the gift, and in case of the absence of gift shall be fined four times its value.

According to paragraph g), Part 1 of Article 44 of the Law on Diplomatic Service, a diplomatic official shall have no right to receive gifts, money or services from other persons for official duties and responsibilities unless otherwise provided for by law. Issues related to receiving of gifts by virtue of service are defined by the GoA Decree N° 48 of 17 February 1993. Moreover, pursuant to this Decree, failing to hand the gift to the State shall impose a legal liability.

The diplomat is prohibited to work with close relatives or in-laws (parent, spouse, son/daughter, brother, sister, parent of spouse, son/daughter, brother and sister thereof) if their service is related to their immediate subordination or supervision.

Once appointed, the diplomat shall within one month pass his/her 10% or more share in statutory capital of a commercial entity on to fiduciary management with a right on dividends.

Pursuant to paragraph 6, Part 1, Article 39 of the Law on Service in the Police, a police officer shall have no right to receive gifts, money or services from other persons unless otherwise stated by the law. It is referred to the services the police officers hold under appropriate contracts such as security or guarding premises. According to Part 1, Article 45 of the same law receiving gifts, money or services from other persons shall lead to dismissal from police service. In the event when the value of the gifts surpasses the five-fold minimum salary size (5 000 dram), the police officer shall not only be dismissed but shall carry a criminal liability under the respective provisions of Article 311 of the Criminal Code, which provides for penalties from 300 to 500-fold minimum salary size or at most five years imprisonment in addition to being prohibited from holding any job or engaged in some special activities for at least a three-year period. The law prescribes stricter penalties for those who are convicted of major bribery (7-12 years imprisonment with or without confiscation of property).

Pursuant to paragraph 7, Part 1, Article 43 of the Law on National Security Service, national security officials shall have no right to receive gifts, money or services from other persons for their official duties, unless otherwise stated by Armenian legislation.

The relevant provisions (paragraph 5, part 1, Article 25) of the Law on Customs Service also prohibits the reception of gifts, money or services from other persons under official duties except for cases prescribed by law. According to paragraph 1-4, Part 1 of the same article, customs officials shall have no right to hold any other state position or perform any other paid job, be

involved in commercial business other than scientific, pedagogical and creative, represent a third party in customs administration bodies, abuse state property and official information for pecuniary gains by using material, financial and information borrowed from official channels.

In case of violations of provisions of Article 25 of the Law on Customs Service, criminal liability shall be imposed accordingly with the provisions of the Criminal Code.

Paragraph 6, Part 3, Article 13 of the Law on Tax Administration Service prohibits tax officials to receive gifts, money or services from other persons for their duties unless otherwise stated by law. This law also prohibits tax officials to engage in business and hold other state positions or perform any paid job except research, pedagogical and of creative nature.

Moreover, the reception of gifts or advantages from other persons may cause a criminal liability according to Article 311 (Passive bribery) under the Criminal Code.

It is worth noting that an income declaration institute is operating in Armenia which incorporates a wide range of officials, and in two years it is expected to involve all government officials. Persons who must make an income statement in accordance with Article 2 of the Law on making statements on property and income by managerial staff of state body officials shall be those persons who hold political, conceptual, high and principal civil service positions, the Chairman of the Central Bank, Deputies, Members of Boards, the Chairman and members of the Constitutional Court, judges and prosecutors as well as their deputies, structural division heads, and others. Violation of income declaration procedures shall result in administrative liability (Article 8 of the same law) in the form of fine penalties.

Procedures for Enforcement of Anti-Corruption Related Activities

With respect to disciplinary liability, it is worth noting that stricter measures are prescribed for public servants and the range of restrictions is much wider. Moreover, a differentiated approach is fixed by the Code of Administrative Violations and the Criminal Code.

In particular, for the same administrative offence, as a rule a stricter measure is prescribed for an official than for a physical person, as a number of Criminal Code clauses view that such an action can be dangerous to the public.

Civil examinations of civil servants are provided under a procedure approved by the Civil Service Board Decree N°124-N on Approving Procedures for Providing Civil Examinations dated 22 November 2002. It determines in particular the concept, activities, procedures and cases for providing exams, issues in question, legal status of the participants, participation procedure and other issues.

To this regard, the unjustified non-performance of duties or their improper performance, surpassing of powers, as well as internal violations of rules shall by law result in disciplinary penalties. However, before imposing penalties, the civil servant shall be asked for a written explanation. Penalties are carried out in compliance with the above specified procedures only after being properly examined.

Issues related to civil examinations in the Police and National Security systems are regulated by the respective laws on the Police and National Security Services. Pursuant to Article 19 of the Law on Service in the Police, the police officer, who seeks to remove a groundless accusation or suspicion or disciplinary penalty applied to him/her, shall have the right to request an examination. Nevertheless, all such cases related to police officials, except for junior group positions and ranks, shall be examined at civil exams. Only after shall appropriate disciplinary measures be undertaken. If there are ample grounds for the assumption that the stay of such officer on his/her post may impede the examination process, the powers of the officer may be suspended but financial compensation shall be retained. Examinations related to corruption issues in the police are provided by the internal security department, a specialized division established for this purpose. Examination procedures shall be legally approved. Hence, the GoA under its 2004 Action Program has projected to approve a RoA Police Disciplinary Rules which will, *inter alia*, cover corruption related examination issues and procedures. In the event that the examination proves the act of corruption is a criminal offence, further criminal investigation of the case shall be transferred to the Prosecutor's office. If the corruption act proves to be of a disciplinary nature, the Head of the Police shall undertake appropriate remedial measures among which may be dismissal from the service.

A Special Examination Commission is operating under the tax administration in accordance with provisions stipulated by Decree N°1698-N on Regulations for Candidates Selection and Approval of Examination Commission Staff dated 31 October 2002 and by the tax administration governing body. According to this decree, the tax administration governing body shall form the Commission from the candidates proposed by managerial staff of the central apparatus thereof. The Examination Commission of Tax

Administration is responsible for monitoring the rules of behaviour of tax officers, for providing relevant examinations and reporting to the managing body for undertaking further measures.

The tasks of the Examination Commission include the following: promote the implementation of tax service principles, prevent and disclose possible violations by tax officials, control for sound performance of duties by tax officials, ensure clarification and resolution of disputes related to groundless or almost groundless penalties, accusations, suspicions applied to the tax officials, safeguard tax officials' rights. The Commission may organize its examination work through receiving the required information from tax administration structural divisions and persons who relate the examination.

Customs administration has established a unified examination procedure which functions regardless of the nature of the subject examined. This procedure has been adopted by Decree N°2146 dated 19 December 2002. Ordinarily examinations are held upon a request by a customs officer or a report submitted by his manager. The final decision, however, is made by the Superior Managing Body of Customs Administration. Examinations may be held on account of public criticism or claims of individual organizations or physical persons but sanctioned by the Managing Body.

Examinations, when concerning customs managing officials, shall be provided with respect to the nature of the subject by the respective Supervising Department officer or a working group on decision of the Chairman of the Examination Commission.

Customs officers subject to disciplinary liability are allowed to become aware of the matter they are accused of, to acquaint themselves with their rights and responsibilities, present evidence on their own behalf, , and consult a lawyer.

Customs officers who are exposed to disciplinary liability shall present themselves to the Commission on time upon call of the examining officer (examiner) or working group and shall provide truthful explanations.

The examiner (group) may question persons related to the official being examined. The examiner (group) shall during the examination ask the related persons for explanations, study the documents, references and other materials, if needed make copies of them, prepare and submit an appropriate proposal to the Commission. The proposal shall be discussed at the Commission session and submit a report (on conclusions) to the Managing Body.

The Managing Body shall take a decision based on the final report. Examination period is approved by the Commission to be 60 days; however, this period, if requested by the Commission and approved by the Managing Body, may be prolonged by up to 30 days. This may occur when additional investigations are needed. Such decisions taken by the Managing Body on the Commissions' proposal may be subject to appeal through the courts.

Customs officials are empowered to investigate issues related only to smuggling or illegal imports. Corruption is not a subject of their investigation activities. Therefore, if an examination discloses violations of a criminal nature the Tax Administration Committee shall inform law enforcement authorities.

Law on Tax Service incorporates principally the same provisions as does the Customs Service Law.

Obligation to Report Cases of Misconduct/Breaches of Duties/Corruption

Non-disclosure of information on crimes (definitely known planned serious or especially serious crimes) causes a legal liability for not only officials or persons who hold positions. Such crimes are covered by Article 335 of the Criminal Code dated 1 August 2003. Pursuant to this Article, non-disclosure of such violations, public servants as well as culpable persons 16 years or over, except for spouses and close relatives of the offender, shall carry a penalty in terms of 300-500-fold minimum salary size or between 1-3 months or two years of imprisonment.

In particular, if the corruption offence is qualified as passive bribery, when obvious illegal actions have been committed in favour of the bribe giver or its represented person, when the bribe has been taken by force, by prior consent of a group of persons in large amounts and more than once, by an organized group in rather larger amounts, by a judge, and when persons who are aware of such planned offence fail to report adequately, they shall carry a criminal liability. Other cases of not reporting passive bribery shall not be subject to criminal liability.

It is worthwhile that in the case of officials this fault may be considered as official negligence or abuse of official duties, as the case may be. An ordinary non-disclosure of information on corruption carries a maximum penalty of two years imprisonment, whereas in cases of official offences this goes to six years and more.

As may be observed from the above, public service in Armenia is in its early stage and needs further integration. To this end, under the framework of

public management system reforms commission and a number of international programs, activities are underway to tackle this issue. In particular, the Public Management Academy of the RoA is currently drafting a Municipal Service Law. With World Bank support the RoA Public Sector Modernization Program is being developed, and with DFID support Public Sector Reforms Program is being implemented to identify public service provision mechanisms and availability in social sector and other relevant issues.

Public Procurement, Licences, Subsidies or Other Public Advantages

Procurement relations are regulated by the Law on Procurement: (hereinafter "Law") adopted by the National Assembly in 2000 and by appropriate legislative acts adopted by the Ministry of Finance and Economy for the application thereof. The Law regulates the relations of procurement of goods, works and services for the Government and communities needs, defines the rights and obligations of parties. Clients are public and local self-government agencies. Institutional framework of the procurement system has been set up, under which the Ministry of Finance and Economy is the authorized body (hereafter "the Authorized Body" for public regulation of procurement and inter-branch coordination and the State Procurement Agency, the state non-commercial organization (hereafter "the Agency"), is the authorized body for centralized procurement.

Presently, the Government is in the process of adopting a decree on Procedures for Providing State Budget Subsidies and Grants to Legal Entities (hereafter "the Procedures").

Procurement for state and communities needs is conducted through centralized and local competitive biddings, requests for quotations, and single-source procurement methods. There are two types of competitive biddings: open and closed.

Centralized open competitive biddings are conducted by the agency for procuring state needs. For defence and national security needs, procurement is conducted through closed competitive biddings by local authorized public authorities. For community needs, centralized open competitive biddings are conducted by the communities' authorized agencies or authorized legal entities.

For state needs, the Agency carries out regular and special open competitive biddings. Special open competitive bidding assumes procurement of items not included in the approved by the Minister of Finance and Economy list of goods and services to be procured. If procured items are included in the

list, the relevant authorized public authorities approve the technical specifications thereof.

Within two working days upon approval of the decision on carrying out an open special competitive bidding (hereafter "Procurement Request") the public authority submits the Procurement Request to the Agency. Upon receipt of the Procurement Request, the Head of the Agency establishes a committee comprised of at least five but no more than eight members. The members of the committee shall be:

- for procurement for three and less public authorities, representative of the Agency and equal number of representatives of each public authority,

- for procurement for four and more public authorities, representative of the Agency and one representative of those public authorities for which the volume of procured goods, works or services makes a big share.

Under the same decision a Secretary is appointed. Persons (hereinafter "the Advisers") nominated by the Agency and/or public authority (authorities) may also participate in Committee activities by deliberative vote. The Committee carries out its activities through meetings on the principle of joint leadership. Except as otherwise provided by legislation, the Committee meetings achieve a full a quorum if attended by the three-fourth of Committee members attend and majority adopt Committee decisions. Each Committee member has one vote. In case of a tie in votes, the chairman's vote shall be decisive and in case of his/her absence the meeting chairman's (hereinafter the "Meeting Chairman") vote shall be decisive. Minutes of Committee meetings shall be recorded and approved by the Committee. The said minutes are the constituent part of the overall procurement documentation. The minutes provide the date, time and place of the next meeting. All Committee members who attended the meeting shall sign Committee decisions and/or other records.

In case if either the Committee Meeting or the Special Meetings fail to achieve a quorum, the Secretary promptly notifies the Head of the Agency in writing. The Head of the Agency shall:

- temporarily but no more than for five working days terminate the procurement process;

- apply to the relevant public authority (authorities) with a suggestion to ensure attendance of their representative or appoint another person;

- establish the date, time and place of the meeting which shall be no later than the deadline for temporary termination;

- in the event the meeting lacks a quorum after the period for temporary termination, the Committee member(s) is recalled with due notification to the relevant public authority;

- for other activities, new members are appointed from the Agency staff.

Special Committee meetings are called by the Secretary upon written request by one-third of Committee members with the time and agenda specified by them.

The Agency informs at least 48 hours prior to the Meeting the Committee members in writing about the special meeting, the agenda, time and place.

The Secretary a) is not a Committee member; b) is a representative of the Agency; c) is responsible for organizational issues of the Committee; d) is responsible for bids register; e) presents draft records to Committee approval; f) prepares the record of the procurement procedure and submits to Head's of Agency approval; g) on behalf of the Agency within one working day upon request, provides the Committee Members and the bidders the copies of the minutes; h) records the data related to Committee activities and retains all procurement documents; and i) performs other duties.

In the event the Committee fails to comply with the provisions of the legislation on procurement, the Secretary will immediately notify in writing the Chairman and the Head of Agency immediately. Upon receipt of such notification the Head of Agency shall:

a) take a decision (Order) on termination of the Committee activities for a maximum five working days;

b) assign the Agency's legal services department to provide an opinion on the notification before the deadline of temporary termination. The legal services department may request additional material from the Secretary. Upon receipt of the legal services department's written opinion, if it states that the notification is not substantiated the Committee shall restart activities or based on the said opinion the Committee decisions shall be reviewed (modified).

The notification is considered to be substantial when a breach of procedure is stated. If before the deadline for temporary termination a new order of the Head of Agency is not issued the Committee may automatically restart the activities. The next working day after the Committee restarts activities the Agency submits copies of the notification, opinion and order; in the case where no decree is issued, the copies of the notification and opinion are sent to the Authorized Body. Any Committee member and/or Agency official that fail to perform its duties, and any public official, other than the Committee members, attempts to influence the Committee's actions will carry a liability as prescribed by RoA legislation.

The first Committee meeting shall be convened on the day, time and place specified in the Decree appointing the Committee, and during which a) the agenda of the first Committee meeting is approved; b) the Committee selects a chairman; c) the advertisement is approved; d) the invitation to bid is approved; e) the day, time and place of the next meeting is approved.

On the first meeting day the Secretary provides the Head of Agency the approved advertisement and invitation to bid in view of furthering it to the Authorized Body.

Within three working days upon publication of the open competitive bidding in the official bulletin, the Authorized Body arranges publication in at least one newspaper with a circulation of 3 000 and/or other media.

In order to obtain the invitation to bid, a request for a copy of bank certificate verifying the payment of the required amount shall be submitted to the Agency. The Agency shall provide the invitation to bid within two working days after receipt of such request.

Prior to the opening of the bid, officials of the Agency are not allowed to disclose any information on prospective bidders. The failure to obtain the invitation to bid shall not cause rejection of the bid.

The Agency may be requested to provide clarifications of invitation to bid. As presented by the Secretary, the Agency shall make the clarifications within five working days upon registration of the letter of request.

With the consent of the Authorized Body, the Committee may take a decision to modify the invitation to bid. Upon receipt of such decision from the Secretary, the Agency shall publish the decision in the Official Bulletin and send it to all prospective bidders. Agency officials and/or Committee members

that have provided clarifications in the way other than the procedures specified herein shall carry a liability as prescribed by RoA legislation.

The bids are submitted to and received by the Agency before the deadline specified in the invitation. The Secretary receives and registers the bids in a special register according to the procedure established by the Authorized Body. Bidders are not allowed to submit more than one bid under the same competitive bidding. Bids are opened on the deadline established in the invitation during a Committee Special Meeting, during which participation by at least three members is considered to be a full quorum. In the Special Meeting:

- The Chairman, or in his/her absence any member selected as the meeting chairman, opens the meeting.

- The Secretary informs about the records in the register, which is given to the Chairman the register, as well as other related documentation and the registered bids;

- After the Chairman receives the register, the Committee begins its examination of the bids and verifies that:

  – the required consistency with the established procedures is on place with respect to the envelopes handling; and opens the responsive envelopes, except for the envelopes with price quotations;

  – the required documentation, and the price envelope, in the outer envelope are available;

  – the documents certifying the eligibility and the qualification of each bidder are in place,

  – the price envelopes are in compliance with the requirements set in the invitation;

- The Committee makes decisions by simple majority vote of members attending the meeting,

- All bids considered as inconsistent shall be rejected. The Agency returns copies of the rejected bids to the bidders within two working days after the special meeting, and the bids evaluated as non-appropriate in accordance with Paragraph (b) are rejected by the

Committee and returned by the Agency within two working days after the meeting;

- After bids are evaluated in accordance with paragraphs (a) and (b), the Secretary, in the presence of participants, registers the originals of the accepted bids separately and submits them to the archive as prescribed by the procedure;

- The price envelopes of the accepted bids are placed in a separate envelop in the presence of participants. This envelope is sealed and immediately signed by Committee members. After signing, the envelope is handed to the Secretary for filing.

After signing, the Secretary provides the Committee members with:

- two copies of evaluation papers (hereafter "the Evaluation Papers") sealed by the Agency after the Committee Meeting; and

- if requested, one copy of each evaluated bid (hereafter "Bid"), except for the price envelops, within two working days upon receipt of such request.

The following working day of the Special Meeting, the Secretary furnishes each absent Committee member with two copies of the Evaluation Papers. In the event where there is more than one representative from the same public authority in the Committee the Secretary furnishes them with only one copy of the bids;

The Chairman publishes the sanctioned information and informs members of the day, time and place of the next meeting for approving the bids evaluation results. Based on the documents provided, the Committee members check to determine the compliance of each bidder with

- the eligibility criteria;

- the qualification requirements, the proposed technical specifications and the bidder's capabilities to effectively carry out thereof (substantiations).

Within the established Committee timeframe, the Committee Member records the evaluation results and issues two copies of the evaluation papers, signs and provides the Secretary with one copy. For filing purposes, the Committee Member submits the second copy to the relevant department of the public authority he/she represents.

In the meeting for approval of bids evaluation the Secretary passes the Evaluation Papers to the Chairman and based on the Evaluation Papers the Committee approves the evaluation results. the Committee may decide to ask Bidders to present clarifications and confirmations of their qualifications. In such cases a new meeting shall be convened. The meeting shall be convened upon evaluation of all bids.

The bidder's qualifications are confirmed when the latter presents declaration thereon. The provided clarifications and/or reconfirmations shall not change the bidding documents and/or additional documents not required by the Invitation shall not be requested and/or presented. The bidders who have failed to confirm their qualification will be rejected. For bid evaluations, the evaluation criteria stated in the Invitation shall be used only. In the event if the bidder's documents do not answer the requirements stated in the Invitation, the bid will be rejected.

Subject to this sub-paragraph, if the Committee decides to request clarifications and confirmations, further consideration of all bids shall be suspended until the meeting provided in this paragraph:

- upon adopting decision, in accordance with above sub-paragraph (b), the Secretary passes on the price envelopes to the Chairman;

- the Chairman opens the envelope with Price Proposals and separates the Bids evaluated as improper to Invitation requirements. The separated price envelopes shall not be opened and considered by the Committee. The Chairman opens the rest of the price envelopes and reads aloud the amount of each bid written in letters;

- if evaluation of substantiations of proposed bids:

  – are not required in the Invitation, upon announcement of price proposals the first three bidders shall be selected;

  – are required, upon announcement of price proposals the meeting for approving bids evaluation results shall be closed.

If further verifications are required, prior to the day of meeting for summarizing (finalizing) the results a special meeting may be convened for receiving explanations and clarifications from bidders. The meeting shall be convened after considering all price proposals.

At the time that explanations and clarifications are offered no changes shall be made in the submitted documents and/or requested and/or presented additional documents not required by the Invitation.

After evaluating the substantiations, the first three Bidders are selected in accordance with the Law. Within 30 working days after the deadline for bid submissions, a final meeting shall be convened during which the Committee decides on winner or, according to the Law on Procurement (hereinafter "the Law") annuls the bidding. If evaluation of substantiations is not required by the Invitation to Bid, the meeting for approval summarizes the evaluation results as well.

The Committee announces the name of the winner with due justification of its selection. Within one working day after summarizing the evaluation results, the Secretary furnishes the Head of Agency with a copy of minutes of Summarizing final Meeting, which serves a basis for contract signing, as prescribed by the Law. In the event the contract is not signed due to reasons for which no party has any responsibility, the legal relations between the parties shall be terminated.

Within five working days upon the signing of the contract or the rejection of all bids, the Committee adopts a decision and submits to the Head of Agency a report on its activities. The report is accompanied by all procurement documentation (letters, decisions, minutes, consultant's reports, etc.). Within three working days after receipt of this report, the Committee shall be disbanded on the Agency Head's decision. Within three working days upon contract signing the Agency sends a copy to the public authority.

The open competitive bidding is deemed to be regular when the procured item is approved by the Minister of Finance and Economy's list of goods and services to be procured through regular competitive biddings. Within ten days after approval of the list, according to Decree N°37 of the Minister of Finance and Economy, dated 8 January 2002, the Agency Head shall approve by decree the technical specifications of each of the listed goods and services, as well as procurement schedules.

Based on the approved schedule, the Agency Head issues a decree for establishing a Committee which shall be comprised of at least five but no more than eight members from the Agency and those public authorities for which considerable amounts of similar procurements were conducted by the Agency in the past. In such cases, the Agency sends a letter to the state managing body with a request to appoint representative(s) on the Committee, provided that the candidate has the required professional skills to perform technical evaluation of

bid proposals. The Committee shall be comprised of equal number of Agency and public authority representatives.

Establishment of the Committee, its activities, and procurement are conducted and the contract is executed in accordance with the procedures for special competitive biddings. While approving the Bid Invitation and Advertisement the Committee takes into account that the following shall be stipulated in the Contract with the winner:

- The Contract period shall be at least before 1 July of the next year, but no more than two years;

- The highest unit price of the procured item and the possibility of change thereof, in cases where there are modifications to the Contract in the amount of procured goods and in conditions of supply, services or works performance.

Within five days upon contract execution with the winner of the regular competitive bidding, the Agency registers the contract in the Register of Signed Contracts according to procedure established by the Authorized Body. The data and changes are then published in the official procurement bulletin.

Within five working days after identification of the needs of goods, works and services specified in the Register, regardless of the estimated cost of the procured item, the public authority sends a procurement request to the Agency either electronically or by hard copy. Within two working days upon receipt of such a request, the Agency confirms in writing, electronically or by hard copy, the order of the goods, works or services under the signed contract.

Closed competitive biddings for procurement for defence, national security needs are conducted by the authorized state bodies in regular or target (special) forms. The close competitive bidding is special when the procured item is not included in the list of goods and services to be procured through regular competitive biddings approved by the authorized state body for National Security Needs Procurement and agreed with the Ministry of Finance and Economy. As prescribed by the authorized procedure, within two working days upon approval of the request of the department responsible for the procurement through closed competitive bidding, the client submits to the authorized body's consent the decision on procurement of goods, works and services.

In the case where there is an appropriate order from the Minister of Finance and Economy allowing the client to conduct certain procurements

without the authorized body approval, the Client shall not apply to the RoA Ministry of Finance and Economy.

Within two working days upon receipt of the authorized body's letter of consent, the client decides on establishing a Committee (hereinafter "the Committee") comprised of:

- a head or deputy head of the client;
- a head or representative of the legal services department;
- a head or representative of the financial and economic services department; and
- other representatives at the discretion of the Head of Client.

Under this decision, a Secretary shall also be appointed. The Secretary shall:

- not be a Committee member;
- be responsible for coordination of state bodies or organizations in procurement activities under their authority;
- be responsible for arranging Committee activities;
- maintain the Bids register;
- submit draft documents to Committee approval;
- prepare and submit the minutes of given procurement to client approval;
- on behalf of the client, within one working day upon request, provide the Committee Members and bidders with a copy of Committee Meeting minutes and attachments;
- record data on Committee activities through preparing the relevant documentation and maintain the files of the Committee activities; and
- carry out other duties.

During the first meeting the Committee approves the agenda, the Invitation to Bid, the list of invited entities, and the day, time and place of the next meeting. On the same day as the meeting, the Secretary sends to the client the Invitation, and the latter within three days provides it to the invited entities.

To obtain an Invitation, a request and a copy of the Bank certificate of payment of the required amount shall be presented to the client. The client provides the Invitation within two working days upon receipt of such request.

Relations related to closed competitive bidding, contract signing and Committee liquidation are regulated in accordance with conditions set for procurement through special open competitive bidding, with due consideration of peculiarities.

The closed competitive bidding is regular when the procured item is approved by the Authorized Public Authority and agrees with the Ministry of Finance and Economy's list of goods and services for defence and national security needs to be procured through regular competitive biddings.

Upon approval by the Authorized Public Authority and the consent of the Ministry of Finance and Economy to the list of goods and services for Defence and National Security to be procured through closed regular competitive bidding, the technical specifications of each item and procurement schedules shall be approved by the same authority.

Based on the approved procurement schedule, based on the Agency Head's decision, separate Committees comprised of at least five but no more than eight Members are established for each competitive bidding.

Establishment of the Committee, its activities, and procurement is conducted and contract is signed according to applicable procedures for closed special competitive biddings. While approving the Bid Invitation, the Committee takes into consideration the following:

- The Invitation to Bid shall provide the method of goods, works or services unit price calculation, the possibility of changes thereof as provided by modifications of procurement volumes and conditions of goods supply, works and services performance. The Invitation shall not specify the estimated cost of the procured item;

- For each of the above any change in the description of the procured item shall be modified and specified as separate quotas;

- The contract period shall last at least until 31 December of the next year but no more than three years.

Regardless of the estimated cost of the procured item, the authorized Public Authority for procurement of defence and national security needs, within two working days of the date of the requirement of the goods, works or services contracted through the regular competitive bidding, notifies the other Party and presents a request of goods supply, works and services performance in the framework of the signed contract.

A single source procurement is used upon Authorized Body consent through submission of a procurement request for goods, works and services by a public authority or through quotations by the Agency. In such cases, the following methods are possible.

Single-Source Procurement of Goods, Works and Services Through Quotations

In accordance with the established Authorized Body procedures, within two working days upon approval of decision of a single-source procurement due to urgent and unforeseen procurement demand, the State managing body submits their request to the Authorized Body for its consent.

If in its letter attached to the decision on procurement method, and in accordance with the procedure established by Ministry of Finance and Economy Decree N° 17 dated 17 January 2001, the public authority fails to state that due to urgency the contract should be signed earlier than the date specified for single-source procurement through quotation, the Authorized Body agrees with the Client decision that the procurement shall be provided on a single-source basis through quotation. Simultaneously, the Authorized Body sends the Agency a copy of the letter of consent.

Within two working days upon receipt of the Authorized Body's letter of consent, the state managing body presents to the Agency technical specifications, procurement and payment schedules, as well as names of candidates for Committee. Within one working day after receipt of the mentioned documents under the decree of the Head of the State Procurement Agency a Committee comprised of equal number of representatives from the Agency and the state body shall be established.

The activities of the Committee shall be in compliance with legislation applicable to activities of committees assigned for procurement through special competitive biddings with due consideration of the following peculiarities.

The first Committee meeting shall be convened the following working day the Committee is established during which:

- the meeting agenda is approved;
- the Committee Chairman is selected;
- the advertisement to quote is approved (hereafter "the Advertisement");
- the quotation form is approved;
- the date, hour and place of the next Committee meeting are approved.

Within two days after approval of the Advertisement the Agency shall publish it in an Armenian newspaper with a circulation of 3000 or more.

Within two working days after publication of the Advertisement interested entities shall contact the Agency to obtain the quotation. The Agency shall provide the quotation within one working day after receipt of such requests and upon submission of a copy of the bank certificate proving payment of the required fee. The required fee shall not exceed the costs related to copying and delivery of the quotation form. Under the provisions of this paragraph, failure to obtain the quotation form shall not result in rejection of the entity's quotation.

Prior to quotation opening, meetings with Agency and/or its officials are not permitted to disclose any information on the entities obtained in the quotations forms and/or requested for obtaining thereof.

The bidders shall submit their quotations to the Agency in sealed and signed envelopes before the deadline specified in the quotation, which shall not be earlier than five working days after publication of the Advertisement. The Secretary receives and registers the quotations according to procedures for receipt and registration of bids established by the legislation on procurement.

The Committee shall open, evaluate and make a decision on the winner on the same day as the deadline for submission of quotations during a special meeting. It is considered that a full quorum is achieved if at least three Committee Members attend. If only one quotation is received the Committee is permitted to evaluate it.

The Committee may conduct negotiations with bidders by preparing minutes, which will constitute an integral part of the procurement documentation.

Within three working days upon contract signing the Agency shall provide a copy thereof to the State body. Within five working days upon receipt of the copy of the contract the State body shall present an extract thereof to its local treasury office.

Single-Source Procurement

For the cases for which there is: a) a lack of competition, b) copyright, c) appropriate license, d) urgent and unforeseen procurement demand, and e) requirement of additional services from the same entity, within two working days upon approval of decision on a single-source procurement the public authority submits the decision to the Authorized Body for consent, according to procedures established by the latter.

The client does not apply to the Authorized Body if permitted to procure from a single- source without the Authorized Body's consent.

Within two working days upon receipt of the Authorized Body's letter of consent the relevant department proceeds with the contract signing in accordance with procurement legislation.

In the event that the single-source procured item for an urgent and unforeseen demand is covered by regular competitive bidding contracts signed by the Agency, the procedure mentioned below shall be followed.

Within five working days upon the original date of procurement demand of goods, works or services listed in the register, regardless of the estimated cost, the public authority sends a written request to the Agency via electronic or regular mail. Within two working days after receipt of such a request the Agency confirms in writing the other Party, via electronic or regular mail, the order of the goods, works or services within the framework of the signed Contract.

If the estimated cost of the procured goods, works and services does not exceed the three-fourth of the procurement base unit of AMD 750 000 and if the required goods, works and services are not listed in the register of regular competitive bidding contracts, procurement through *Request for Quotations* from at least two entities may be used.

Within two working days upon approval of the relevant department's proposal, the department sends the requests for quotations to entities in the approved list, as prescribed by legislation.

In the event that the request for quotations is covered by regular competitive bidding, the department acts in the following manner. Within five working days upon the original date of the procurement demand of goods, works or services listed in the register, regardless of the estimated cost, the public authority sends a written request to the Agency, via electronic or regular mail. Within two working days after receipt of such a request the Agency confirms in writing the other Party, via electronic or regular mail, the order of goods, works or services within the framework of the signed Contract.

Procurement for Communities Needs

Procurement for communities' needs is conducted in accordance with procedures for special competitive biddings for government needs by an authorized agency under the authority of the community or an authorized legal entity:

- for the cases which there is: a) lack of competition, b) copyright, c) appropriate license, d) urged and unforeseen procurement demand, and e) requirement of additional services from the same person, based on proper justifications, single-source procurement is conducted by local self-government bodies upon consent of the community's Senior Executive;

- Single-source procurement through quotations provisioned by urged and unforeseen demand is conducted by an agency under Community or a legal entity entitled to carry out centralized procurement for Community needs in accordance with procedures set for that procurement method for government needs.

Procurement through Request for Quotations is conducted by local self-government bodies. Meanwhile, the Agency is entitled to perform open competitive biddings on a contractual basis for community needs.

Specifications approving procurement procedures and complaints are regulated in accordance with procedures set for government specifications.

Subject to regulation are basic relations related to state grants and subsidies provided to legal entities. The regulation specifies the nature of subsidies and grants, the procedures for providing thereof and other relations. In particular,

the methods for calculating subsidies, the norms for such calculations, including the least advantaged price in individual sectors and types of activities are established by relevant state policy implemented by public authorities in each sector agreed with the Ministry of Finance and Economy. Subsidies are granted based on a contract between the public authority responsible for the sector and the entity. Grants are provided through a competition process, conducted in compliance with the relevant regulation.

Public Procurement Supervision and Appeal Procedures

According to Articles 10 and 17 of the Law on Procurement, the Ministry of Finance and Economy is responsible for document control and on-site inspection of procurement. In so far as document control is concerned, the Authorized Body verifies the compliance of procurement records submitted by the Agency or the relevant public authority with the provisions of procurement legislation. In case of non-compliance, the Authorized Body shall request justifications and if the provided justification is not acceptable shall instruct the actions of the relevant body. The latter either takes actions for carrying out the instruction, notifying the Authorized Body about that, or if the instruction is not acceptable submits the matter to the GoA. The Government's decision shall be final for the Authorized Body.

On-site inspection is performed according to procedures prescribed by the Law on Organizing and Implementing Inspections on the Territory of RoA.

By Decree N°435 of the Minister of Finance and Economy dated 29 November 2001, a procurement monitoring steering team was created and relevant procedure established for reviewing the procurement process, identifying and making public the deficiencies, and drawing up the conclusions on procurement process. Monitoring is based on review of submitted documents and oral presentations by the Authorized Body officials on circumstances that hinder or impede the procurement process or infringe on the interests of bidders.

Articles 45-49 of the law govern the appeals process. Any person who has suffered or may suffer damage as a result of the client's and/or authorized body's actions during the procurement process has a right to appeal. The appeal may be filed by:

- The client on the fifth working day after publication in the Official Bulletin of the decision awarding the contract award. The client shall not consider the appeals presented after contract signing. Within five working days after receipt of the appeal, the client shall be given a written decision with relevant justifications in the case the appeal is

rejected, or the mechanisms to be applied in case of full or partial satisfaction of the appeal.

- If the client fails to take any decision within five working days, or the decision is not satisfactory to the appealer, the latter has the right to appeal to the Authorized Body or to the Court.

- The appeal shall be filed to the Authorized Body if the client has failed to consider the appeal, or the appealer is unsatisfied with the client's decision, or if the client's decision is dated later than five working days upon receipt of the appeal. The Authorized Body sends a written notification of the appeal to the client. The Authorized Body shall adopt a decision within five working days, which shall be final provided the decision is not brought to the Court. If the appeal met by the Authorized Body the client shall compensate for losses incurred by the appealer.

On the appeal, the Authorized Body may decide to:

- prohibit the client to take certain actions, make decisions, or perform certain procedures;

- force the client make relevant decisions, take required measures and perform consequent procedures;

- fully or partially annul or revise or replace the client's decisions, except for those on the contract award and contract termination;

- force the client to compensate the costs incurred by the appealer related to procurement procedure prescribed by legislation and supported by documents;

- terminate the procurement process.

In the case where the appealer proves the possibility of losses if procurement is in process, the Authorized Body terminates the process for seven working days. In order to ensure the appealer's rights the Authorized Body may extend the aforementioned termination period until completion of the appeal process provided the whole termination shall not exceed 15 days. If the client proves to the Authorized Body the importance of procurement continuity for defence and national security purposes, termination shall not be applied. The client's justification shall be attached to the procurement records.

The authority that has received the appeal shall inform all stakeholders about the content therein. The interested entities that have suffered or may suffer as a result of the appeal may take part in the appeal procedure. The entities which failed to participate in the complaint processing are not permitted to make similar complaints. The decision of the client or the Authorized Body, within five days upon adoption, is provided to the appealer and bidders and other interested parties upon request. The appealer reserves a right to file the client's or Authorized Body's decisions to the Court.

Public Procurement System and Prevention of Corrupt Practices

Public procurement is carried out by centralized and local competitive biddings, and for cases provided by the Law on Procurement through request for quotations or single-source procurement methods.

The State Procurement Agency represented as a non-commercial State organization is responsible for centralized procurement procedures. In particular, the Agency receives and registers the bids and quotations, records all the data related to procurement, ensures equality of rights of bidders, provides for openness of the procurement process and signs contracts with winners.

Clients, *i.e.* public and self-government authorities and organizations, carry out local procurement. According to Article 17, Clause 1 of the Law on Procurement, the Ministry of Finance and Economy is responsible for State regulation of procurement. The Ministry is authorized to:

- provide methodology for regulation of procurement process;
- draft documents on procurement norms and submit these to the Government and the Prime Minister for approval;
- Assist clients in conducting procurement and supervise their compliance with laws and other legal acts;
- provide assistance to clients, including preparation and publication of standard procurement documents;
- co-ordinate collaboration in procurement activities between public and self-government authorities and international organizations and foreigners in general;
- organize staff training for public and self-government authorities.

The objective of the overall procurement policy is to ensure transparency of implementation tools, which in essence aims to prevent abuse and corrupt practices.

Financial Control / State Audit

Legislative and Institutional Framework for State and Internal Audit

State financial control is performed by the Chamber of Control of the National Assembly, the Financial Supervision Department of the Ministry of Finance and Economy (MoFE) and by internal audit agencies under public and self-government authorities.

The Chamber of Control is an external supervision authority formed by and reporting to the National Assembly.

Article 77 Constitution provides that "the National Assembly shall consider and approve the annual report on state budget execution upon the Chamber of Control opinion." The Law on the Chamber of Control of the National Assembly dated 29 May 1996 regulates the Chamber's activities which are based on independence, collective leadership and openness. To create an effective and integrated control system, a proper legal framework has been established. In particular, the Law on Organizing and Conducting Controls in the Republic of Armenia was adopted on 17 May 2000; the Regulation for Control of State Budget Execution was approved by Decree N°1112-N on 11 July 2002. The cooperation framework, at the forefront in the combat against economic irregularities, was initiated under the joint order of the MoFE, the Chief Prosecutor, Ministers of Interior Affairs and National Security adopted in June 2002.

Under the approved regulations, the Ministry of Finance and Economy (hereinafter Controlling-Auditing Body), the Prosecutor's Office, the Police under the GoA, the National Security Service under the GoA collaborate in the organisation and the conducting of inspections, processing inspected materials, and in the development of unified methodological instructions and exchange of information in the area of financial and budgetary policy implementation.

The inspections are held to verify the validity of the organization's financial and economic transactions for the period under inspection, to verify the authenticity of review reports, as well as the availability and accuracy of the documentation.

Based on the decisions of the prosecuting authorities, the Controlling-Auditing Body carries out inspections of the organizations and agencies named in the petition signed by the head of republican prosecuting authority or an authorized person. Under the decision, the disclosed data on financial offence, the place and period of the inspection, as well as the issues to be verified by the Auditing Body shall be submitted.

The Auditing Body carries out inspections in a defined order. If an extraordinary inspection is required, the Auditing Body and the Prosecuting Authorities take a joint decision to prepare for such a special inspection. The Prosecuting Authorities furnish the inspectors with clarifications, ensure participation of the budget loan administration agencies and persons who have material responsibility, as well as undertake measures to obtain additional necessary materials.

The inspection report shall be prepared and submitted to the Head of Auditing Body. The latter, within five days, shall send the list of inspection materials to the Prosecuting Authority. The Prosecuting Bodies process the received materials as provided by the law and undertake loss recovery measures.

The aforementioned legislative acts govern relations of the supervisory bodies that inspect organizations and law enforcement authorities. It should be noted that the draft of a new law on Chamber of Control of the National Assembly, which increases its independence, is presently under consideration.

The Chamber of Control of the National Assembly is a member of INTOSAL and EUROSAL. It follows the basic requirements imposed thereupon and attempts to make its activities more public and transparent by relying on society in general for support.

On behalf of the executive authority, the supervision of the RoA budget execution is performed by the Financial Supervision Department of the MoFE under by the Decree N°1460-N, dated 11 July 2002, on Approving the Staff and Charter Ministry of Finance and Economy. The aforementioned activities are carried out by the Supervision Department in terms of verifying the effectiveness and expediency of utilized funds of State Budget and loan proceeds of foreign countries and international organizations, as well as examining for compliance of off-budget funding and use with the legislation. The inspections cover the activities of tax and customs authorities with respect to budget income collection, as well as focus on the effectiveness and expediency control of State budget specific allocations to state and partially

state-owned organizations. With respect to these activities, the Financial Supervision Department is entitled to carry out:

- In the area of control and financial supervision over State Budget execution:

  i) Expediency and effectiveness control of State Budget expenditures by commercial organizations with more than 50% State shares and State management agencies and chief financial officers thereof;

  ii) Control over the budget revenue and for compliance with legislation by the revenue collection and supervising authorities and authorized legal persons, except for inspections of tax agents and payers of tax, duty, other fixed duties, leasing charges, interests and administrative charges;

  iii) Quality (accuracy and legality) control of activities related to State Budget execution by public and regional government authorities and communities and chief financial officers thereof, including placement of government orders (procurement process);

  iv) Control for effective and expedient utilization of state budget allocations, government loans, grants and republican special funds and other government sources provided by public authorities to commercial and non-commercial organizations (regardless of their legal and organizational status), as well as inspection (audit) of financial and economic activities of the state administration agencies and state non-commercial organizations;

  v) Control on implementation of off-budget funding and use by the state administration agencies in accordance with legislation;

  vi) Auditing based on pre-examination and court decisions;

  vii) Inspection of cash and accounting transactions in the cases prescribed by Law;

  viii) Inspection of financial and economic activities in communities to the extent it is sanctioned by laws.

- In the area of state property management:

i) Control of audit commissions (inspectors) activities within commercial organizations with 50% and above state shares, except for the inspections of commercial organizations with state shares.

ii) Control on property transferred to the State as unowned, confiscated, donated and inherited property, as well as on the property seized under tax and non-tax liabilities.

- In the area of international financial co-operation:

i) Inspection of economic and financial activities of project implementation units, cost estimation control, as well as supervising the expedient and effective utilization of state funds during the project implementation.

Supervision or control activities are conducted in accordance with the RoA State Budget execution controlling programs approved by the Government, as well as based on specific assignments given by the Prime Minister, Minister of Finance and Economy and upon petitions filed by the competent public authorities. As a result of such activities, remedial measures are underway to address the violations and irregularities and ensure legality and, in particular cases, impose sanctions and compensate losses.

In Armenia, an appropriate legal framework has been established for providing effective and sound financial control. In particular, since 2000: the Law on Organizing and Conducting Control in the Republic of Armenia was adopted and enforced; Regulation for Control over the State Budget Execution of the RoA was approved by Decree N°1112-N dated 10 August 2002; the Procedure for the Ministry of Finance and Economy Cooperation with the Prosecutor's Office, the National Security Service under the GoA and RoA Police under the GoA to Disclose Economic Irregularities under Inspection Activities approved in June 2002 by joint order of the Ministry of Finance and Economy and the Law Enforcement Authorities.

The aforementioned legislative acts govern the relations of supervisory bodies with the inspecting organizations and law enforcement authorities. In particular, and in accordance with this Procedure, in order to increase the effectiveness of the fight against economic offences the Ministry of Finance (as Control-Audit Body), the Prosecutor's Office, the National Security Service under the GoA and the RoA Police under the GoA (as Prosecuting Bodies) are collaborating in the organisation and the conducting of inspections, the further processing of the inspected materials, in the development of guidelines and the exchange of information so as to ensure better legal application of financial and

budgetary policies. In light of the aforementioned, the prime objective of the Control-Audit Body is to control and supervise State and other funds and the circulation thereof, in collaboration with Prosecuting Bodies, which will disclose and evaluate validity of financial and economic transactions made by the organizations (agencies), the adequacy of reports, and the availability and accuracy of related documents for the period under inspection.

Relations in the area of internal audits in public and local self-government bodies and agencies are regulated by the law on Treasury System and by the Minister of Finance and Economy Order N°934-N dated 30 December 2002, on approving the Regulation for Conducting Internal Audit in the RoA Public and Local Self-Government Bodies and their Sub-Agencies.

The structure and objectives of financial and accounting services acting under public and local self-government bodies were established by the MoFE Letter of Instruction N°3/10-816-3654 dated 28 December 2001 and are presented below.

Powers of Bodies Involved in Internal Audit System:

The Ministry of Finance and Economy:

Co-ordinates and supervises the audit activities of State bodies, and in particular:

- receives annual and quarterly audit programmes and gives its consent for approval;
- receives and considers audit reports; and
- presents mandatory instructions to the Chief Financial Officer on correcting mistakes and omissions identified during audit.

Through inspections and audits of the State Budget execution:

- examines audits are performed in compliance with the provisions prescribed by this Regulation and other legislative acts; and
- assesses the compliance of the activities taken by agencies with respect to budget revenue and expenditures, accounting and preparation, and submission of reports on budget execution with legislation provisions.

Public or Local Self-Government Managing Body

Regarding the specifics of financial and economic activities it may establish an audit group to provide auditing and

- if required presents written justification to the Chief Financial Officer for the extension of a complex audit;
- manages audit groups;
- decides on involving experts in audit teams with the Chief Financial Officer's prior consent;
- at least two weeks prior to audit notifies the entity to be audited;
- prior to each audit informs the audit team members of the planned schedule of the audit, provides the members with the required papers and the letter of the Chief Administration of Budgetary Credit (hereafter the Chief Administration/CABC) on approving Audit team staff;
- submits an audit report to the Chief Financial Officer identifying all the omissions and mistakes and provides appropriate remedial recommendations;
- reports to the Chief Financial Officer on fraudulent or other illegal practices detected during the audit;
- decides on the quantity, composition and quality of the audit materials;
- bears responsibility for the integrity and filing of audit working papers;
- archives the audit materials and for their extraction receives the Chief Financial Officer's consent;
- if required, conducts additional auditing to review the expert reports and opinions;
- incurs responsibility for reliability of the audit reports and opinions; and

- arranges round-tables on reports, prepares the final audit report, opinion and recommendations which it submits to the Chief Financial Officer's for consideration.

Audit Group

Regarding the specifics of financial and economic activities, an audit group may be established on the consent of the Chief Administration to provide auditing. An audit group may incorporate the financial and accounting staff members of a given chief administration, as well as experts who represent other than financial and accounting divisions of a chief administration who are involved in the audit teams in accordance with established procedures.

For each case of auditing in individual divisions, persons who have been employed by the same division for two years since the start of the audit shall not be involved in the audit group. Audit group members who have had direct involvement in the assessment of the drafting process of internal control systems may not be involved in the audit assessment. The audit group members, excluding the chief auditors, carry out audit activities in parallel with their main duties.

The purpose of the audit group is to:

- evaluate consistency of the chief administration operations with law provisions;

- evaluate the accuracy of the chief administration incomes and expenditures (budget and off-budget), accounting and initial recordings, and identify inconsistencies;

- assess the availability and possibility of rational and efficient use of the chief administration expenditures;

- identify and detect artificial obstacles and illegalities impeding the sound operation of the chief administration; and

- evaluating the internal control system of the chief administration.

Divisions (Agencies) under Audit

A complete audit is conducted at least once a year in each financial and accounting division of the chief administration. Managers of the audited divisions shall provide the audit group with the complaints and

recommendations received with regard to their financial and economic activities. The Law on Treasury System adopted in 2001 introduces the internal auditing systems of public and local self-government authorities, and for their regulation the MoFE Decree N° 934-N dated 30 December 2002 on approving the Procedure for Internal Audit of RoA Public and Local Self-Government Authorities and their Agencies was adopted (hereinafter "the Procedure"). The objective of the internal audit of public and local self-government authorities and agencies there under is as follows:

- assess the compliance of the Chief Administration financial and economic operations with the applicable RoA legislation;
- check the reliability and adequacy of financial and economic information used or provided by the Chief Administration; and
- identify inconsistencies in accounting records of the Chief Administration.

The following is the organizational structure of the internal audit system of public and local self-government authorities.

The Involved Parties in Internal Audit

The Ministry of Finance and Economy co-ordinates and supervises the internal audit operations of Public and Local Self-Government Authorities by approving annual internal audit programs, processing the reports, providing recovery measures through controls and audits of the State Budget.

The Chief Financial Officer acts under direct authority of the State Managing Body and manages its financial and accounting services. The Chief Financial Officer ensures the management of state financial flows and the internal control system, the internal audit and the procurement systems. The Chief Financial Officer approves and modifies internal audit programs, assigns targets for audit, undertakes preventive and remedial actions for audits to avoid frauds and irregularities, receives audit reports, gives his/her consent for the publication of these reports or information found within, receives quarterly and annual complex reports, receives instructions from the Ministry of Finance and Economy on deficiencies and omissions that have been detected, and ensures that other operations are duly carried out as specified in the Procedure.

The Chief Auditor, acting under the direct subordination of the Chief Financial Officer, provides the internal audit. The Chief Auditor develops and submits to the Chief Financial officer's approval the quarterly and annual

programs for internal audit and is responsible for its implementation, submits substantiations for special complex and target audits, manages the audit teams and its activities, decides on involving experts, submits to the Chief Financial Officer the identified omissions and mistakes and recommendations for recovery thereof, in case if irregularities notifies the Chief Financial Officer, bears responsibility for filing the audit working documents, for the reliability of the audit report and audit opinion, arranges discussions of reports, prepares the final audit report, opinions, and recommendations, and submits to the Chief Financial officer consideration.

Taking into account the peculiarities of particular finance and economic activities, the managing body of the public or local self-government authority may issue a decision and appoint an audit team comprised of employees of the given CABC financial and accounting services who carry out the audit in parallel with their main duties (with the exception of the Chief Auditor). Experts from other departments may issue a decision and appoint an audit team, comprised of employees of the given CABC.

For each case of auditing in individual divisions, persons who have been employed by the same division for two years since the start of the audit shall not be involved in the audit group. Audit group members who have had direct involvement in the drafting process of the assessment of the internal control systems may not be involved in its assessment efforts.

As mentioned above, internal audit operations are currently governed by the Procedure, which specifies audit implementation processes. In collaboration with the IMF an internal audit manual is under preparation, which will provide sample forms for application of the Procedure, and describe all audit procedures in detail. During the internal audit, the audit team shall verify for and ensure:

- consistency of the CABC 's operations with legislation provisions;
- accuracy of the CABC incomes and expenditures (budget and off-budget) accounting and initial recordings, identification of inconsistencies;
- assessing the achieved efficiency of CABC expenditures and possible rationales'
- identification of artificial obstacles impeding the CABC operations and detection of irregularities;
- evaluate the CABC internal control system.

Audit Methods and Further Processing of Audit Results

Internal audit operations are currently governed by the Procedure for Conducting Internal Audit of RoA Public and Local Self-Government Authorities and their Agencies approved by MoFE Decree N° 934-N, dated 30 December 2002, which provides a detailed description of procedures. The Internal Audit manual approved by MoFE Decree N° 956-A, dated 29 December 2003, provides sample forms for its application and describes the internal audit procedures in more detail. The following methods are used for obtaining internal audit evidence:

- revising calculations (recalculation);
- observing the rules of recording separate operations in accounting papers;
- obtaining confirmations by third parties of the information provided by the audited divisions;
- inquiries with management, employees of the audited divisions, and third persons;
- examination of the data reflected in accounting records (initial documentation);
- analysing activities; and
- preparing alternative balance sheets.

The auditing team for the purposes of the audit shall:

- assess whether the CABC operations have been conducted in compliance with legislation;
- Assess the accuracy of the CABC incomes (budget and off-budget) and expenditures, accounting and initial recordings, and identify inconsistencies;
- examine the efficiency and rationale of the CABC expenditures, offer cost effective practices;
- identify artificial obstacles impeding the regular activities and detect the irregularities; and

- evaluate the CABC internal system of audit.

According to paragraph 28 of the Internal Audit Regulations, the detected fraud or other fraudulent activities shall be promptly reported to the Chief Auditor, and the latter shall in turn inform the Chief Financial Officer of further actions.

Except for the Central Bank, the chief auditors administration staff, including the President's staff, Government Staff, Executive Bodies Staff, Regional Marzes (the Yerevan Municipality) staff, Steering Commissions (services, boards including civil service board) established under the RoA laws shall be civil servants and subject to the provisions of the Law on Remuneration of Civil Servants.

Independent Safeguards

The Chamber of Control is an external audit authority formed by and reporting to the National Assembly. The safeguards for the independence of the Chamber of Control financial and functional are as follows:

- the Chamber of Control reports solely to the National Assembly;
- The Chamber of Control budget is specified in a separate item in the Law on Budget of the next year;
- The Chamber of Control President is elected by the National Assembly for a term of six years;
- The Chamber of Control Deputy President, Departments Heads (Board Members) are appointed by the President of the National Assembly.

Any interference in the activities of the Chamber of Control will result in legal liability.

In view of improving the Chamber of Control's independence it is crucial for the Chamber to approve its programs/plans independently but with due consideration of suggestions made by legislative and executive bodies and with the understanding of their importance and risks.

The further development of the Chamber of Control activities, the improvement of its financial and functional independence, as well as the vitality of the analytical investigations depends on the amendments to be made to the

Constitutions and the design of a new law on Chamber of Control. According to the present law, the funding of the Chamber of Control is estimated separately. It is worth noting that with the exception of the Central Bank, the chief auditors of the Presidential Staff, the Government Staff, the Public Authorities Staff, and the Steering Commissions established in accordance with RoA laws are all civil servants and are remunerated according to the provisions of the Law on Remuneration of Civil Servants.

The transparency of the activities of the Chamber of Control is ensured through the approval of the annual programs by National Assembly and the submission of reports to the latter. The Chamber of Control's relationship with the media is regulated by the Law on the Press and Other Media, which establishes the Chamber of Control's relations with the public.

Tax and Custom System and Fiscal Treatment of Bribes

Disclosure and Examination Rules of Corrupt Activities by Tax and Customs Systems

In general, there is no prescribed behaviour for the examination of corrupt transactions and information reporting in the tax and other public sectors. No norms are set by Armenian laws for tax service official's obligation to report suspicious corrupt transactions to enforcement authorities. The Customs Service Law allows tax officials to co-operate with enforcement bodies; however, the co-operation of tax inspectors is not provided for.

Relations with Local and Foreign Authorities

Pursuant to the Tax Service Law, tax authorities shall in accordance with the Code of Criminal Procedure carry out investigations in the areas of income that are under the supervision of tax authorities. In view of this, an operative intelligence department and investigation division are operational under the tax service system which is in charge of investigating tax offences and then transferred to the preliminary examination bodies.

Tax service officers are empowered to apply the law as well as conduct foreign tax and criminal investigative services on any suspicious transactions they observe. Within the exchange of the information framework with CIS member countries, namely under the Coordinating Board of Tax Investigation Bodies, some technical consultancy assistance has been obtained by tax authorities and an active co-operation has been launched and developed.

Starting in 2003, a Supervision Department has been functioning as a structural division of the State Tax Administration, which in addition to other official duties is responsible for disclosing internal tax service abuses. A Civil Examination Commission also operates under the State Tax Administration in compliance with the provisions of the Tax Service Law.

Internal Corruption Preventive Programs of Tax and Customs Systems

The Supervision Department of the State Tax Administration must within its powers and responsibilities regularly implement activities targeted at disclosure of abuse by authorities, conducting investigations and undertaking preventive measures. To this regard, the Department co-operates with the respective Examination Commission and Operative Investigation Department. The results of such activities are submitted quarterly to the President and Government Administrations as well as to the International Monetary Fund and the World Bank local representation offices under the framework of international liabilities incurred by the RoA. To this end, it is significant to pursue the information received from customs bodies which contributes to the disclosure and prevention of the illegal circulation of assets. Nevertheless, there are no special provisions stipulated by tax legislation in this sector.

However, rotation system of tax officials approved by the Decree N°1567-N of 3 December 2002 on the basis of the Law on Tax Service is instrumental in preventing and fighting corruption. The rotation system provides that the organization of tax officials' work shall be base on a rotation principle based on a two-year consecutive phase as decided by the tax service managing body. The managing body of the tax service shall take such a decision at least one week in advance to the rotation.

The State Tax Committee along with its Supervision Department and Special Division seek to develop remedial measures that address corruption violations and abuse by authorities, as well as disclose facts of illegal activities (and thereby prosecute such activities). However, such activities are subject to specific regulations backed by legal procedures. To this regard, the "controlled supply" method of smuggled goods prescribed by the Customs Code enables the final disclosure of all companions in crime (including corrupted officials) when customs authorities co-operating with local and foreign law enforcement bodies do not suspend transfer of smuggled goods through customs channels in order to trace the entire line and achieve an ultimate disclosure. Corruption violations may also be reported as the result of Contraband Combating Department activities.

Regarding persons who are aware of corrupted transactions and who are obliged to report these to the respective enforcement authorities, it is important to note that Armenian laws envisage a criminal liability clause for those who fail to report to enforcement authorities facts definitely known to them on planned offences, those in process or which have already been committed. In addition, it should be noted that the exchange of information between tax and customs administrations contributes to an efficient fight against the shadow economy. At the same time, the rotation procedure of tax officials adopted on the basis of Tax Service Law can be used as a preventive tool and remedial measure.

The tax legislation does not provide any clause for reduction of bribe costs from taxable circulations.

Money Laundering

Criminal-Legal Character of Money Laundering

Among the activities envisaged under the 2003 Anti-Corruption Strategic Action Plan of the RoA for the disclosure and alleviation of shadow economy in the country, the drafting of an individual law on fight against money laundering is included.

On 11 May 2001, as a member country of the OSCE, the Republic of Armenia joined the Strasbourg Convention on laundering, disclosure, seizure and confiscation of criminal proceed, adopted on 8 November 1999 but which is not yet ratified. Participating later in the Anti-Money Laundering and Combating Terrorism regional conference on 24-25 June 2002 in Ankara, organized by the US State Department, , the Republic of Armenia proposed to participate in the AML initiatives.

To this end, the Central Bank drafted and released into circulation a draft law on Combating Legalization of Criminal Proceeds (AML) and Terrorism Finance. In addition, an Inter-Departmental Commission has been established under the coordination of the Ministry of Finance and Economy upon the Prime Minister's instruction, represented by the Government of Armenia, the RoA Police and National Security under the GoA, the Ministry of Foreign Affairs, the Central Bank, and the Ministry of Justice in order to create an appropriate legal framework. The working group under the Commission has collaborated to develop a package of draft laws to amend the respective laws on anti-money laundering and banking secrecy.

The draft laws focus on safeguarding the rights and lawful interests of citizens, civil societies and State with respect to anti-money laundering activities. To this regard, they are expected to regulate the relations of persons engaged in monetary and property transactions and State bodies and officials supervising thereupon in order to disclose and prevent criminal laundering processes.

The draft law on Combating Legalization of Criminal Proceeds (AML) and Terrorism Finance (hereafter AML/CTF) shall regulate issues related to the fight against legalization of illegal proceeds and terrorism finance, the respective executive body's activities as well as their co-operation framework. The draft law regulates the agency responsible for AML/CTF activity (the Central Bank), its relations with other state bodies, and norms of information reporting, including transactions to be reported.

The draft law also regulates AML/CTF activities and behaviour in banks and credit organizations, the underlying legal acts, internal control structures, information gathering specifications, financial transactions to be conducted, limitations for opening and servicing bank accounts, opening accounts in foreign states, termination of transactions, restrictions for creating e-banks and dealings with them, as well as issues related to international co-operation.

Draft laws determine international co-operation priorities and forms pursuant to which the public management body authorized for AML/CTF shall under the RoA international agreements provide appropriate information to the relevant foreign authorities upon the latter's request or on their own initiative or make inquiries about confiscation of criminal proceeds, as well as special official recordings with respect to detection of criminal proceeds, the arrest on property, property seizure, including examination, interrogation of suspects, witnesses and other suffered persons, search, seizure, material evidence, as well as carry out seizure of the property, transfer and delivery of documents.

It must be noted that money laundering or legalization of criminal proceeds in Armenia shall be regarded as a criminal offence. Consequently, Article 190 of the Code of Criminal Procedure stipulates what constitutes a criminal liability and prohibits thereby to conduct any financial or other deal with respect to proceeds and other property obviously obtained in a criminal way, to use such material values for business or other economic activities aimed to conceal or pervert the said material values (or misinterpret rights related to them), sources of origin, location, allocation, move or the real ownership thereof.

Obligations of Organizations to Report Suspicious Deals, Relations of Financial Intelligence Agency with Law Enforcement Bodies

Under the draft law the organizations who shall report the authorized bodies on suspicious deals are as follows:

- banks, credit organizations, exchange offices, currency dealers, those who transfer money;
- specialized participants in security markets;
- insurance and leasing companies;
- pawns, lombards;
- authorities engaged in property and capital accounting, and registration and validation of proprietary rights; and
- companies engaged in profitable games and lotteries;

According to the draft law, the authorized body shall study, analyse the provided information and in cases where there is ample proof that the transaction is related to money laundering, shall deliver the appropriate information and material to the enforcement authorities.

Amendments made in October 2002 in the RoA laws on Banks and Banking, Banking Secrecy and Credit Organizations specify that financial institutions shall emphasize the importance of and watch closely all complicated large-scale transactions.

Presently, only banks and credit organizations are legally obliged to report on suspicious transactions to the Central Bank. As a legal guarantee for discharging this obligation, the Central Bank may set banking regulations to prevent criminal proceeds circulation, establish special reporting procedures for banks as well as exercise other powers prescribed by the Law on Banks and Banking and other legal acts. The Central Bank may demand from the bank, bank customer or bank shareholder (participant) any document or information verifying the legal origin of such proceeds. In the event of any doubt with respect to its legality, the Central Bank is empowered to refuse any such sum. Moreover, the bank on the Central Bank Board's decision is obliged to suspend (freeze) those transactions which are suspected in criminal proceeds circulation or the financing of terrorism. Information by the Central Bank to the

enforcement authorities is currently regulated by provisions of the Law on Banking Secrecy.

Corporate Accounting and Auditing Standards

Legal acts regulating the accounting, financial statements and audit in Armenia are the Law on Accounting, Law on Auditing, Law on Cash Transactions", Law on Joint Stock Companies, Law on Regulation of Security Markets, as well as accounting and audit standards approved by the Order of the Minister of Finance and Economy which in the main comply with the international standards.

In accordance with the relevant laws, the annual financial statements of open joint stock companies, insurance companies, lombards, banks and credit organizations, gambling houses, funds, non-governmental organizations, state non-commercial organizations must be published on an annual basis.

Under the Accounting Law the financial statements subject to publication shall be endorsed solely by the authorized (qualified) Chief Accountant and an authorized (qualified) auditor under the RoA laws.

Open joint stock companies and insurance companies are subject to compulsory auditing with respect to their financial statements. Business entities shall eliminate inadequacies and delinquencies occurred in accounting and financial statements disclosed in the result of audit activities.

Accounting officers, auditors and consulting firm representatives are not liable to notify enforcement authorities of their doubts and suspicions on irregularities they have observed.

Administrative disciplines are provided for under the RoA laws in the event when accounting failed to be provided, rendered or properly rendered (if improper treatment caused a reduction in tax or fixed social insurance pays), financial statements failed to be signed or are signed by an unauthorized person, or were not submitted on time.

Pursuant to the laws, to undertake a business a citizen shall be a legal entity (or be part of it) or be registered as an entrepreneur. State registration is mandatory for initiating a business otherwise it will cause an administrative or criminal liability. An illegal business undertaking shall cause a criminal liability if it occurs within a year after an administrative discipline was imposed and which allowed or (could allow) a profit of ADM 100 000.

There is criminal liability in the event that activities of the tax administration or social insurance state fund are impeded and which occurred within a year after being disciplined for the same violation as well as in the event when resistance is recorded against the executives of such authorities. Also criminally punishable is the refusal of discharging liabilities related to tax and fixed social insurance payments or when under enforcement measures taken for ensuring such payments by tax and social insurance state fund officials, the payment means and available assets are used and managed for other purposes or the discharge of such obligations is otherwise avoided in case if the sum to be levied totals more than ADM 1 000 000.

Officials who falsify documents, who make forgeries and use false documents for their pecuniary (bribe taking) gains shall incur criminal liability.

Access to Information

Citizens' rights to seek for and receive information are specified by the Constitution and other laws.

The Law on Mass Media dated 13 December 2003 determines and guarantees freedom of speech and the obtention of information by information service sectors. Article 4 of this law provides that information agents and journalists shall act on the principles of legal equality, law and order, freedom of speech (freedom of expression) and pluralism. In the performance of their professional activities, journalists shall be protected by law. Media disseminated without prior or current state registration, license, declaration to state or other agencies or notification thereof.

Criticism and any attempts to impede the dissemination or refusal to disseminate information by an information agent or journalist are prohibited.

The Law on Procedure for Examining Citizens' Proposals, Applications and Claims dated 24 November 1999 regulates issues related to the examination and further processing by the State, civil society and other bodies, local self-government or autonomous bodies and officials thereof of proposals, applications and claims introduced by organizations, citizens and legal persons, as well as foreign nationals on the territory of Armenia and those who holding no nationality. Article 4 of this law provides that State bodies, autonomous bodies and officials thereof shall within their jurisdiction and in a manner the laws specify consider the public claims and undertake measures to solve them. The aforementioned law shall not apply to the procedures for proposals, applications and claims which are prescribed by criminal, civil, labour and other laws.

Article 6 provides that each person shall have a right to become acquainted with the information it seeks and, in the manner as provided by the law, make the appropriate inquiries to obtain the wanted information. The law regulates in detail the issues related to information accessibility and publicity, in particular it provides that the information holder shall draft and publish its own procedures for providing information and post it in a visually prominent place within its premises. The information holder shall ensure accessibility and publicity of information, carry out registration, classification and maintenance of all information it owns, provide inquirers first-hand full information. Provisions restricting the freedom of information are prescribed by the law, according to which the information holder shall refuse the request on information if it:

- contains state, official, banking, commercial secrets;
- violates personal or family life confidentiality;
- bears confidential data of preliminary examination;
- discloses occupational secrets as they could be of medical, notary, lawyer nature; and
- violates copyright and/or adjacent to it rights.

Criminalisation of Corruption

Active and Passive Bribery

Definition and Elements of the Offences

In this area there were certain contradictions and insufficiently clear corrected in the Criminal Code in effect since 1 August 2003. The definition of public official' in Article 182 of the former Code was given a very restrictive description that virtually complicated the issue of recognizing people entrusted with authority, yet not involved in public institutions as a public official. Perhaps this is the reason that the practice went totally another way. In particular, employees of joint-stock companies, entrusted with power of authority, were also recognized as entities of official crime.

As for the Criminal Code that has been in effect since 1 August 2003, the description of a public official is not restrictive and complies with the provisions of the current civil and public service laws [Article 308(3)].

The same Code provides that the receipt of property, right of property or other non-pecuniary gain as a gift by a public official, without preliminary agreement, for the act/omission committed under his/her competences shall not be considered a bribery, hence an offence, if the value of the gift does not exceed five-fold of the minimum salary.

Provocation of bribery is a new element in criminal law and is covered in the above Code. In particular, Article 350 provides the following disposition: "Provocation of bribery or commercial bribery involves an attempt to give money, securities, other property or services of a non-pecuniary nature to a public official or a person exercising prescriptive or other administrative functions in commercial or other organizations, without his/her agreement, for the purpose of concocted evidence or blackmailing".

No set of offences is provided for taking a bribe by, or giving a bribe, to a foreign public official.

The Code (Article 311) provides for a criminal liability for both action/omission in favour of a bride giver (Section 1) and for an explicitly illegal action/omission (Section 2).

In view of the content of a fault, the receipt of a bribe will make the act a qualifying circumstance when it is done through plunder. The above Article 311(3) provides that the receipt of a bribe through plunder (this act is equal to circumstances as committing the same act by a group of persons for significant sums or committing the same act again on prior agreement) is sentenced to imprisonment from four to ten years, with or without confiscation of property, whereas the simple type of the same act will induce imprisonment for up to three years.

Article 313 of the Code provides for the set of offences related to solicitation of bribery. This is stipulated as an act to promote the reaching of an agreement or realization of an agreement between the one who offers the bribe and the recipient of a bribe. Further, the solicitation of bribery through the exercising of one's official authority will make the act a qualifying circumstance. An offence of corruption is the abuse of official authority (Article 308) that involves the use by a public official of his/her power of authority which is opposed to the interests of the service, or non-performance of duties for personal benefit, advantage or other concerns, or group interest, which has caused essential damage to rights and lawful interest of persons, organizations, to lawful interest of public or a state (the amount exceeding 500-fold of the determined minimum salary, as of committing the offence, or the value of the property, in case of a non-pecuniary damage). Abuse of official

authority is an aggravating circumstance when the same act recurs, which has incautiously entailed heavy consequences.

Article 309 provides for criminal liability in the case of an official overstepping his/her authority, *i.e.* a deliberate action taken by a public official that is explicitly outside his/her authorized competence, and that has caused essential damage to rights and lawful interest of persons, organizations, or to the lawful interest of a State (the amount exceeding 500-fold the minimum salary, as of committing the offence, or the value of the property in the case of a non-pecuniary damage). Exceeding official authority is an aggravating circumstance when the same act recurs, accompanied by use of force, weapon or other means having serious consequences.

Article 310 provides for liability due to unlawful participation in an entrepreneurial activity, namely creation of an enterprise by a public official or participation in management of such an enterprise through a proxy, in spite of prohibiting law, if these acts are associated with granting privileges and advantages to that enterprise or otherwise sponsoring the same.

Article 314 provides for liability for an official fraud, namely insertion of false information or records in official documents, fabricating, deleting information, or making other numerical records or changes, and preparation or handing over of false documents by a public official for the purposes of improper advantage or personal motivation or group interest. Official fraud is an aggravating circumstance if the same act has been committed by a public official who holds a key public position.

Article 315 provides for liability of official negligence, namely the non-performance or improper performance of duties due to unfair or careless conduct of service by a public official which has caused essential damage to the rights and lawful interest of persons or organizations, to the lawful interest of the public or a State (the amount exceeding 1 000-fold the determined minimum salary, as of committing the offence, or the value of the property in case of a non-pecuniary damage). Official negligence is an aggravating circumstance when the same act recurs resulting in serious consequences.

Sanctions

Fines are normally applied as sanctions to: i) giving a bribe (Article 312), to the extent that is 100 to 200-fold the minimum salary, or ii) correctional labour from one year to two years, or iii) arrest from one month to three months, or iv) imprisonment for up to three years. Giving a large bribe will make the act a qualifying circumstance to which a fine is sanctioned by Article 312(2) to the

extent from 200 to 500-fold the minimum salary, or imprisonment is sanctioned from two years to five years. For circumstances provided for in the third paragraph of the same Article (giving an unusually large bribe to an organized group), it stipulates fines to the extent from 300 to 500-fold the minimum salary, or imprisonment from three years to seven years.

Article 19 of the Code provides that, as per its nature and seriousness, the offences are classified as follows: a non-grave offence, an offence of medium seriousness, a grave offence, and an especially grave offence. A non-grave offence involves deliberately committed acts for which the penalty will not exceed two years of imprisonment, or to which there is punishment unrelated to imprisonment under the Criminal Code. An offence of medium seriousness involves deliberately committed acts for which the penalty will not exceed five years imprisonment. A grave offence involves deliberately committed acts the extreme penalty for which the penalty will not exceed ten years of imprisonment. An especially grave offence involves deliberately committed acts for which the penalty is sanctioned by ten years to life imprisonment.

Statute of Limitations

The grounds for discharge from criminal liability due to statute of limitations are stipulated in Article 75 of the Criminal Code. In particular, no criminal liability is applied if the following periods have elapsed since commitment of an offence: two years for a non-grave offence; five years for an offence of medium seriousness; ten years for a grave offence; and fifteen years for an especially grave offence. The limitation period is calculated as of the day of the offence was committed to the day the verdict comes into force.

The statute of limitation period is interrupted if a person commits a new offence of medium seriousness, a grave offence, or an especially grave offence before such a period elapses. The limitation period is suspended if a person avoids examination or lawsuit.

Receipt of a bribe [Article 311(1)] ranks among the offences of medium seriousness, which is why a person shall not be held liable for taking a bribe if five years have elapsed the offence took place.

Receipt of a bribe in aggravating circumstances [Article 311(2 and 3)] is treated as a grave offence, which is why a person shall not be held liable for taking a bribe in aggravating circumstances if ten years have elapsed since commitment of the offence.

Receipt of a bribe in extremely aggravating circumstances [Article 311(4)] is treated as an especially grave offence, which is why a person shall not be held liable for taking a bribe in extremely aggravating circumstances if fifteen years have elapsed since commitment of the offence.

The limitation period of criminal liability for corruption offences is interrupted if a person commits a new offence of medium seriousness, a grave offence, or especially grave offence before such limitation period elapses.

Other Corruption and Corruption-Related Offences

New offences of corruption may include acts provided for in Article 189 (false entrepreneurship); Article 190 (legalizing unlawfully obtained proceeds); Article 214 (abuse of power of authority by servants in commercial or other organizations); Article 310 (unlawful participation in entrepreneurship), and other articles of Criminal Code, adopted on 18 April 2003 and effective since 1 August 2003.

Concept and Definition of a "Public Official"

The description of the concept of a 'public official' is provided in Article 308 of the Code: '… public officials are: i) persons performing a function of a representative of authorities on a standing or temporary basis, or with a special authority; ii) persons performing organizational, administrative functions, on a standing or temporary basis, or with a special authority, in public agencies, local governments, their organizations, and military forces, other forces and military unions '.

Defences and Exceptions

Armenian laws do not provide for any exceptions for investigation of corruption offences, including the rule of burden of proof and specific defence for corruption offences.

Immunities

Delegates of National Assembly, deputy delegates, the judges, members of the Central Election Committee (members of community and district election committees enjoy immunities only in the event of national elections), proposed candidacies for a community leader and district union members benefit from immunities.

Article 66 of the Constitution provides: "A delegate will not be arrested, held liable for administrative responsibility or criminal offence judicially unless agreed with National Assembly."

Article 11 dealing with status of judges provides: "A judge will not be arrested, held liable for administrative responsibility or criminal offence judicially unless having consent of President of the country based on recommendation of the Board of Justice."

Article 33 of the Code of Elections provides: "Members of the Central Election Committee can be arrested, held liable for administrative responsibility or criminal offence judicially, throughout the committee's activities, and the members of community and district election committees can be arrested, held liable for administrative responsibility or criminal offence judicially, in the event of all-national elections, only if agreed by the Central Election Committee of the RoA."

Article 127 of the Code of Elections provides: "Proposed candidacies for a community leader and district union members can be arrested if agreed by the community election committee." The same article also provides: "Candidacies for delegates of National Assembly, proposed on proportionality and majority basis, can be arrested, held liable for administrative responsibility or criminal offence judicially, throughout elections, only if agreed by the Central Election Committee of the RoA."

Jurisdiction

The investigative officers of the Public Prosecutor's Office are entrusted with carrying out prosecution of criminal cases regarding general corruption offences (official offences). There are also investigative officers of the Police Department and investigative officers of the National Security Service. No special procedure is defined for an eventual transfer of a criminal case to another country.

Corruption in the Private Sector

Article 200 of the Criminal Code provides for criminal liability for commercial bribery. In particular, it states:

> "1. Giving an officer performing an administrative function in a commercial or other entity, an arbitrator, an auditor or a lawyer a sum of money, securities, other property, or rendering services of a non-pecuniary nature thereto illegally, for an action/omission in favour of a person who offers a

bribe, shall induce a penalty to the extent of between 200- to 400-fold of the minimum salary, or banned from holding certain positions or business activities for up to two years, or correctional labour for up to one year.

2. The same act that has been committed by a group of people by preliminary agreement or by an organized group, shall receive a penalty to the extent of between 300- to 500-fold of the minimum salary, or correctional labour for up to two years, or imprisonment for up to four years.

3. Illegally taking money, securities, other property by an officer performing an administrative function in a commercial or other entity, an arbitrator, an auditor or a lawyer, for an action/omission in favour of the person who offers a bribe, other than his/her customer, shall receive a penalty of between 200- to 400-fold the minimum salary, or banned from holding certain positions or business activities for up to three years, or correctional labour, for up to two years or imprisonment, for up to three years.

4. The act, stipulated in paragraph 3 herewith, committed through a plunder, shall receive a penalty of between 300- to 500-fold of the minimum salary, or banned from holding certain positions or business activities, for a maximum of five years, or imprisonment for a maximum of five years.

5. An officer of a commercial or other entity, as set forth herein above, is a person who performs prescriptive or other administrative functions in commercial organizations, irrespective of type of ownership, and non-commercial organizations that are not qualified as entities of central and local governments, on a standing or temporary basis, or with a special authority.

The persons faulted in the offences provided for herewith shall be discharged of punishment by the court provided they have voluntarily informed the committed offence to the body entitled to launch a criminal case and the beneficiaries have had the illegal payment refunded or its value remunerated."

Confiscation of Proceeds from Corruption

The proceeds obtained from corruption offences is considered as material evidence (Criminal Procedure Code, Article 115), therefore the provisions of Article 119 of the Criminal Procedure Code are applied to them. These are subject to confiscation.

The issue of a possible confiscation of a property at the stage of prosecution is regulated by Criminal Procedure Code, Articles 232-238. In particular, Article 232 provides: "*Attachment of a property shall be applied to cover expenses related to the civil lawsuit, possible confiscation of a property and judiciary services*".

Liability of Legal Persons

Criminal law rules out liability of legal persons for offences, *i.e.* for criminal and legal violations. Nor can legal persons cannot be subject to a disciplinary liability. They can be subject only to an administrative liability for dealing with illegal entrepreneurship, breaching requirements of tax, duties, and social security laws. Legal persons are sanctioned only with administrative penalties such as fines, and revocation of license.

Armenian Law on Taxes, Article 26, says, for example, that for involvement in illegal entrepreneurship, an organization shall be sanctioned to a fine to the extent of 50% of its turnover. In this case, the sanction shall be applied also to the responsible person who has committed the violation, but who however shall be subject to reduced administrative penalty. Relations concerning administrative liability of natural persons are governed by the Code of Administrative Violations.

Specialised Services

There are no specialized government agencies in Armenia involved in the fight against corruption. The fight against corruption is carried out by law enforcement units within their respective competencies (Public Prosecutor's Office, National Security Service at the GoA, and the Police Department at the GoA). There are individual specialized units operating within the above law enforcement units that are assigned to specific functions to combat corruption, including developing preventive remedies and organizing procedures to fight against such crimes. An example of such specialized units is the Unit for Fighting Economic Crime and Corruption of the Department of the Police.

This unit of the Department for the Fight against Organized Crime is designed to: i) detect and prevent corruption, abuse of official authority, ii) prevent or stop any involvement of crime-driven groupings with government agencies and public officials, iii) recover losses caused to the country, legal and natural persons due to organized crime, iv) detect and prevent the legalization of unlawfully obtained monetary assets and material values, v) identify and reveal the grounds and causes that foster corruption, and vi) develop and implement measures to remedy these.

Each of these bodies is operates in accordance with the laws on services (Armenian Law on Public Prosecutor's Office, Armenian Law on Agencies of National Security, Armenian Law on Service at Agencies of National Security, Armenian Law on the Police, Armenian Law on Service at the Police), while their functions are governed by criminal and judiciary legislation and the respective regulations that provide legal, social and other guarantees to the employees of these bodies.

The hiring of employees in these bodies is governed by the relevant laws. The provisions are provided in detail in Section B of the report. The same laws and judiciary legislation provide warrants for independent operation of these bodies and independent activities of public officials. In particular, the guarantees for the independence of judges are defined by the Constitution, Armenian Law on Court Constituency, and the Criminal Procedure Code. The guarantees for the independence of the staff of the Public Prosecutor's Office are stipulated in Armenian Law on Public Prosecutor's Office, in addition to the Constitution and Criminal Procedure Code.

There are no conflicts of interest or unduly duplication of authority or functions (overlaps) in the activities of these bodies. Co-operation between the above departments is carried out using common principles that are adopted in relations among law enforcement agencies. In view that these departments are bodies doing investigations and prosecution, the surveillance of their lawful activities is the responsibility of the Public Prosecutor's Office, as provided for in Constitution, Article 103(2), and the Armenian Law on Public Prosecutor's Office, Article 4(2).

No special procedures are established for investigation of the corruption offences concerning heads/executives of the law enforcement agencies.

For litigation of individual cases, groups of examination and investigation, whether intra-agency or inter-agency, may be created in these bodies. Further, according to judiciary laws, litigation officers have the right to involve appropriate expertise, such as a criminologist, an accountant, an auditor, a financier, etc., for investigation of matters that require certain professional knowledge.

Staff members of law enforcement agencies periodically undergo vocational assessment and training to examine and improve their professional knowledge and working abilities. These issues are provided for in relevant laws governing the activities of law enforcers.

There are also seminars and study courses for officers of law enforcement agencies designed to further improve specialized knowledge. These courses are organised by the Research Centre of Public Prosecutor's Office and the Academy of Police. A practice of exchanging professional experiences in this area, based on international agreements, is in place. Recently, there have been several special seminars and workshops addressing corruption-related issues and the way to combat corruption in wide collaboration with certain international and non-governmental organizations.

Investigation and Enforcement

Distribution of Powers and Responsibilities

Criminal proceedings in Armenia that include preliminary examination or investigation are governed by the Constitution, international agreements ratified by the Government, Criminal Procedure Code and other respective laws.

The judicial precedent is not applicable by Armenian law, and the practice, therefore, will be in place during investigation of criminal cases, under applicable law.

There are no specific features in the investigation of criminal proceedings on corruption-related offences. The procedure for criminal proceedings, as determined by the Criminal Procedure Code, is mandatory to courts, Public Prosecutor's Office, investigators and prosecutors in conducting investigation of all types of offences, including the corruption-related offences.

Article 27 of the Criminal Procedure Code provides that the prosecution, investigative officer, and public prosecutor must, within their competencies, institute proceedings in any case where a crime is detected.

The responsibility for initiating criminal proceedings and its prosecution within the defined competence rests with the body that institutes the proceedings, namely the head of the prosecution body, the investigative officer, or the public prosecutor. The public prosecutor is in charge of oversight of a lawful and justified initiation of criminal proceedings.

Within ten days after initiating criminal proceedings, the prosecutors shall take urgent action and operative investigation to disclose the person convicted of a crime, and to detect and develop any traces of the crime. These people have the right to require additional documents, further explanations, other materials and papers, and to conduct on-site observance and launch expertise (Criminal Procedure Code, Article 180). Within ten days after initiating the proceedings

(or immediately after disclosure of the person convicted of a crime, a transfer of the case to the investigative officer by the public prosecutor, or invitation of an investigative officer to the case), the case shall be transferred to the investigating officer.

Once the proceedings are instituted, the investigative officer is authorized to direct, free of undue pressure, the investigation and to have appropriate decision-making authority in order to conduct timely investigative and judiciary action for a multilateral, full and unbiased investigation. In a pre-trial stage, the investigative officer has authority to assign the prosecutor bodies with implementation of certain actions or measures.

The public prosecutor shall, within his/her authority, carry out criminal prosecution. The Constitution provides that it is for the Public Prosecutor's Office to carry out oversight of lawful prosecution and investigation and the defence of accusation in court. The public prosecutor may appeal the court's judgment and other final resolutions.

In exercising power, the public prosecutor is independent and complies only with the law, and will bring a civil action for the purpose of defending the interests of the State.

The Criminal Procedure Code also provides for judiciary oversight at the pre-trial stage of a criminal case.

A court resolution serves as a basis to take investigative action such as the arrest of a defendant as a preventive measure, inspection of an apartment, limitations to telephone conversations, mail, telegraph and other communications, and placement in a mental hospital. Resolutions and action of criminal prosecutors may be appealed through the court.

It is appropriate to mention that the Police Department for the Fight against Organized Crime is responsible for criminal cases of corruption, and the Public Prosecutor's Office is responsible for investigation.

Mandatory Versus Discretionary Prosecution

The investigation of all cases initiated with regard to offences is mandatory. The investigation is carried out by the Police, National Security and investigative officers of the Public Prosecutor's Office. The Criminal Procedure Code provides for the establishment of investigative jurisdiction that regulates the issue of who is responsible for the investigation of an offence, as provided for in the Criminal Code.

Article 33 of the Criminal Procedure Code provides that the prosecution in the criminal procedure is implemented either at the public or private level. Private prosecution involves cases where these are initiated based on a victim's complaint, and are subject to abatement if consent is reached with the defendant or suspect. The cases of corruption-related offences are considered cases of public prosecution.

Article 35 of the Criminal Procedure Code clearly determines the grounds for abatement of criminal proceedings. The authority to abate criminal proceedings is entrusted with the public prosecutor, investigative officer, prosecution unit. In implementing oversight of lawful prosecution and investigation, the public prosecutor, however, is authorized to cancel decisions of the prosecution unit and investigative officer on abatement of criminal proceedings.

In the event of abatement, a victim cannot continue criminal prosecution himself, but may appeal decisions of the prosecution unit, investigative officer and public prosecutor in a judiciary order.

A victim's or other person's consent is not required to initiate criminal prosecution (these are not qualified as cases of private accusation).

Investigative Capacities

There are no specific investigative techniques for detection and investigation of corruption-related offences, but staff members of law enforcement agencies receive training for investigation of such offences.

Information containing bank secrecy is provided to the prosecution units in accordance with the provisions of Article 10 of the Armenian Law on Banks Secrecy which provides that banks shall submit bank files on the accused to criminal prosecutors only on a court decision on inspection.

A bank must, within two days upon receipt of the court decision, provide the court or a court-authorized party with information and documents, as required by that decision, in a closed and sealed envelope. In the meantime, the bank shall undertake action to inform its customer of the receipt of such a decision and provision of bank secrecy information.

The Criminal Procedure Code, Article 172, provides that the persons who are proposed by the conductor of criminal proceedings to provide or present information containing a bank secrecy, cannot withhold that requirement, referring to a provision to official, commercial and other secrecies stipulated by

law, but nevertheless have the right to receive an explanation from the court, public prosecutor, investigative officer, and prosecution unit necessitating the receipt of such information. Such explanation will further be reflected in the minutes of the investigative or judiciary action.

Defence capacities for victims and witness are applicable but these are restricted in the cases of corruption related offences. These can be used for all those cases (irrespective of their specific nature) when a need arises.

The Criminal Procedure Code does not provide an arrangement or collaboration with the suspects, but Article 62 of the Criminal Code stipulates that mitigating circumstances may include the admission by the suspect of his/her guilt, support in detection of the offence and the other participants thereof, and search for a property obtained through the offence. Further, Article 312(4) provides that a person offering a bribe shall be discharged of criminal responsibility if the bribe has been plundered, or if that person has voluntarily informed the law enforcers of the bribe given.

Communication from a legal person, in an individual case, can be seen as evidence only if provided in a document.

Inadmissibility of publication of the data of a preliminary investigation is provided for in Article 201 of the Criminal Procedure Code. In particular, this article provides that such data are subject to publication only if permitted by the person conducting the proceedings.

International Aspects

International Agreements and International Cooperation

The Republic of Armenia has concluded or joined numerous bilateral and multilateral international agreements, international conventions on mutual legal assistance, extradition and other related areas. These include the following as listed below.

CIS Framework

- Convention on legal assistance and legal relations in civil, family and criminal matters, signed on 22 January 1993, Minsk, Belarus, ratified by the High Council of the Republic of Armenia on 22 June 1993, Resolution SS-0871-1.

- Minutes attached to the Convention hereinabove, signed on 28 March 1997, Moscow, Russia, ratified with certain reservations, according to which Armenia has undertaken to observe the requirements of Article 22 of the Convention, as provided for in paragraph 8 of the Minutes, to the extent that it does not conflict with Armenian Law. Ratified by the National Assembly of the Republic of Armenia on 5 April 2000, Resolution S-080-2.
- Convention on extradition of those sentenced to imprisonment for further punishment, signed on 6 March 1998, Moscow, Russia, ratified by the National Assembly of the Republic of Armenia on 21 February 2000, Resolution S-056-2.
- Agreement on exchange of legal information, 21 October 1994.

European Council Framework

- European Convention on protection of human rights and fundamental freedom, and Minutes 1, 4, 6 and 7 attached thereto, signed on 11 November 1950, the Convention and Minutes 1, 4 and 7 ratified on April 26 2002 and Minutes 6, on 29 September 2003.
- European Convention on mutual assistance for criminal proceedings, signed on 20 April 1959, Strasbourg, France (with certain reservations and statements) ratified by the National Assembly of the Republic of Armenia on 21 November 2001, Resolution S-229-2.
- Convention on extradition, signed on 13 December 1957, Paris, France, ratified by National Assembly of the Republic of Armenia on 21 November 2001, Resolution S-228-2.
- European Convention on transfer of criminal proceedings, signed on 15 May 1972, Strasbourg, France, ratification presently underway.
- Convention on criminal law on corruption, signed on 27 January 1999, Strasbourg, France, and Minutes attached thereto, signed on 15 May 2003, ratification presently underway.
- Convention on remuneration of victims of forcibly committed crimes, signed on 24 November 1983, ratification presently underway.
- European Convention on money laundering; investigation, seizure and confiscation of the criminally obtained proceeds, signed on 8 November 1990, Strasbourg, France, ratified by the National Assembly of the Republic of Armenia on 24 November 2003/;

- Second Supplementary Minutes to the European Convention on extradition, signed on 17 March 1978, Strasbourg, France, ratified by the National Assembly of the Republic of Armenia on 22 October 2003, Resolution S-040-3.
- Supplementary Minutes to the European Convention on extradition, signed on 15 October 1975, Strasbourg, France, ratified by the National Assembly of the Republic of Armenia on 22 October 2003, Resolution S-040-3.
- European Convention on the prevention of torture and inhumane or dignity undermining treatment or punishment, signed on 26 November 1987, Strasbourg, France, ratified by the National Assembly of the Republic of Armenia on 7 November 2001, Resolution S-216-2.
- Minutes I to European Convention on prevention of torture and inhumane or dignity undermining treatment or punishment, signed on 4 November 1993, Strasbourg, France, ratified by the National Assembly of the Republic of Armenia on 15 May 2002, Resolution S-281-2.
- Convention on civil law on corruption, signed on 4 November 1999, Strasbourg, France, soon to be ratified.

United Nations Framework

- UN Convention on fight against transnational organized crime, signed on 12 December 2000, Palermo, Italy, ratified by National Assembly of the Republic of Armenia on 25 March 2003, Resolution S-333-2, in effect since 29 September 2003.
- Minutes on the fight against unlawful entry of immigrants by land, sea and air, as supplement to UN Convention on fight against transnational organized crime, signed on 12 December 2000, Palermo, Italy, ratified by the National Assembly of the Republic of Armenia on 25 March 2003, Resolution S-334-2.
- Minutes on preventing, prohibiting and punishing for the traffic of men and women and child, as supplement to the UN Convention on the fight against transnational organized crime, signed on 12 December 2000, Palermo, Italy, ratified by the National Assembly of the Republic of Armenia on 25 March 2003, Resolution S-335-2.

- Treaty on exchange of legal information between Government of Armenia and Government of Russian Federation, signed on 1 June 1994.
- Agreement on legal assistance in civil matters between Armenia and Georgia, signed on 4 June 1996, Tbilisi, Georgia, ratified by the National Assembly of the Republic of Armenia on 4 March 1997, Resolution S-166-1.
- Agreement on the exchange of those sentenced to imprisonment, signed between Armenia and Georgia on 4 June 1996, Tbilisi, Georgia, ratified by the National Assembly of the Republic of Armenia on 4 March 1997, Resolution S-168-1.
- Agreement on legal assistance in criminal matters, between Armenia and Georgia, signed on 4 June 1996, Tbilisi, Georgia.
- Agreement on extradition, between Armenia and Georgia, signed on 3 May 1997.
- Agreement on legal assistance in criminal matters, between Armenia and Bulgaria, signed on 10 April 1995, Sofia, Bulgaria, ratified by the National Assembly of the Republic of Armenia on 26 September 1995, Resolution S-009-1.
- Agreement on legal assistance in criminal matters, between Armenia and Bulgaria, signed on 10 April 1995, Sofia, Bulgaria, ratified by the National Assembly of the Republic of Armenia on 26 September 1995, Resolution S-015-1.
- Agreement on extradition, between Armenia and Bulgaria, signed on 10 April 1995.
- Treaty on exchange of legal information, between Government of Armenia and Government of Turkmenistan, signed on 19 March 1996.
- Treaty on exchange of legal information, between Government of Armenia and Government of Kyrgyz Republic, signed on 21 April 1997.
- Treaty on legal assistance in civil, family and criminal matters, between the Republic of Armenia and the Republic of Greece, signed on 21 November 2000, Athens, Greece, ratified by the National Assembly of the Republic of Armenia on 21 November 2001, Resolution S-230-2, in effect since 21 July 2002.

- Treaty on exchange of legal information, between the Governments of Armenia and of Kazakhstan, signed on 23 May 2001.
- Agreement on extradition of those sentenced to imprisonment, signed on 1 March 2001, Kiev, Ukraine, ratified by the National Assembly of the Republic of Armenia on 9 October 2001, Resolution S-206-2, in effect since 1 September 2002.
- Agreement on mutual legal assistance in criminal matters, between the Republic of Armenia and United Arab Emirates, signed on 20 April 2002, Abu Dhabi, UAE, ratified by the National Assembly of the Republic of Armenia on 18 March 2003, Resolution S-330-2.
- Agreement on extradition, between Armenia and United Arab Emirates, signed on 20 April 2002.
- Treaty on legal assistance in civil and criminal matters, between the Republic of Armenia and Romania, signed on 25 March 1996, Yerevan, Armenia, ratified by the National Assembly of the Republic of Armenia on 8 October 1996, Resolution S-128-1.
- The Police Department at the GoA adopted the General Norms of the Fight against Corruption in Forces/Services of Police, which is attached to the Report AG-2002-RAP-10, presented at the General Interpol Assembly in Yaounde, Cameroon, in 2002.

It is worth mentioning that there is no conflict between international agreements ratified on behalf of the RoA and domestic legislation, as Article 6 of the Constitution provides that in the event of conflicts, the provisions of international agreements shall apply.

International Cooperation under the Criminal Procedure of the RoA

The Criminal Procedure Code provides that if there is a need to take action such as an enquiry, investigation, seizure, inspection, expertise or other relevant investigative and judicial action abroad, then the court, public prosecutor, investigative officer, or prosecution unit will assign an appropriate counterpart abroad for taking such action, provided there exists an international agreement on legal assistance. The assignment for individual investigative and judicial action shall be delivered by the Public Prosecutor; the assignment for legal procedures shall be delivered by the Minister of Justice or his deputies,. The assignment shall be drawn up in the language of the country where it goes to, unless otherwise provided in the international agreement.

Article 475 of the Criminal Procedure Code provides that the assignment for individual investigative and judicial action shall be in writing, signed by the official who is sending it, sealed with the Coat of Arms, and shall contain the:

- name of the entity issuing the assignment,
- name and address of the entity to which it refers,
- title of the case and the nature of the assignment,
- data on the persons to whom the assignment is issued, including nationality, occupation, domicile, or title and location if these are legal entities,
- statement of the circumstances subject to investigation and the list of required documents, material and other evidence
- information on factual circumstances, their qualities, and, if necessary, the nature and extent of the loss caused by the offence.

The witness, victim, civil claimant, civil respondent, their representatives, the expert, if these are foreign nationals, may agree to be invited to Armenia by the conductor of the criminal proceedings, for investigative or judicial action, as determined by the procedure on assignment for individual investigative or judicial action. Although the investigative and judicial action in which the witness, victim, civil claimant, civil respondent, their representatives, and the expert can participate are stipulated in the Criminal Procedure Code. However, they shall not be invited by force or held liable for pecuniary penalty and criminal responsibility in the event of a waiver or avoidance from bearing witness, or perjury or false conclusions.

The public prosecutor, investigative officer, or prosecution unit implements the assignments pursuant to general rules as set forth in the Criminal Procedure Code. However, in implementing the assignments, the norms of legal procedure of a foreign country can be applied provided that it is stipulated in the international agreement signed with that country. A representative of a respective entity of the foreign country may be present in implementing the assignment under the international agreement. Where an assignment cannot be implemented, the competent authorities of the Republic of Armenia will return the obtained documents to the entity which issued the assignment, specifying the reasons for non-implementation. The assignment will be returned if its implementation undermines the independence of the Republic of Armenia or conflicts with Armenian Law.

All materials of the case, instituted or in investigation with regard to the offence committed by a foreign national and the transfer from the Republic of

Armenia, shall be delivered to the Public Prosecutor's Office to determine the transfer of the case to the relevant entity abroad for further prosecution.

The request for transfer of the case with regard to a national of the Republic of Armenia, who has committed an offence abroad and extradited to the Republic of Armenia, shall be reviewed by the Public Prosecutor's Office for further investigation. In such cases, the investigation and the legal procedure shall be executed as provided for in the Criminal Procedure Code. In conducting legal proceedings in a foreign country by the authorized official, within and as determined by competence, both the produced evidence and the investigation will have legal force equal to the rest of evidence if the investigation will have continuation in the Republic of Armenia.

Article 495 of the Criminal Procedure Code provides that the assignment for criminal proceedings shall contain the:

- name of the enquirer entity,
- description of the act upon which an assignment for criminal prosecution is delivered,
- more precise indications of when and where the act was committed,
- original version of the law of the enquirer entity, which considers that act as an offence and the legislative norms that are important for the proceedings,
- name, nationality and other related data of the suspect, and the
- extent of the damage caused by the offence.

Materials available with the enquirer entity and the papers of evidence shall be attached to the assignment.

The institution, receiving the enquiry (the recipient entity) from the enquirer entity that has initiated the proceedings shall continue the investigation under Armenian Law. Each document relevant to the case shall be sealed with the Coat of Arms. The recipient entity shall inform the enquirer entity of the final decision with respect to the proceedings. A copy of the final decision shall be delivered to the enquirer entity at its request.

When an assignment for criminal proceedings has been issued to the entity after entry of the verdict or other final resolution of the enquirer entity into effect, the recipient entity will not institute criminal proceedings and the instituted case will be abated.

Accusation of one or more offenders being convicted of several offences, subject to judiciary authorities of several countries, shall invoke investigation in a court of the country where the preliminary investigation ended. In this case, the investigation shall be executed by the judicial rules of that country.

The mentioned officials shall implement the assignment of respective authorities of foreign countries. In doing so, they may follow the judicial rules of the foreign country if such is provided for in international agreements signed with that country. The Criminal Procedure Code provides no restriction in mutual assistance in criminal matters, depending on the type of offence.

Extradition under the Criminal Procedure Code

The recipient entity shall, upon request, extradite the offender from its territory to hold him liable for criminal responsibility and to execute the sentence.

Extradition for holding the offender liable shall be for the acts that are qualified as punishable in the countries delivering and receiving the enquiry, and that invoke punishment as imprisonment for a period of not less than one year.

Extradition for executing the sentence shall be for the acts that are qualified as punishable in the countries delivering and receiving the enquiry, and that invoked imprisonment for a period of not less than six months, or a more serious punishment.

The Republic of Armenia shall execute extradition based on a claim that should contain the:

- name of the addressee of the enquiry,
- description of factual circumstances of the act and original version of the law of the enquirer country, which qualifies that act as an offence,
- name, nationality, domicile or location, and other related data, of the offender subject to extradition,
- indication of the extent of the damage caused by the offence.

Extradition is not allowed if:

- upon receipt of the request, a criminal prosecution cannot be initiated or a sentence executed according to the law of the enquirer country, due to statutes of limitation or other reasonable grounds,

- decisions on a lawful sentence or abatement of the proceedings and termination of the prosecution have been made.

Article 481(2) of the Criminal Procedure Code allows a waiver of extradition if:

- the offender requested for extradition is a national of the enquirer country or he/she has been given a political asylum,
- the offence for which an extradition is required has been committed in the country receiving the enquiry,
- the offender requested for extradition is prosecuted for political, racial or religious motivations,
- the offender requested for extradition is prosecuted for a military offence committed in the peaceful time,
- the country placing a request for extradition does not ensure reciprocity in that area.

Article 483 of the Criminal Procedure Code provides that in the event the enquiry does not cover all necessary data, the recipient entity may require additional data while defining an up to one-month period for the receipt of such data. Failure of the enquirer entity to provide additional data within the time defined shall oblige the recipient entity to discharge the offender subject to extradition, should the latter be under interdiction.

In receiving a request for extradition, along with the copy of the decision to arrest, action shall be taken, where appropriate, to arrest the offender subject to extradition before making decision on extradition. In this case, however, the offender under arrest shall have the right to stand before court to confirm, alter or terminate the prevention towards him/her.

The offender who is required to be extradited may be arrested through solicitation of the enquirer country before receiving such requirement on extradition. The solicitation for this event shall contain the decision on arrestment or the sentence in effect, indicating that the request for extradition shall be provided at a later date. The solicitation for arrestment before the request for extradition may be delivered via courier, telegraph or facsimile. The offender under arrest shall, however, be discharged if the request on his/her extradition has not been received within a month after arrestment. The offender may be placed in detention without the above solicitation if there are reasonable grounds to believe that he/she has committed an offence in a foreign country and is subject to extradition. In this case, however, the offender shall be

discharged if the request on his/her extradition has not been received within the time as provided for detention under the law of that country. In either case, the offender under arrest shall have the right to stand before court to confirm, alter or terminate prevention towards him/her or his/her detention.

Before receipt of the request for extradition, the respective authority of the enquirer country shall be immediately kept informed of the arrest or detention.

It should be noted that if the offender who is required to be extradited was held liable for criminal responsibility or adjudicated for another offence committed in that same country, his/her extradition may be postponed until completion of the prosecution, execution of sentence or discharge from punishment. But if by postponing the extradition in the above case may affect the statute of limitation period for criminal prosecution or undermine an investigation, the offender may be extradited on a temporary basis. In this case, the offender shall be extradited but no later than within three months of the request for extradition. The reasonable prolongation of this period shall be agreed upon between the parties.

In the event of conflicting requests for extradition, the recipient entity shall decide of which of these requests should be satisfied first.

Without consent of the recipient entity, the offender extradited shall not be held liable for criminal responsibility or a sentence for an offence committed before his/her extradition, and shall not be extradited to a third country. Consent of the recipient entity is not required if the extradited offender would not leave the recipient country, or would willingly return to that country, within a month upon completion of litigation, or within a month upon taking the sentence or a discharge. This timing does not include the period within which the extradited offender could not have left the enquirer country unwillingly.

The verified copy of the decision on the arrest of the offender shall be attached to the request for extradition. The verified copy of the court sentence shall be attached to the request for extradition for execution of the sentence, along with the effective date and the particular article of the criminal law whereby the offender was adjudicated. Data on the offender already partially adjudicated shall also be included.

The recipient entity shall keep the enquirer entity informed of the date and venue of extradition. Failure of the enquirer entity to accept the offender subject to extradition within 15 days after the date has been defined, the offender shall be discharged from arrest. Where the extradited offender avoids criminal prosecution or serving the sentence, and returns to the recipient country, a new

request shall be issued for his/her extradition without presentation of the documents required for extradition.

The transit via Armenia is the responsibility of the recipient entity through solicitation of the enquirer entity. The solicitation on the latter shall be reviewed similar to the request for extradition. The recipient entity shall tackle the issue of transit at its own discretion.

The investigative body shall, upon request of the enquirer entity, launch criminal prosecution for those Armenian nationals who are believed to be suspects in committing offence in the enquirer country. Where the offence, to which an action is brought, raises civil and legal claims of the victims of the offence, remuneration of the loss of such victims may be reviewed, if solicited, in the litigation of that case.

Upon request of the enquirer entity, the recipient entity shall hand over the items, which:

- were used in committing the offence, including implements of the offence, objects obtained criminally or received as compensation for the items obtained criminally,
- may be of evidential importance. Such items shall be handed over also when extradition of the offender is not possible because of his/her death, escape or for other reason.

Where the items are needed as evidence for a criminal case, the handing over of such items to the recipient entity may be postponed until completion of the litigation. The rights of the third parties over the items handed over shall remain in effect. After the criminal proceedings are over the items shall be returned free of charge to where they were delivered from.

Annex 1

COMMENTS BY TRANSPARENCY INTERNATIONAL ARMENIA

Introduction

Upon the request of OECD and OSCE, the Center for Regional Development/Transparency International Armenia (CRD/TI Armenia) prepared these comments on the Armenia Status Report drafted by the Armenian Government within the framework of the Istanbul Anti-Corruption Action Plan. The following comments reflect the opinion of civil society organizations on how the legal regulations analyzed in the Status Report are enforced in reality, as well as the situation in Armenia with regards to corruption. These comments are based on the results of the CRD/TI Armenia projects implemented since 2001, mainly the National Integrity Systems (NIS) Transparency International Armenia Study Project, as well as the developments of the recent period (from January 2004) in the fields related to anti-corruption.

The basis of these comments is that although the laws adopted since 1998, including those described in the Status Report, are fairly good and in general meet international standards and create a legal basis for promoting democracy and a market economy, their implementation is at best inadequate and at worst has produced results opposite those expected. In the opinion of the CRD/TI Armenia the major reasons for this are the absence of political will, the lack of independence and autonomy of government agencies, an imperfect legal framework and poor law enforcement, the lack of administrative and human resources, a low level of public participation in policy decision-making, as well as historical and cultural factors.

National Anti-Corruption Plan (Strategy) Against Corruption

Overview of Corruption Situation in Armenia

The 1999 Transparency International (TI) Corruption Perception Index (CPI) ranked Armenia 2.1 on a scale from 0 (absolutely corrupted) to 10 (no corruption whatsoever), Armenia was ranked 76th among 99 countries, indicative of a high level of corruption. During 2000-2002, there were no three

independent and identical surveys on corruption issues conducted in Armenia and thus the country was not included in the CPI. In 2003, Armenia was ranked third in the CPI, still sharing the position (78-82) with a group of very corrupt countries[1].

Little in-depth research on corruption-related issues has been done to date in Armenia. To a certain point this is due to limited access to information. The absence of appropriate legislation, the lack of institutional resources in the public sector, along with the improper attitude of state representatives make obtaining of almost any kind of official information difficult. Even statistical data is difficult to obtain from most state institutions. The state officials are given many opportunities to arbitrarily interpret existing legislation so as to ignore requests, provide incomplete answers, or to hide information (*e.g.* because of its secrecy).

Several surveys concerning public perception of corruption have been conducted by various organizations during the last five years. However, public opinion surveys alone cannot measure the level and consequences of corruption.

A survey, partly related to corruption, was carried out in 2001 by the Armenian Democratic Forum.[2] The goal of this survey "was to reveal public opinion on public service accessibility, quality, as well as obstacles to their efficient operation."[3] The survey results pointed to the fact that the interviewed households believed that there is widespread corruption in Armenia. The overwhelming majority of respondents (71.9%) believed that corruption is an inseparable part of their life.[4] Nonetheless, more than 48% of respondents understood that corruption makes the poor poorer and the wealthy wealthier.[5]

In 2002, the CRD/TI Armenia, in co-operation with the Civil Society Development Union and the Development Network, conducted a nationwide corruption assessment public opinion survey.[6] As indicated by the survey results, 80% of households, 79% of businesses, and 84% of public officials

1. www.transparency.org
2. "The Report of the Sociological Survey on Public Sector Reforms (for households and enterprises)", Armenian Democratic Forum, Yerevan, 2001.
3. *Ibid*, p. 5.
4. *Ibid*, p. 48
5. *Ibid*, p. 52.
6. "Country Corruption Assessment: Public Opinion Survey", CRD/TI Armenia, Yerevan, 2002.

considered corruption in Armenia as problematic, very problematic or extremely problematic.[7] The majority of respondents in all three categories mentioned that the levels of corruption in the past five years had increased or increased significantly[8]. It should be noted that 59.4% of households had a personal experience of some involvement in corrupt transactions.[9] More than 69% of households, 73.4% of businesses and 78% of public officials thought that corruption could be substantially reduced or limited in Armenia.[10]

Corruption in Armenia is mostly identified as bribery. In the 2002 CRD/TI Armenia survey, the majority of the surveyed households, businesses and public officials also mentioned abuse of power, unauthorized intervention in the activities of other institutions, rent seeking and use of public funds as forms of corruption.[11]

The results of numerous public opinion surveys are one of several indicators of the high level of administrative corruption. For example, the 2002 CRD/TI Armenia survey demonstrated that 10 out of 11 state institutions and 16 out of 30 services/sectors proposed for assessment were ranked by more than half of the respondents as corrupt.[12] The courts, prosecution, traffic police, tax and customs services, licensing and certification agencies, inspectorates, energy sector, etc., were perceived as the most corrupt areas. The 2001 survey of the Armenian Democratic Forum revealed similar results: households consider as the most corrupted tax inspection (94.1%), courts (94%) and traffic police (89.4%), whereas businesses said that the most corrupt services are the police (85.3%), the Office of the Prosecutor General (84.8%) and the courts (83%).[13]

One of the classic forms of political corruption is related to the electoral process. Armenian citizens have been aware of this form of corruption since the 1995 NA elections. Vote buying; bribing the members of electoral commissions, observers and proxies; "selling" seats in the NA by party leaders

7. *Ibid*, pp. 5, 18 and 32.

8. *Ibid*., pp. 6, 19, 33.

9. *Ibid*., p. 4.

10. *Ibid*., pp.15, 28 and 43.

11. *Ibid*., pp. 7, 22 and 35.

12. *Ibid*., pp. 9, 23 and 36.

13. "The Report of the Sociological Survey on Public Sector Reforms (for Households and Enterprises)", Armenian Democratic Forum, Yerevan, 2001, pp. 47 and 22, respectively.

to their cronies or by one candidate to another are typical forms of political corruption associated with the electoral process.

However, political corruption in Armenia is not limited to the elections. Other forms of political corruption are defections of parliamentarians from one party to another based on financial, rather than ideological, motives; appointments to political and discretionary positions (ministers and deputy ministers, heads of government agencies and their deputies, Marzpets and their deputies, etc.) based on nepotism, cronyism or bribery rather than on merit. There are no statistics on how many high level figures were prosecuted. However, several senior politicians were accused after dismissal from office, which made people believe that the main reason for this was political repression by the authorities in place.

The high level of corruption in Armenia could be explained both by past legacies and the current difficulties of transition. While corruption had existed in the country before Armenia gained independence, the emerging new economic-political system gave birth to new forms of corruption. A hierarchical and politicized government system does not provide for the separation and decentralization of power or participatory decision-making. There are no checks and balance mechanisms. Impunity of those in power is mainly determined by the fact that the judiciary heavily depends on the Executive.

Most parliamentarians are affiliated with or represent powerful political and economic elite groups. Political and economic interests are interwoven. The conflict around Nagorno-Karabakh gave some privileges to the military, which are used for arbitrary and uncontrolled allocation of state resources, coercive political actions, etc. Imperfect legislation, poor law enforcement and the old mentality of bureaucrats do not ensure transparency and accountability that would lead to a lower risk of corruption.

Weak political parties, with insufficient funding, do not guarantee a real political competition. Nor can the private sector, with the privileged elite and unprotected small and medium business, ensure the promotion of a free and competitive market. The lack of capacity and integrity within civil society organizations makes them unable to effectively demand more transparency and accountability from the authorities.

Most media do not consistently follow up on anti-corruption developments. Citizens do not trust the State. General mistrust in the State, the unfavourable economic situation, and unsolved social problems have lead to a situation where people adopt a “survival” attitude. They tolerate forms of

corruption that seek short-term economic gains rather than reflecting on the damage such behaviour has on the country as whole.

In summary, the lack of appropriate institutions and values leaves more room for corruption. On the other hand, building and developing new institutions and values create new opportunities for corrupt practices. This vicious cycle damages the country's development as it hinders ongoing political, economic and social reforms. Uncontrolled and systemic corruption is harmful for Armenia. As in many countries, it "…exacerbates income disparities…saps the poorest…provokes human rights violations, movements of people within and outside national borders…destroys natural environments and the possibilities for good governance."[14]

Corruption hampers domestic and foreign investment, restricts trade, distorts the size and composition of government expenditure, strengthens the underground economy, increases social inequality, etc. Public opinion surveys demonstrate that the majority of Armenians understand that corruption increases poverty and crime, thwarts development, and seriously affects the moral values of the nation.[15]

Statistical Data on Corruption Offences

Responding to the CRD/TI Armenia's official request regarding the number of corruption-related criminal cases for the period 2000-2002, the Ministry of Justice responded that a total of 284 state officials had been convicted on this matter (154 in 2000, 85 in 2001, and 45 in 2002). One hundred of the convicted officials (62 in 2000, 27 in 2001 and 11 in 2002) were sentenced for the forgery; and 92 (45 in 2000, 25 in 2001 and 22 in 2002) - for abuse of power. 56 (28 in 2000, 19 in 2001 and 9 in 2002) of the accused officials were convicted for receiving, and 23 (16 in 2000, 6 in 2001 and 1 in 2002) for giving a bribe. Two officials in 2001 were convicted for mediating in a bribery transaction. Finally, 11 officials (3 in 2000, 6 in 2001 and 2 in 2002) were sentenced for exceeding their authority.

14. E. Herfkens, "Corruption: Let's not take it for granted", Global Forum on Fighting Corruption and Safeguarding Integrity II, The Hague, 28 May 2001

15. "Country Corruption Assessment: Public Opinion Survey", CRD/TI Armenia, Yerevan, 2002, p. 45 and "The Report of the Sociological Survey on Public Sector Reforms (for households and enterprises)", Armenian Democratic Forum, Yerevan, 2001, pp. 52 and 22, respectively.

These numbers do not include cases which did not reach the courts. Nor do they reflect the occupation profile of those sentenced. It should be mentioned that State officials are often accused of corruption, but never brought to court. No explanation was given on this matter, for example, in the case of the Assistant Commander of border troops of the National Security Service, Colonel Samvel Mkhitaryan suspected of "large-scale bribery".[16]

Anti-Corruption Strategy Program

The Anti-Corruption Strategy Program has a number of positive aspects, for instance the attempt to apply a systemic approach in this area, proposals of concrete measures for some particular fields, reference to civil society participation, etc. It should be mentioned in regard to public participation that despite the positive experience of the PRSP participatory drafting, neither the Armenian Government nor interested international organizations ensured broad public discussions of the Anti-Corruption Program in the final stage of its drafting.

On 16 July 2003, the CRD/TI Armenia sent a letter to the Prime Minister inquiring about the status of the Strategy and offering its support in organizing public discussions. No answer has been received. Taking into consideration that transparency and participation are identified in the Strategy Program as the key principles in the fight against corruption, such an approach is not acceptable.

The Strategy Program includes the Action (Implementation) Plan. Both the Strategy and the Action Plan have serious drawbacks. They leave an impression of being two separate documents that are not always related or consistent to each other. For example, in the Program there is no reference to the field of environment, but in the Action Plan several activities related to the field are indicated (points 4.28-4.30). The same is true for the issue of credits and grants that are mentioned in point 4.39 of the Action Plan, but are not mentioned in the Program.

The Strategy Program has a declarative nature and refers to only some problems and manifestations of corruption. There is no mention of, for example, military, earthquake zones, vote-buying, violations of urban and environmental norms, and other problematic issues. The dangerous consequences of corruption in terms of political, economic and social development of the country are not addressed in the Strategy Program.

16. *Asparez Online*, 29 July 2003.

The following are mentioned as the main directions in the fight against corruption: increasing public awareness on the level of harmful consequences of corruption, prevention of corruption, and the prevalence of the rule of law aimed at the protection of human rights. Although this is generally complimentary with the three main components of the anti-corruption policy (education, prevention and detection), the Action Plan does not follow this logic. For instance, the Plan does not include concrete activities aimed at exposing and punishing corrupt practices in various fields and does not indicate measures for their publicity, even though such activities are emphasized as important in the first part of the Program. As for the exposing and publicizing of the corrupt practices through internal control, it is probable that the activities mentioned in Point 4.11 concerning the tax system are assumed to be considered as such. However, it is not clear why such activities are not planned for customs and other fields as well.

The need for an independent control and review body for the effective struggle against corruption is not stressed in the Strategy Program. The section on political corruption is very weak. Issues related to parties, observers and voting-lists are highlighted, but there is no mention of using administrative resources to the advantage of some candidates or parties during elections. It is not clear why in this section the issues related to local self-government are mentioned, while a separate section should have been devoted to the problems of local and regional government system. It must also be noted that the activities of local self-government are limited in the Action Plan by Points 4.40 and 6.3, which concern community budget monitoring and municipal services.

As to the problems in the economic field, only taxation, customs, education, health, state finances and property, and privatization are included in this part of the Program. The measures directed at reducing the shadow economy do not relate to wide-spread protectionism, privileges given to certain businesses, conflict of interest, generation of capital and income of state officials due to abuse of their positions, etc.

Part 5 of the Strategy Program dedicated to the law-enforcement institutions and the corresponding activities in the Action Plan take into consideration improvement of technical resources, renumeration and social welfare, professional staff development, and development of the Codes of Conduct. However, there is no reference to the control mechanisms of the activities of the law-enforcement institutions. The same approach is used with regard to the judiciary. Although the Program notes that “the independent judiciary is one of the main tools in the fight against corruption”, the Action Plan lacks the activities aimed at ensuring the real independence of the judicial system in Armenia.

The Program does not indicate who must coordinate and to they must implement it. Nor is the Anti-Corruption Commission under the Prime Minister mentioned or a new coordinating and/or control body is envisaged. It was only on 3 June 2004 that the Anti-Corruption Council was established by presidential decree. The Council is headed by the Prime Minister and it consists of ten high ranking state officials. The objectives of the Council are:

- to coordinate and monitor the implementation of the National Anti-Corruption Strategy and its Action Plan;
- to approve the composition of the monitoring council;
- to discuss the suggestions of the monitoring council;
- to coordinate the activities of different agencies in the implementation of the Anti-Corruption Strategy;
- to take measures to implement other activities which stem from the implementation of the Strategy and the international obligations of Armenia;
- to ensure cooperation with regional and international organizations in the fight against corruption;
- to organize and coordinate the development and implementation of the anti-corruption programs of the governmental agencies;
- to submit semi-annual reports on its activities to the President of the Republic.

The Action Plan lists only the responsible implementing institutions/actors, which are mostly the Government or certain ministries.

The Action Plan consists of more than 90 activities, out of which only five are foreseen to be regularly implemented (Points 1.2, 2.2, 2.3, 4.11 and 8.4). The rest of the activities are planned to be completed in 2003-2007. However, it is not clear if after 2007 a new program or action plan will be developed or not.

One of the most serious weaknesses of the Strategy Program is that the planned activities mostly include development and adoption of new legislative and sub-legislative acts, strategy programs and concept papers, and only in 21 points are they of a different nature. Taking into consideration the ineffective implementation of the existing legislation, it can be assumed that itr is unlikely

that the new laws and procedures will be enforced in a more effective manner. Yet the importance of law enforcement is emphasized in Point 3.3 of Part 3 of the Program, and increasing public awareness through mass media coverage, as well as ensuring control over the implementation of the legislative acts, are mentioned in the Strategy program as necessary preconditions for effective law enforcement.

Finally, participation of other interested institutions/actors in the development of the legislative and sub-legislative acts is neglected, even though it is mentioned in the Program that "… the participation of the NGOs in the development stage of the legal acts is essential" (p.283). Basically, NGOs are indicated as responsible implementing institutions only in six cases (Points 1.2, 1.3, 5.4 – 5.7) related to raising public awareness, education and monitoring activities.

Concrete mechanisms aimed at ensuring "state-public" relations are very limited. For example, the Program mentions the importance of the public complaint mechanisms, but in the Action Plan the complaint process is noted only in terms of the protection of tax-payers (Point 4.10). It is not clear how the public relations departments of the ministries will ensure control over public services being responsible for that activity (Point 6.10). Another example is that Parliamentary hearings are mentioned in the Strategy Program as the most effective way of public participation, even though this mechanism can be hardly considered as such given the absence of relevant practice and experience.

Promotion of Accountability and Transparency

Civil Service

The Law on Civil Service provides that the highest level civil servants are appointed by political figures such as the President, the Prime Minister, Ministers, etc. (Article 15 of the Law on Civil Service). In addition, the highest classification grades, namely the State Counsellor of the 1st and 2nd classes of the civil service shall be bestowed, degraded, or removed by the President. All of this results in the highest level civil servants being dependent, and thus vulnerable, to political influence.

When the political "temperature" reached its highest degree during the recent Presidential and NA elections, there was significant evidence on the extent to which ministers and other high officials forced civil servants to use public resources and abuse power to support pro-government candidates and parties.

Soon after the formation of a new government, the media reported about the pressure on employees of state institutions. In an interview with Manvel Badalyan, Chairman of the Civil Service Council, in the *Aravot* daily dated 17 July 2003, the journalist Margarit Yesayan noted that there were rumours that 13 new Heads of Ministries and other institutions informally requested help from Mr. Badalyan to get rid of some undesirable employees. Mr. Badalyan commented on this by saying that "…there were no requests from the heads, but there were signals from civil servants who were asked to resign". He also said, "…probably some people resigned because of the pressure, we will investigate all cases".

There are many rumours about appointments of close relatives, friends or business partners of high state officials to civil service positions. Media, experts and public opinion surveys indicate that bribery, nepotism, clanship and cronyism still prevail within state institutions. The Chairman of the Civil Service Council mentioned in an interview, "…we are tired of requests from relatives, friends, in-laws…"[17].

According to post-service employment restrictions, a civil servant shall not be employed within a period of one year after dismissal from his/her position by an employer or become an employee of an organization he/she controlled over the last year of holding his/her civil service position. However, there is no real control over the implementation of these legal provisions. There are several restrictions concerning taking gifts by the civil servants (Article 24 of the Law on Civil Service, the Government Decision N° 48, 17 February 1993, and Article 166.1 of the Code on Administrative Violations). Article 33 refers to violations of these two requirements as a ground for the civil servant's removal from the office. Nevertheless, there is no effective control over the enforcement of that legislation.

Neither is the control over declarations of assets and income, which is obligatory for all civil servants (Article 23 of the Law on Civil Service), the violation of which can result in removal from office, ensured. It should be noted that the legislation (Law on Declaration of Incomes and Assets of High State Officials, and other relevant legal acts) obliges only the highest and senior civil servants and their relatives to declare their assets and income. There are no similar legal provisions concerning the leading and junior civil servant positions.

17. M.Yesayan "Independent from the Political Authorities?", *Aravot daily*, 17 July 2003.

Code (or Rules) of Ethics of Civil Servants (a one page document) was approved by the Civil Service Council Decision N° 13-N in May 2002. although one of the main duties of the civil servants is to abide by the rules of ethics (Article 23 of the Law on Civil Service), no due attention is paid to ethical issues.

In general, the adoption of the Law on Civil Service can be considered as a step forward in promoting more open state institutions, yet poor law enforcement, along with the old mentality of Armenian bureaucrats, cause a situation in which civil servants working in ministries, agencies, departments, commissions, etc., are not generally accessible to the media or the public.

There are numerous services under the President's Office, the Government, within the Ministries, etc. that have review and control functions. Because of the lack of coordination and the absence of clearly identified responsibilities of those services, they often duplicate each other's activities. Moreover, this mechanism does not seem to be very effective because it is applied not by independent agencies, but services under the Executive control.

As to citizens' complaint mechanisms, citizens are allowed to appeal to the immediate supervisor of the civil servant. Civil servants are liable for violations of the civil service and other legislation and can be punished and even sued in the manner prescribed by the law. Trials against state officials are not common due to public mistrust of the Judiciary.

Police

Since the adoption of the Constitution in July 1995, the police forces were reorganized three times. Initially, the police was the responsibility of the Ministry of Interior. In November 1996, the Presidential Decree N°667, 8 November 1996, merged the Ministry of Interior and the Ministry of National Security into one ministry. Three years later, the Presidential Decree N°287, 15 June 1999, restored the previous state of affairs. Finally, by the Presidential decree N° 1218, 17 December 2002, the Ministry of Internal Affairs was reorganized to include the police, which became a service agency under the Government.

The Armenian Police Service is a centralized system, with no municipal police (2002 Law on Police Service). Article 2 of the Law on Police (2001) defines the objectives of the police. These are: protection of the life, health, rights, freedoms and lawful interests of individuals against criminal and other forms of illegal violations; protection of the interests of society and state; preliminary prevention, prevention and impeding the crime; detection and

exposure of the crime; maintenance of public order and security; and protection of all forms of property. The Law on Police does not specifically determine the structure of the Police Force. Article 9 of the Law provides that the Government of Armenia shall determine the police structure and size of the staff.[18] It should be mentioned that the sources open to public (legal database and "*Official Bulletin*") do not contain any governmental decision on the structure and size of the police. Presumably, this information is considered a state secret.

According to Article 13 of the Law on Police Service, it is the President who appoints and removes the Head of Police upon the recommendation of the Prime Minister and his deputies, upon the recommendation of the Head of the Police (including the Commander of Police Forces, who is also the Deputy of the Head of Police). Article 5 of the same Law also gives the President power to confer the highest ranks in the Police (colonel-general, lieutenant-general and major-general). Being a centralized and strongly hierarchical system, the police are dependent on the President. Moreover, if the previous status of a Ministry, as a part of the Government, made the police, to some extent, accountable to the NA, after reorganization into a service agency under the Government it no longer has such responsibility.

Article 14 of the Law on Police Service states that the appointed Head of the Police must be either one of the Deputies of the previous Head (including the Commander of Police Forces) or a senior police officer (the Head or the Deputy Head of Department or the Head of Division) that served in those positions for at least three years prior to the appointment. Also, the appointee must hold at least a rank of Colonel of Police. Similar requirements are in place for appointing the Deputy Heads of Police.

Article 15 of the Law on Police Service provides that the career development of police officers, except for the highest officers (Head of Police and his deputies), should be based on the results of their attestation. The same Article stipulates that each police officer should pass an attestation every three years. The removal of the police officer shall be based on the results of the attestation: Articles 42, 45 and 46 define the grounds for removal of police officers from the service or office.

18. The Law on Police entered into force on 10 June 2001 and it does not reflect the implications of the reorganization of police force based on the already mentioned Presidential Decree N° 218, 17 December 2002. In particular, the Government determines the structure and size of police upon the recommendation of the Minister of Interior, and that Ministry was dissolved by the mentioned Presidential Decree.

In general, all this can be considered as positive in ensuring a merit-based approach. However, the widespread public opinion is that appointment and promotion in the police are mostly based on bribing and nepotism, rather than on merit. Such perception is based not only on rumours, but also on personal experience. For example, during the CRD/TI Armenia survey, one respondent confessed that he paid USD 5 000[19] for a position in the police (then the Ministry of Interior).

The police are mainly perceived by the public as an effective tool for the President and the ruling political forces to suppress any opposition, as well as promote personal (political and economic) interests. Opposition leaders and media state that this was evident during the elections. For example, on 22 February 2003, right after the first round of the Presidential elections, the police started to detain the supporters of Stepan Demirchyan, the opposition candidate, who passed to the second round of elections. The main allegations were hooliganism and/or participation in unsanctioned demonstrations. There were also reported cases where police officers exercised a practice of selectivity while handling cases of ballot stuffing, gatherings of unauthorized persons in the polling stations, and other violations of the Electoral Code during the presidential elections on 19 February and 5 March 2003.

Conflict of interests, nepotism and cronyism dominate in law enforcement bodies regardless of the existing conflict of interest and other relevant rules (see Article 39 of the Law on Police Service).

The police are a closed system, although all the legal provisions concerning public access to information apply to it. The specific nature of activities is often used as a valid reason for hiding information or refusing its provision. Citizens face more difficulties trying to obtain information from the police (as well as the Prosecution) than from any other state institutions.

In the last five years only 35 police officers have been convicted for corruption related crimes, as reported by the police in response to the CRD/TI Armenia's request to provide such information. In the meantime, the Office of the Prosecutor General and the Ministry of Justice referred to the Police to obtain the same statistics regarding the prosecutors, but, the Police officially responded that it had no such data.

19. "Country Corruption Assessment: Public Opinion Survey", CRD/TI Armenia, Yerevan, 2002, p.11.

There are no specific legislative instruments for investigating and prosecuting corruption cases. All instruments defined in the Criminal Procedural Code to investigate and prosecute other types of crime are also applied to corruption crimes. A special chapter in the Criminal Code (Chapter 29) defines penalties for the corruption crimes (such as abuse of power; exceeding authority; involvement in illegal business activities; giving, accepting and soliciting bribes; and forgery). Nevertheless, because of the lack of any real control or check-and-balance mechanisms, actual impunity of law enforcement officers and "corporate" solidarity, formal provisions are not effectively enforced.

According to the CRD/TI Armenia public opinion survey, the police and the Office of Prosecutor General are considered as the most corrupt institutions by households and businesses. Poor law enforcement was mentioned by the majority of respondents (households, businessmen and public officials).[20] The range of unofficial payments made by households to the police (excluding traffic police) varies from USD 17 to USD 5 000, with an average of USD 200. Businessmen paid from USD 20 to USD 1 000.[21] In the case of traffic police, the respective numbers were USD 1-1 000, with an average of USD 2 for households, and from USD 1-9, with an average of USD 1.73, for enterprises.

Media repeatedly covers cases directly or indirectly related to corruption (mostly bribery) within the police and the prosecution.[22] Another manifestation of abuse of power, apart from taking and giving bribes, is using torture and other violent means against individuals. Although the law forbids beatings, torture, psychological pressure and other violent methods, these still remain a routine practice of the Armenian police officers and prosecutors. This was reflected in the 2002 US State Department *Country Annual Report on Human Rights Practices.*[23] As noted in the Report, "…impunity of officials who committed such abuses remained a problem."[24]

20. *Ibid*, pp. 21 and 35.

21. *Ibid*., pp. 11 and 24.

22. *Hetq Online*, 17 and 27 December 2003; *Azg daily*, 2 and 29 November 2003.

23. 2002 Armenia Country Report on Human Rights Practices, pp. 3-4 (www.state.gov).

24. *Ibid*, p. 4.

Situation with Conflict of Interests, Disclosure of Income and Assets, Receipt of Gifts and Hospitality and Other Issues for High-Level Executives

Monitoring of Assets and Income

There are formal provisions requiring the Presidential candidates to submit to the Central Electoral Commission their and their relatives' declarations of income and assets for the last year (Articles 67 and 68 of the Electoral Code).

The Law on Declaration of Incomes and Assets of High State Officials, as well as a number of government decisions and other legal acts, regulate issues related to the submission of declarations of the President, Prime Minister, Ministers, and another high political officers, discretionary, civil service and other positions. Declarations of income and assets of respective high officials who are subject to those regulations, as well as those of their close relatives, shall be submitted to the respective tax authorities on an annual basis. While officials are also obliged to do this within five years following their removal from office, they shall disclose their assets only within the following two years.

According to the Law on Declaration of Incomes and Assets of High State Officials, those officials who do not submit their declarations shall pay a fine equal to fifty times the official minimum salary (less than USD 2). If they do not submit the declarations within thirty days after being fined, then the fine will go up to two hundred times the minimum salary. Hiding the requested information or providing wrong information is subject to a fine equal to fifty times the minimum salary. If this happens twice in a year, then the state official shall pay two hundred times the minimum salary.

The declarations of assets and income for 2001 have been published in four volumes of the *Official Bulletin* within the time period fixed by the law. However, according to unofficial sources, they have neither been sent to the bookstores nor to the subscribers, although they have been disseminated to some State institutions. The management of the *Official Bulletin* sells the publication for 90 000 ADM (about USD 155), which is not affordable to the average citizen or NGO representatives. This information was not published either in newspapers or posted on the Government or other official electronic home pages.

As reported by the media, only 45 437 out of total of 70 000 state officials had submitted the declarations. Administrative fines were imposed on those who did not declare their income and assets. So far, 548 officials have paid 50 000 ADM (about USD 86) each. No information was available on how many of them are members of the Executive. Opposition media and some experts

argue that in order to hide actual high incomes, most state officials simply register their main income and assets as owned by their relatives. Another issue raised is that imposing symbolic fines provides a simple and convenient way to avoid declaring true assets and incomes since the law does not envisage other, more serious, penalties.

Conflict of Interest Regulations

Article 88 of the Constitution states that a member of the Government should not be a member of any representative body, hold any other public office, or be paid for any other job. Similar restrictions can be found for State officials in numerous laws, such as the Laws on Civil Service, Tax Service, Customs Service, and Police Service.

Conflicts of interest rules for ministers and high officials are traditionally ignored. There is a general perception that it is a widespread practice of members of the Government to have their own businesses or patronage others. Often they protect and/or promote certain business interests, for example through preferential treatment to their relatives/friends or business partners in the case of State contracting or bidding. According to the opposition media and experts, rent seeking, cronyism and nepotism prevail within the Executive and there are no control mechanisms to prevent such practices.

Rules Concerning Acceptance of Gifts and Hospitality

The Government Decision N°48, 17 February 1993, stipulates that the gifts taken by a public official (positions are not specified) are subject to submission to the respective State institutions if they cost five times more than his/her monthly salary. If a public official is keeps the gifts, he/she shall pay the balance between the market price of the gift and his/her fivefold monthly salary. According to this Decision, the procedure of the gift transfer to the State has to be the same as the transfer of confiscated, ownerless, and inherited property as prescribed in the Government Decision N° 585, 18 November 1992. It should be mentioned though that these regulations are out-dated, as the above-referred Decision N°585 has been abolished.

Article 166.1 of the Code on Administrative Violations states that if public officials do not transfer to the State costly gifts presented to them by non-state institutions, foreign states, international organizations and companies, then the fine equal to the minimum salary will be imposed on them and the gifts will be confiscated by the State. In the case of absence of the gifts, public officials have to pay four times more than the price of the gift.

From various unofficial sources, it is known that no records are kept on the public officials' gifts. Some experts claim that gifts are not normally registered as individual ones (but rather in the form of donations to the Ministry or agency), even though they are actually used by individual high officials.

Public Procurement

Despite the existing regulations there are various corrupt opportunities for those officials who are involved in public procurement. In the experts' opinion, among them are classic cases of tailoring bid specifications to favour particular suppliers; restricting information about contracting opportunities; claiming urgency as an excuse to award to a single contractor without tender; breaching the confidentiality of suppliers' offers; disqualifying potential suppliers through improper pre-qualification procedures; and taking bribes to decide the winner. On the other side, the suppliers can collude to fix bid prices, influence the bidding process through personal contacts or high level patrons and offer bribes.

One of classic examples of avoiding tenders is illustrated in the *Aravot* daily[25]. Gagik Khachatryan, Head of the State Procurement Agency, was asked by a journalist to explain how senior state officials managed in a short period of time to acquire luxury cars for official use. The Head of Agency responded that the cars were acquired as "urgent procurements", reminding that it is allowed by the Law on Procurement and does not require long time for organizing tenders. The question "why senior officials needed the cars so urgently?" has received no answer yet.

In the above-mentioned interview, it was said that 240 bids had been conducted in 2003, with participation by about 600 businesses for a total of 15 billion AMD of goods, services and works procured. As compared to 5.5 billion AMD spent for public procurement in 2001, this is a substantial increase.

Some experts and business representatives mention that more than 70% of public procurements in Armenia are deliberately made through a less competitive and less transparent single-source and soliciting price quotations forms, especially in the fields of defence, education and science, and health.

There is not much evidence of strict control over procurement processes. The representative of the State Procurement Agency mentioned that so far 4-5 such cases have been reviewed in courts. The limited number of cases can be explained by the unwillingness of the suppliers to appeal to the courts, as well

25. *Aravot*, 17 December 2003.

as by the fact that very few businesses participate in the tenders. As claimed by some experts, concentration of political and economic power in the hands of a small elite group lets certain businesses win bids at the expense of other bidders. In such cases, all the formal requirements are mainly followed so it is not easy to prove invalidity of the procurement decisions. Being aware of this, non-privileged businesses do not even try to apply for the bids.

Sometimes corrupt officials create fictitious companies, which then participate in tenders. The existence of too many bidders, combined with the limited timeframe for the bidding committee to define the winner, could be used as an excuse for making "wrong" decisions. Another deficiency is the lack of detailed qualification of bidding criteria. As a result, very often, the winner is the bidder who offered the lowest price, even though he did not have sufficient qualification.

Experts also argue that the Law on Procurement does not require disclosure of the price of the bid at the bid opening and thus creates corrupt opportunities for public officials to "bargain" with the bidders on the procurement prices. A serious shortcoming of the law is that the tender announcement includes the estimated value of the future procurement contract (Article 26), which gives an opportunity to the involved State officials to arbitrarily set non-market values, which artificially limits the number of potential bidders.

Finally, there are no special legal provisions on monitoring income and assets of the State officials involved in the procurement process. The same Law on Declaration of Incomes and Assets of High State Officials and the Law on Amendments and Additions to that law apply to senior officials working in the Ministry of Finance and Economy, but not to those working in the State Procurement Agency, which is not in the list of institutions in which senior officials are subject to declare their income and assets. In fact, some senior officials of the State Procurement Agency are still submitting their declarations of income and assets, along with their close relatives, simply because their previous positions in the Agency (which then had a status of the institution under the Government) were required to do so for five years after leaving the office.

National Assembly Chamber of Control

Article 8 of the Law on the NA Chamber of Control (CoC) provides that its Chairman, his/her Deputy and Heads of Departments should be citizens of Armenia with higher education. They cannot be the NA members, run other governmental positions or perform other jobs, except jobs of a scientific and

education nature as well as art and culture. Article 9 of the same law mentions that the CoC Chairman appoints other CoC employees. In other words, the NA appointment of the CoC Chairman is not based on merit. Rather, the appointee needs to be the one who has the support of the NA majority. As mentioned by a former high level official of the CoC, a merit-based recruitment of the CoC staff is ensured. As a result, only heads of the CoC departments have enough qualifications, while other employees are mostly under qualified.

Though Article 9 of the Law on the CoC provides that its Chairman is appointed by the NA for six-year period, Article 11 stipulates that the powers of the Chairman can be terminated early, by decision of the NA, without any specification of reasons. There are no provisions in the law concerning the removal of other employees of the CoC.

While the annual report is to be debated in the NA, there is no such requirement for the semi-annual reference information (Article 16 of the Law). Article 5 of the same law empowers the CoC to oversee both the revenues and expenditures of the State budget. These provisions do not explicitly require annual audit of all public expenditures. What actually happens is that a selective auditing takes place every year.

Both annual reports and semi-annual reference information should be published in the Official Bulletin. In fact, the CoC follows the provisions of the law on annual reporting and submitting of its conclusions on the execution of the state budget for the previous fiscal year. Semi-annual references though are not published in the *Official Bulletin*. The reason is that another legal act, namely the Law on Legal Acts (Articles 62 and 64) defines what should be published in the *Official Bulletin* and semi-annual references of the CoC are not included in the list of documents. This is clear evidence of how different laws can contradict one another.

The existence of a number of other State institutions with similar audit functions undermines the credibility of the CoC. It is counter-effective, in some experts' opinion, that, for example, the Control and Review Department of the Ministry of Finance and Economy or the Control and Review Service under the Office of the President are duplicating the same responsibilities. This causes a conflict of agency interests, since the legislation does not provide with any mechanism on how all the institutions should cooperate with one another.

Absence of law enforcement mechanisms causes another problem. There will be little use from the findings of the CoC unless they are properly checked and analyzed in order to take appropriate follow-up actions. The current law on the CoC incorporates provisions ensuring certain degree of enforceability

(Article 7). It is required from the heads of the central and local government institutions (subject to the CoC audit) to submit within a one-month period official information to the CoC and the NA if any violations are detected.

The required information should reveal the measures taken by the heads of the audited institutions to eliminate the recorded violations and hold them responsible. If such information is not submitted in a timely fashion, then the NA Chairman can send the audit reports to the Office of the Prosecutor General. However, the CoC itself is not authorized to initiate similar actions, which limits the enforceability of its decisions as the NA leadership may not always be interested or willing to take decisive follow-up actions on the findings of the CoC audit.

Insufficient funding (from the State budget) also makes the CoC functioning ineffective. This entails the improper remuneration of the CoC staff, which, in turn, negatively affects its level of professionalism. In addition, the CoC has no capacity and resources to use up-to-date modern practices in accounting, public finance and public administration.

Access to Information

There is no provision in the Armenian Constitution prohibiting censorship. And there have been instances of implicit censorship, when obstacles have been created to prevent the publication of undesirable information in the newspaper or prevent its access to the public. This has manifested itself either in threatening the reporter or even using physical violence against him, or suing him/her in the court, or buying all issues of the newspaper and then destroying them. The editors of newspapers or heads or editors of TV or radio companies often advise journalists not to write on a particular issue or a person.

Imperfect legislation regulating access to information in Armenia also leaves room for government officials to prevent the dissemination of unwanted information. First, government officials can label the needed information as official and State secrets, even if this is not the case. The legislation related to this is not clear and there are no mechanisms to verify whether the refusal to provide the requested information is in compliance with the law or not. Second, public officials respond to the applicant in such an incomplete or ambiguous manner that the latter actually gets no answer at all.

Selective treatment exercised by public officials, particularly representatives of public relations departments, while sharing information and

granting accreditation also discriminates journalists.[26] The most notable incidents are mentioned in the annual reports of the Commission for Protection of Freedom of Speech.[27] The survey of the Association of Investigative Journalists indicates that such intimidating behaviour is typical of the Police Service, the Ministry of Defence and the Office of Prosecutor General.[28] However, the cross-analysis of data revealed that the journalists specialized in specific topics mentioned as accessible those state institutions that they regularly worked with. Assertions about the closeness of certain governmental structures mostly came from the multi-profile journalists covering various areas.

Direct intervention in the media activities such as blocking the undesirable coverage also takes place in Armenia. In the observers' opinion, it happened, for example, with one Russian TV station, namely NTV, during the recent presidential elections in February 2003. The NTV was shut down for a period of time after its comments regarding the elections made in a manner that displeased the authorities. Officially, it was stated that this was caused by the breakdown in the re-transmission link.

A number of incidences of intimidation, harassment and physical abuse of journalists and editorial offices in Armenia contributed as well to the decline of the initial positive image of Armenia with a relatively free press. These incidences are documented in the annual reports of the Yerevan Press Club Commission for Protection of Freedom of Speech.[29] Five incidents occurred in 2000, eleven in 2001, and five in 2002.

Media regularly cover corruption issues. However, most articles or programs appear in the opposition media, especially in such newspapers as *Aravot*, *Haykakan Zhamanak*, *Ayb-Fe*, *Chorrord Ishkhanutyun* dailies, Hetq Online of the Association of the Investigative Journalists. There were two cases when journalists claimed that they were beaten for investigating corruption cases. In one case, it was the incident on 29 April 2003with Mher Ghalechyan, a journalist with *Chorrord Ishkhanutyun* newspaper[30]. Media reports on this incident indicated the Minister of National Security Karlos Petrosyan was indirectly involved.

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26. www.ypc.am

27. *Ibid*.

28. L.Baghdasaryan, "The Media of Armenia and the Environment We Worked with as Viewed by Journalists" (www. hetq.am).

29. www.ypc.am

30. *Aravot*, 30 April 2003 and *Haykakan Zhamanak*, 30 April 2003

Criminal sanctions to restrict reporting corruption can be used through labelling journalists' reports as libel, false, discrediting or offending. That is why many Armenian journalists, supported by international organizations, including the Council of Europe, are currently campaigning to decriminalize libel by removing that article from the Criminal Code. So far, authorities have not used libel laws to openly restrict reporting of corruption by media. A more common practice is to file civil suits demanding that the information be refuted and published or broadcast in a media outlet. A recent example was the suit brought by the Central Bank against *Aravot* in March 2003.[31]

Formally, the Armenian legislation entitled everyone the right to seek and receive information from State authorities. All laws enter into force only after their publication. Citizens can get information on the approved legal acts through *Official Bulletin* and *Bulletin of Normative Acts* (available for free in public libraries as well as by subscription and sale), other official publications, government and non-government websites and newspapers. Some legal acts such as the Law on Urban Development, Law on Local Self-Government, Aarhus Convention, also have provisions related to access to particular information. Before the recent enforcement of the Law on Freedom of Information, access to information and documents from the authorities was regulated by the Law on Citizens' Suggestions, Applications and Complaints.

It is possible to hide information requested from the state institutions on the basis of secrecy. For instance, Article 59 of the Law on Legal Acts stipulates that information containing a State or official secret is not subject to publication, and this is often used by the representatives of State institutions for not providing the requested information. The absence of specific regulations (the Law on Freedom of Information was passed in the NA only at the end of 2003) creates opportunities for State officials to arbitrarily interpret the existing legislation.

However, not only the legislation matters here, but also the improper attitude and corrupt behaviour of State representatives. The 2001-2003 "black lists" of the Center for Freedom of Information of the Association of Investigative Journalists[32] include heads of various institutions such as ministries, government departments, local and regional administrations, Judiciary, state committees and commissions, political parties and private companies who infringed the right of access to information.

31. *Aravot*, 8 March 2003.

32 *Hetq Online*, 2002 (www.hetq.am).

Many NGO activists mentioned that there is some correlation between the openness of public officials and the political sensitivity of the issue in question. For instance, during the 2003 Presidential and NA elections campaigns it was not easy to approach State institutions with any inquiry because the authorities were worried about the possible use of the obtained information as a "black PR" against them.

Oftentimes though, NGOs themselves are responsible for the poor communication with State officials. They do not always submit inquires and letters written in a proper way and follow all the procedures prescribed by the law. As to what State officials think about this issue, one may again refer to the findings of the Civil Society Development Union. Representatives of the departments of public relations of various state institutions indicated that the limited access to information is determined by the lack of clear mechanisms for collecting and sharing information, the absence of institutional capacity, the deficiency of technical and human resources, etc.[33]

The authors of the article "Law in Armenia is a Commodity That is Being Sold"[34] note that in regions people can obtain bulletins only in Marzpetarans where one sample of each bulletin is available, whereas local government bodies have to subscribe or buy bulletins, which is not always affordable. Bulletin prices vary from 1 200 to 10 000 AMD (about USD 2-USD 18). Article 68 of the Law on Legal Acts prescribes local government bodies to publicize the decisions of the Head of Community and the Community Council in special official bulletins. It is envisaged by the law as well that official information of local importance can be posted on the bulletin boards. Both are not the case in the Armenian communities, partially because of the lack of finances, but mostly due to the fact that the law is simply ignored, as reported in the article.

Another paid source of information can be introduced through an example of the State Register of the Ministry of Justice that provides with the requested information for the fee of less than USD 2 per inquiry. "IRTEK" legal base (developed and maintained by a private company) can be installed for 46 400 AMD (about USD 80), with the monthly fee of 17 400AMD (about USD 30), but it is not considered an official source of information.

33. "Freedom of Information and Transparency in Government in Armenia", Civil Society Development Union, Yerevan, 2001.

34. Sh. Doydoyan and H. Mkrtchyan, "Law In Armenia Is A Commodity That Is Being Sold", *You Have the Right To Be Informed* Bulletin N°7, November 2002.

International Aspects

Donor Activities

In attempts to present various viewpoints on the donors' role in the reform process directed at promoting good governance, a series of interviews were held with representatives of state institutions, political parties, international organizations, NGO sector and academia. All interviewees see some positive outcomes of the reforms. These are as follows: the existence of the legislation drafted in compliance with Western standards; adoption of simplified procedures, for example in tax and licensing systems; provision of better access to information through official and unofficial publications, governmental and non-governmental websites, etc. The introduction in the Civil Service, Police Service, Tax Service, Customs Service and others, of elements of merit-based appointment and promotion, job security, legal and social protection of employees, etc., along with the downsizing and restructuring of the Government is another positive trend in their opinion.

Oftentimes, donors simply bring successful methodologies to the country in attempts to replicate them. One of the interviewed high government official noted that donors were unsuccessful in assessing the real needs and capacities, or to adjusting their strategies to the local reality as well as learning from their negative experience in Armenia. Some experts mention that, oftentimes, foreign consultants and team leaders whose remuneration forms a substantial part of the project budgets lack competence in the field and/or are not familiar with the region specifics. Donors, in their opinion, do not trust local specialists and thus rarely rely on local "know-how".

While being interviewed, one of heads of a diplomatic mission stated that there is no consensus among donors on how to re-direct reform processes, since the donor community is quite diverse and everyone favours his/her country or agency priority (interests). He pointed out that donors use a rather dogmatic "make-up" approach instead of surgical treatment of the "body" infected by corruption. It has been said that an attempt to start the fight against corruption in the country failed because there is no actual ownership. Neither the Government nor Armenian society are willing to take personal responsibility for the anti-corruption "battle".

As a representative of one of the key donor organizations located in Armenia indicates, assistance providers have to report on their successes to their board of directors in order to ensure the next portion of funding. They are not interested in criticizing themselves or their counterparts in order to secure a positive evaluation of the completed projects and good recommendations for

future ones. Donors do not carry out a regular monitoring and serious assessment of the performance of the staff of local offices and the projects they funded. Thus, ironically, assistance providers do not meet the professional and ethical standards they introduce and promote in Armenia.

As a result, in spite of the existence of a number of advanced laws, mostly drafted with help of foreign experts, there are no law enforcement and control over their implementation. A secondary legislation is not complete and, in many cases where such legislation exists, it either contradicts the main laws or does not comply with them. There are much evidence that effective law enforcement agencies and capable policy implementing institutions have a much stronger impact on the reforms than the adoption of good laws. The EBRD research revealed that "the orthodox approach to legal reform, where laws are developed first and implementing institutions strengthened second, needed to be reconfigured, with greater and earlier attention given to implementation and institution building."[35] It has been also said "good laws cannot substitute for weak institutions"[36] in transition economies, which is true in the Armenian case.

The limited information about donor assistance, instances of unprofessional or corrupt behaviour of individual representatives of some international organizations, combined with the lack of transparency in resource allocation negatively affect the public perception of foreign assistance. There are many rumours about special funds used by contractors to bribe donors and counterparts within the government. Likewise, rumours are circulating about NGOs bribing those who are responsible for selecting grantees in donor organizations.

Overall, donor assistance and allocation of funds should be seriously reviewed and reconsidered. This should be done with the active participation of all interested parties, including civil society organizations, independent experts, and mass media.

35. D.S. Bernstein, "Process Drives Success: Key Lessons from a Decade of Legal Reform", p.7 (www.ebrd.org).

36. K. Pistor, M. Reiser and S. Gelfer, "Law and Finance in Transition", *The Economies in Transition*, Vol.8, No2, 2000.

Annex 2

ANTI-CORRUPTION ACTION PLAN FOR ARMENIA, AZERBAIJAN, GEORGIA, THE RUSSIAN FEDERATION, TAJIKISTAN AND UKRAINE[1]

PREAMBLE[2]

We, the Heads of Governmental Delegations from Armenia, Azerbaijan, Georgia, the Russian Federation, Tajikistan and Ukraine at the 5th Annual meeting of the Anti-Corruption Network for Transition Economies on the 10th of September, 2003, in Istanbul, Turkey:

BUILDING on the guidance of the Anti-Corruption Network for Transition Economies expressed at its 4th Annual meeting in Istanbul in March 2002 to develop a special sub-regional Anti-Corruption Action Plan for those transition economies not yet engaged in targeted sub-regional initiatives;

CONVINCED that corruption is a widespread phenomenon and is inimical to the practice of democracy, erodes the rule of law, hampers economic growth, discourages domestic and foreign investment, and damages the trust of citizens in their governments;

ACKNOWLEDGING that corruption raises serious moral and political concerns and that fighting corruption requires strong action by governments as well as the effective involvement of all elements of society including business and the general public;

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1 The Action Plan is open for endorsement by other transition economies not engaged in targeted sub-regional initiatives; Kazakhstan and the Kyrgyz Republic joined the Action Plan at a later stage.

2 The Action Plan, together with its implementation plan, is a legally non-binding document which contains a number of principles towards policy reform which participating countries politically commit to implement on a voluntary basis and which can provide a basis for donor assistance.

RECOGNISING the value of co-operation and action-oriented knowledge sharing both among the countries participating in this Action Plan and with other countries active within the framework of the Anti-Corruption Network and other regional and international anti-corruption initiatives;

RECALLING that national anti-corruption measures can benefit from existing regional and international instruments and good practices such as those developed by the countries in the region, the Council of Europe (CoE), the European Union (EU), the Financial Action Task Force on Money Laundering (FATF), the Organisation for Economic Co-operation and Development (OECD), the Organisation for Security and Co-operation in Europe (OSCE), and the United Nations (UN);

WELCOMING the pledge made by donor countries and international organisations to support the countries of the region in their fight against corruption through technical cooperation programmes;

ENDORSE this Anti-Corruption Action Plan as a framework for developing effective and transparent systems for public service, promoting integrity in business operations and supporting active public involvement in reform; and commit to take all necessary means to ensure its implementation.

PILLARS OF ACTION

PILLAR 1.
Developing Effective and Transparent Systems for Public Service

Integrity in the Public Service

- Establish open, transparent, efficient and fair employment systems for public officials that ensure the highest levels of competence and integrity, foster the impartiality of civil service, safeguard equitable and adequate compensation and encourage hiring and promotion practices that avoid patronage, nepotism and favouritism;
- Adopt public management measures and regulations that affirmatively promote and uphold the highest levels of professionalism and integrity through the promotion of codes of conduct and the provision of corresponding education, training and supervision of officials in order for them to understand and apply these codes; and
- Establish systems which provide for appropriate oversight of discretionary decision-making; systems which govern conflicts of interest and provide for disclosure and/or monitoring of personal

assets and liabilities; and systems which ensure that contacts between government officials and business services users are free from undue and improper influence, and that enable officials to report such misconduct without endangering their safety and professional status.

Accountability and Transparency

- Safeguard accountability of public service through, *inter alia*, appropriate auditing procedures applicable to public administration and the public sector, and measures and systems to provide timely public reporting on decision making and performance;
- Ensure transparent procedures for public procurement, privatisation, state projects, state licences, state commissions, national bank loans and other government guaranteed loans, budget allocations and tax breaks. These procedures should promote fair competition and deter corrupt activity, and establish adequate simplified regulatory environments by abolishing overlapping, ambiguous or excessive regulations that burden business;
- Promote systems for access to information that include such issues as political party finance, and electoral campaign funding and expenditure.

PILLAR 2.
Strengthening Anti-Bribery Actions and Promoting Integrity in Business Operations

Effective Prevention, Investigation and Prosecution

Take concrete and meaningful steps to actively combat bribery by:

- Ensuring the existence of legislation with dissuasive sanctions which effectively and actively combat bribery of public officials, including anti-money laundering legislation that provides for substantial criminal penalties for the laundering of the proceeds of corruption;
- Ensuring the existence and enforcement of universally applicable rules to ensure that bribery offences are thoroughly investigated and prosecuted by competent authorities. This includes the strengthening of investigative and prosecutorial capacities by fostering inter-agency co-operation, by ensuring that investigation and prosecution are free from improper influence and have effective means for gathering evidence, by protecting those persons who bring violations to the

attention of authorities and by conducting thorough examinations of all revelations of corruption; and

- Strengthening bi- and multilateral co-operation in investigations and other legal proceedings by providing (i) effective exchange of information and evidence, (ii) extradition where expedient, and (iii) co-operation in searching for and identifying forfeitable assets as well as prompt international seizure and repatriation of such assets.

Corporate Responsibility and Accountability

- Promoting corporate responsibility and accountability so that laws, rules and practices with respect to accounting requirements, external audit and internal company controls are fully applied to help prevent and detect bribery of public officials in business. This includes the existence and thorough implementation of legislation requiring transparent company accounts and providing for effective, proportionate and dissuasive penalties for omissions and falsifications for the purpose of bribing a public official, or hiding such bribery in the books, records, accounts and financial statements of companies;
- Ensuring the existence and the effective enforcement of legislation to eliminate tax deductibility of bribes and to assist tax inspectors to detect bribe payments; and
- Denying public licenses, government procurement contracts or access to public sector contracts for enterprises that engage in bribery or fail to comply with open tender procedures.

PILLAR 3.
Supporting Active Public Involvement in Reform

Public Discussion and Participation

Encourage public discussion of the issue of corruption and participation of citizens in preventing corruption by:

- Initiating public awareness campaigns and education campaigns at different levels about the negative effects of corruption and joint efforts to prevent it with civil society groups such as NGOs, labour unions, the media, and other organisations; and the private sector represented by chambers of commerce, professional associations, private companies, financial institutions, etc.;

- Involving NGOs in monitoring of public sector programmes and activities, and taking measures to ensure that such organisations are equipped with the necessary methods and skills to help prevent corruption;
- Broadening co-operation in anti-corruption work among government structures, NGOs, the private sector, professional bodies, scientific-analytical centres and, in particular, independent centres;
- Passing legislation and regulations that guarantee NGOs the necessary rights to ensure their effective participation in anti-corruption work.

Access to Information

Ensure public access to information, in particular information on corruption matters through the development and implementation of:

- Requirements to give the public information that includes statements on government efforts to ensure lawfulness, honesty, public scrutiny and corruption prevention in its activities, as well as the results of concrete cases, materials and other reports concerning corruption
- Measures which ensure that the general public and the media have freedom to request and receive relevant information in relation to prevention and enforcement measures.
- Information systems and data bases concerning corruption, the factors and circumstances that enable it to occur, and measures provided for in governmental and other state programmes/plans for the prevention of corruption, so that such information is available to the public, non-governmental organisations and other civil society institutions.

IMPLEMENTATION

In order to implement these pillars of action, participating governments of the region concur with the attached Implementation Plan and will endeavour to comply with its terms. Participating governments of the region will take measures to publicise the Action Plan throughout government agencies, NGOs engaged in the fight against corruption, and the media; and in the framework of the Advisory Group Meetings, to meet regularly and to assess progress in the implementation of the measures provided for in the Action Plan.

IMPLEMENTATION PLAN

Introduction

The Action Plan contains legally non-binding principles and standards towards policy reform which participating governments of Armenia, Azerbaijan, Georgia, the Russian Federation, Tajikistan, and Ukraine voluntarily agree to implement in order to combat corruption and bribery in a co-ordinated and comprehensive manner and thus contribute to development, economic growth and social stability. Although the Action Plan describes policy objectives that are currently relevant to the fight against corruption in participating governments, it should remain flexible so that new ideas and priorities can be taken into account as necessary. This section describes the implementation of the Action Plan. Taking into account national conditions, implementation will draw upon existing instruments and good practices developed by participating countries, regional institutions and international organisations.

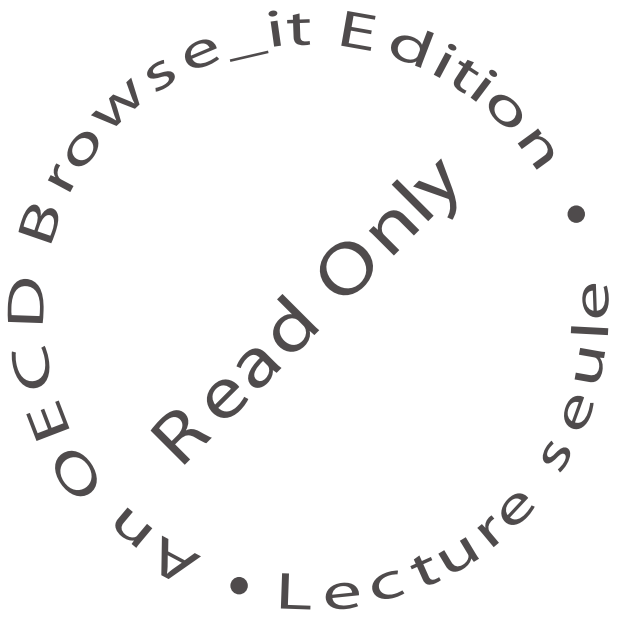
Identifying Country Mechanisms

While the Action Plan recalls the need to fight corruption and lays out overall policy objectives, it acknowledges that the situation in each country of the region may be specific. To address these differences, each participating country will identify priority reform areas which would fall under the three pillars, and aim to implement necessary measures in a workable timeframe.

Mechanisms

Advisory Group: To facilitate the implementation of the Action Plan, each participating government will designate a national coordinator who will be their representative on a Advisory Group. The Advisory Group will also comprise experts on methodical and technical issues to be discussed during a particular Steering Group meeting as well as representatives of participating international organisations and civil society. The Advisory Group will meet on an annual basis and serve three main purposes: (i) to review progress achieved in implementing each country's priorities; (ii) to serve as a forum for the exchange of experience and for addressing issues that arise in connection with the implementation of the policy objectives laid out in the Action Plan; and (iii) to promote a dialogue with representatives of the international community, civil society and the business sector in order to mobilise donor support.

Funding: Funding for implementing the Action Plan will be solicited from international organisations, governments and other parties from inside and outside the region actively supporting the Action Plan.



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Fighting Corruption in Transition Economies

Armenia

What progress have transition economies made in fighting corruption? This book presents the outcomes of a review of legal and institutional frameworks for fighting corruption in Armenia, which was carried out in the framework of the Anti-Corruption Network for Transition Economies based at the OECD. The review examined national anti-corruption policy and institutions currently in place in Armenia, national anti-corruption legislation, and preventive measures to ensure the integrity of civil service and effective financial control.

The review process was based on the OECD practice of mutual analysis and policy formulation. A self-assessment report was prepared by the government of Armenia. An international group of peers carried out expert assessment and elaborated draft recommendations. A review meeting of national governments, international organisations, civil society and business associations discussed the report and its expert assessment, and endorsed the recommendations.

This publication contains the recommendations as well as the full text of the self-assessment report provided by the government of Armenia. It will provide an important guide for the country in developing its national anti-corruption actions and will become a useful reference material for other countries reforming their anti-corruption policy, legislation and institutions.

For more information, please refer to the Web site of the Anti-Corruption Network for Transition Economies ***www.anticorruptionnet.org*** as well as the Web site of the OECD Anti-Corruption Division ***www.oecd.org/corruption***.

Other editions in this series cover assessments of anti-corruption efforts in Azerbaijan, Georgia, Kazakhstan, the Kyrgyz Republic, the Russian Federation, Tajikistan and Ukraine.

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